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CRYPTO-ASSETS AND CORPORATE INSOLVENCY IN INDIA: BRIDGING DOCTRINAL GAPS AND REGULATORY CONFLICTS UNDER THE IBC

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I. Introduction

Digital assets—especially cryptocurrencies, stablecoins, and tokenised financial instruments—have moved from speculative peripheries into the operational cores of startups, exchanges, and decentralised service platforms. Despite this evolution, India’s insolvency regime, built on the Insolvency and Bankruptcy Code, 2016 (IBC), has failed to acknowledge, let alone adapt to, the financial realities introduced by blockchain technology. The Code does not define or refer to cryptocurrencies, tokens, or VDAs in any form. Resolution Professionals (RPs) tasked with managing corporate insolvency have no formal guidance on how to seize, classify, value, or distribute such assets. Sections 18 and 35 of the IBC empower RPs and liquidators to take control of the debtor's property, but these provisions presuppose assets that are tangible, bankable, or held within regulatory reach. In contrast, crypto-assets are pseudonymous, extrajurisdictional, and often dependent on private key access or third-party wallet permissions—features that render traditional enforcement tools ineffective.

The problem is exacerbated in the case of corporate debtors operating from the Gujarat International Finance Tec-City (GIFT IFSC). Although these entities are incorporated under Indian law and fall within the formal jurisdiction of Indian tribunals, they operate under a distinct financial regulatory regime established by the International Financial Services Centres Authority Act, 2019. Within this dual-status framework, GIFT-based firms can raise foreign capital under relaxed FEMA restrictions, hold assets on offshore exchanges, and operate under experimental sandbox regimes tailored by IFSCA. These privileges, while legally sanctioned, dilute the practical enforceability of IBC mandates, particularly in relation to asset tracing, custodial access, and moratorium compliance.

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The resulting conflict is not one of jurisdictional exclusion but of regulatory dissonance. The IBC, as a general law, formally applies to all companies incorporated in India, including those in GIFT IFSC. However, IFSCA—operating as a sector-specific financial regulator—exercises de facto control over crucial functions such as asset custody, exchange approval, and sandbox oversight. As a consequence, Resolution Professionals and Committees of Creditors (CoCs) often find themselves unable to enforce moratoriums, recover offshore crypto-assets, or devise viable resolution plans—even when the legal framework ostensibly applies. As explored in recent scholarship, this fragmentation is symptomatic of a deeper structural problem: GIFT IFSC has effectively created a jurisdictional carve-out within the Indian legal system, producing regulatory arbitrage without adequate legislative or doctrinal coordination.⁴

This paper identifies and examines the doctrinal, procedural, and institutional vacuum that arises at the intersection of crypto finance and insolvency law in India. It interrogates whether the current definitions of "assets" and "property" under the IBC can accommodate VDAs; assesses the custodial, valuation, and distribution challenges RPs face during CIRP and liquidation; and critically evaluates the regulatory asymmetry posed by GIFT IFSC. Drawing on comparative insights from crypto-related insolvencies in the US, UK, Singapore, and Hong Kong, this study proposes a coherent roadmap for doctrinal reform, procedural standardisation, and inter-regulatory harmonisation between IBBI and IFSCA.

II. The Doctrinal Status of Crypto Under the IBC

A. Legal Framework of “Assets” and “Property”

Section 3(27) of the Insolvency and Bankruptcy Code, 2016 (IBC) defines “property” broadly: it includes “money, goods, actionable claims, land and every description of property situated in India or outside India and every description of interest including present or future or vested or contingent interest arising out of or incidental to property”.⁵ This expansive formulation deliberately encompasses intangible forms of value, such as intellectual property and contractual rights, and appears to cover virtual digital assets (VDAs), including cryptocurrencies and tokens. Moreover, there is **no clear classification of stakeholders** dealing in

⁴ Devesh,., & Dinesh, R. (2025). *Regulatory innovation or legal erosion? Investigating the accidental arbitrage created by GIFT City’s dual financial regime*. LawFoyer International Journal of Doctrinal Legal Research (LIJDLR), 3(2), 351–391. <https://doi.org/10.70183/lijdlr.2025.v03.54>

⁵ Section 3(27), Insolvency and Bankruptcy Code, 2016, India Code. Retrieved from <https://www.indiacode.nic.in/ViewSection?sectionId=782>

cryptocurrencies as either financial or operational creditors under the IBC. This gap leads to uncertainty in terms of their position in the creditor hierarchy and their entitlement during the distribution of liquidation proceeds.

However, hours devoted to understanding and operationalising the Code reveal a concerning silence. Neither the IBC nor its Implementation Rules—such as the Insolvency and Bankruptcy Board of India (IBBI) Regulations, 2016—contain any definitions, guidelines, or procedural rules addressing digital assets. While intangible assets like goodwill or software copyrights are regularly identified, secured, and monetised by Resolution Professionals (RPs)⁶, VDAs are neither included in the Information Memorandum nor listed in the asset schedules. This regulatory omission contrasts sharply with the careful incorporation of VDAs into India's tax framework (e.g., Finance Act 2022, Section 2(47A)), showcasing a dissonance between recognition for revenue purposes and exclusion from insolvency considerations.⁷

The key issue surrounding cryptocurrencies and digital assets in the context of the Insolvency and Bankruptcy Code (IBC) is not their outright exclusion from the regulatory framework but rather the significant conflict related to enforcement and custody of these assets during insolvency proceedings. While the IBC broadly defines “property” to include all assets of a debtor, the decentralized and intangible nature of cryptocurrencies creates practical and legal challenges that complicate their treatment under the Code.

B. Applying the Ainsworth and Cryptopia Tests to Crypto

To determine whether cryptocurrencies qualify as property under the IBC, it is instructive to examine established legal criteria. The English case *National Provincial Bank Ltd v. Ainsworth* (1965) requires that property must be identifiable, describable, capable of external enforcement, and possess sufficient permanence.⁸ These principles have recently been applied to cryptocurrencies across common law jurisdictions.

⁶ IBBI. (2020). Insolvency and Bankruptcy Code (Information Memorandum) Regulations, 2017.

⁷ Government of India. (2022). Finance Act, 2022: Section 2(47A). Retrieved from https://www.indiabudget.gov.in/doc/Finance_Bill.pdf

⁸ *National Provincial Bank Ltd v. Ainsworth* [1965] AC 1175 (HL).

The New Zealand High Court in *Ruscoe v. Cryptopia Ltd (in liquidation)* (2020) explicitly applied the Ainsworth test and confirmed that cryptocurrencies held by the exchange constituted property capable of being held in trust⁹. This judgment was reinforced by the UK Jurisdiction Taskforce’s 2019 statement, which declared “cryptoassets are to be treated in principle as property” even though they do not neatly fit traditional categories.¹⁰ Further support comes from Singapore’s Commercial Court, which granted injunctions in cases such as *ByBit Fintech Ltd v. Ho Kai Xin* (2023) concerning token theft, thereby affirming proprietary rights in VDAs¹¹.

Given the IBC’s reference to “every description of property,” and the persuasive global jurisprudence underlying the property characterization of crypto-assets, the Indian judiciary is well-positioned to interpret Section 3(27) as encompassing VDAs. However, the absence of judicial pronouncements or regulatory recognition means this remains a latent doctrinal possibility, rather than an operational reality, within Indian insolvency.

C. The Persistent Gap Between Classification and Control

Yet, the theoretical acknowledgment of VDAs as property does not resolve the more pressing question: **control over assets**. Unlike bank balances or real property, cryptocurrencies reside in digital wallets secured by private cryptographic keys. These keys may remain with company founders, be held in self-custodied cold wallets, or be stored with foreign exchanges subject to different regulatory frameworks. Consequently, Sections 18 and 35 of the IBC—which allow RPs to manage and preserve assets—prove ineffective without access to key material and cross-border cooperation.

Section 19(2) obligates corporate officers to hand over property to the RP¹². In the case of crypto, this could theoretically extend to private keys, but enforcement

⁹ *Ruscoe v. Cryptopia Ltd (in liquidation)* [2020] NZHC 728; Inside Tech Law commentary. Retrieved from <https://www.insidetechl原因.com/blog/2020/05/cryptocurrencies-are-property-capable-of-being-held-on-trust> ([Turn0search11](#))

¹⁰ UK Jurisdiction Taskforce. (2019). *Legal Statement on Cryptoassets and Smart Contracts*. Retrieved from <https://lawtechuk.io/static/docs/legalstatementcryptoassets.pdf> ([Turn0search9](#))

¹¹ *ByBit Fintech Ltd v. Ho Kai Xin* [2023] SGHC 199.

¹² Section 19, Insolvency and Bankruptcy Code, 2016, retrieved via IBBI repository.

depends on cooperation and clarity about admissibility. Extraditoriality introduces further complications: wallets hosted on foreign platforms do not recognise Indian court orders, and decentralized finance (DeFi) mechanisms enable asset movement without traditional intermediaries. Tracking and freezing assets require not only international legal assistance but also forensic blockchain expertise—resources not currently embedded within the IBC framework.

This fractured enforcement landscape becomes especially problematic for corporate debtors operating from GIFT IFSC. As Devesh and Dinesh (2025) argue, rights may be formally owned under Indian law, but actual custody and accessibility may lie within sandboxed, offshore jurisdictions¹³. The gap between classification and operational control, especially in cross-border scenarios, challenges the central goal of the IBC: to ensure equitable and efficient realisation of debtor assets.

III. Practical and Procedural Challenges in CIRP & Liquidation

A. Custody Vacuum and Private-Key Control

A central obstacle in cryptocurrency insolvency is **custodial ambiguity**—the uncertainty around who actually controls digital assets. Cryptocurrencies are secured by private cryptographic keys that may reside with promoters, technical staff, foreign exchanges, or within decentralized finance (DeFi) protocols. Crucially, **possession of the key equates to dominion** over the asset: whoever holds the key can transfer, lock, or permanently lose the asset.

Indian insolvency law empowers Resolution Professionals through **Section 18(1)(f) and Section 35** of the Insolvency and Bankruptcy Code, 2016 (IBC): they may “take into custody or control all property of the corporate debtor”.¹⁴ However, unlike physical assets, there is no statutory mechanism to compel the handing over of private keys, especially when these are controlled by non-domiciled actors. Section 19(2) obligates corporate officers to assist the RP in “protecting and preserving” assets, but the absence of detailed procedural rules leaves enforcement

¹³ . Devesh, ., & Dinesh, R. (2025). *Regulatory innovation or legal erosion? Investigating the accidental arbitrage created by GIFT City's dual financial regime*. LawFoyer International Journal of Doctrinal Legal Research (LIJDLR), 3(2), 351–391. <https://doi.org/10.70183/lijdlr.2025.v03.54>

¹⁴ Section 18(1)(f) & 35, Insolvency and Bankruptcy Code, 2016. Retrieved from <https://www.indiacode.nic.in>

reliant on voluntary compliance or potentially ineffective contempt orders¹⁵.

Effective asset recovery becomes even more difficult when keys are held by overseas exchanges operating under foreign jurisdiction. DeFi protocols are even more problematic: in some cases, smart contracts hold the assets without any central party that Indian courts can compel to act. In scenarios involving public-key custodianship beyond Indian borders—such as companies in **GIFT IFSC** where crypto custody might fall under sandboxed or international entities—a Resolution Professional is left with nominal title but **no real control** over the asset.¹⁶

The NCLT has authority to order disclosure of assets and documents from the debtor or related parties under the IBC. In principle, it can direct promoters or custodians to disclose private keys or access credentials. But enforcing such orders is challenging because private keys are digital secrets often known only to holders, and disclosure may raise security and privacy concerns. Moreover, if keys are held by foreign exchanges or locked in smart contracts, compelling disclosure or seizure requires cooperation from those entities, which may be beyond Indian jurisdiction.

B. Valuation Volatility and Timing

Unlike traditional assets, cryptocurrencies are notoriously volatile, which creates challenges in valuation during insolvency processes. Under Section 38 of the IBC, RPs are required to prepare an Information Memorandum post-admission, but this memorandum lacks any guidance on valuing digital assets¹⁷. Without a standard benchmark or authority, token valuations remain ad hoc and inconsistent.

Comparative practice might help. In Euroland and the U.S., valuation approaches include:

1. **Market spot price** at crucial dates (admission, plan approval, distribution);
2. **Cost-of-production** models, especially for proof-of-work tokens;

¹⁵ Section 19(2), IBC, *ibid*.

¹⁶ Devesh & Dinesh (2025), *supra* note 1.

¹⁷ IBBI, *Insolvency and Bankruptcy Board of India (Information Memorandum) Regulations*, 2017.

3. **Network Value to Transactions (NVT)** ratios, which estimate value based on on-chain activity.

For example, a United States bankruptcy court in the FTX case applied a discounted petition-date spot valuation to determine crypto claims—a novel judicial method under Section 502(c)(1) of the U.S. Bankruptcy Code¹⁸. In another context, European Union guidance even recommended cost-of-production valuation for Bitcoin, due to its similarity to commodities.¹⁹ Absent such benchmarks, Indian insolvency valuation lacks both doctrinal legitimacy and market acceptance.

Timing decisions also matter. If valuation occurs at CIRP commencement, it may understate asset value in bullish phases. Similarly, valuation at the point of distribution may overpromise recovery. Domestic law does not specify which moment carries finality, creating potential for creditor disputes and judicial intervention. The absence of statutory rules forces RPs to make judgement calls, risking valuation litigation post-distribution.

C. Distribution to Creditors: Fiat vs in-kind

Even if custody is secured and valuation reliable, the next question arises: Should cryptocurrencies be converted to fiat currency, or distributed “as is” (in-kind)? Section 53 of the IBC allows for property distribution in kind if approved by the Committee of Creditors (CoC).²⁰ This flexibility is important when token holders may favor an in-kind distribution pegged to token value.

International cryptocurrencies proceedings provide varied precedents:

- In the **Mt. Gox** rehabilitation (Japan, 2018–2024), creditors were given the option of in-kind distribution of recovered Bitcoin or Bitcoin Cash, instead of Yen²¹. Many chose coins; 41.5% of BTC remain held, limiting market impact.²²

¹⁸ *Re FTX Trading Ltd*, Case No. 22-11068, Bankr. D. Del., Memorandum Opinion (June 26, 2024); see Restructuring Global View article (2024).

¹⁹ European University Institute, *Valuation of cryptoassets in EU insolvency: Challenges and prospects* (2023), 4.3.1.

²⁰ Section 53, Insolvency and Bankruptcy Code, 2016

²¹ Medium & Cointelegraph reporting on Mt. Gox rehabilitation (2024).

²² Cointelegraph & Blockworks, *Mt. Gox creditors hold 41.5% in Bitcoin* (2024).

- **BlockFi** and **Celsius** (U.S., 2022–23) placed crypto assets into estate management under Chapter 11 and allowed creditor options between fiat or token disbursement.²³
- In **Gatecoin Ltd** (Hong Kong, 2019), the liquidation plan permitted in-kind redemption and was approved by the Official Receiver.²⁴

Domestic jurisprudence remains silent, but comparative models offer guidance—particularly when enhanced by market realities: sudden mass liquidity could degrade token value if forced liquidation occurs simultaneously. On the other hand, in-kind distributions introduce complexity in tax treatment and accounting: current law does not clearly define gain or loss triggers under Section 115BBH (Income Tax Act) or outline how property is priced for claim satisfaction.

Critically, the Committee of Creditors (CoC) should be empowered to decide the distribution format—whether to liquidate (fiat) or retain token form—and to fix a valuation date accordingly. Lock-in mechanisms and distribution modalities must be built into insolvency plans to avoid creditor confusion and value erosion in fluctuating market condition. Given these complexities, empowering the Committee of Creditors (CoC) to decide the valuation format, timing, and resolution approach could provide necessary flexibility. The CoC, representing the interests of creditors, can adapt strategies to current market conditions and asset values, potentially improving recovery outcomes. However, this empowerment must be balanced with regulatory oversight to prevent abuse and ensure transparency, as the crypto market’s opacity and rapid changes pose risks of mismanagement. Allowing the CoC discretion could help tailor insolvency processes to the unique nature of crypto-assets, but clear guidelines and safeguards are essential.

IV. GIFT IFSC: Regulatory Carve-outs and Conflict with IBC

A. Legal Status of GIFT Entities: Incorporated in India, Functioning Offshore

²³ BlockFi and Celsius Chapter 11 filings (U.S. Bankruptcy Court, 2022–23).

²⁴ *Gatecoin Ltd* [2019] HKCFI 18/2019.

In India, the legal framework governing the incorporation and regulation of companies is primarily established under the Companies Act, 2013. This Act lays down comprehensive provisions for the registration, management, and governance of companies, ensuring that all corporate entities operate within a structured legal environment. Companies involved in emerging sectors such as cryptocurrency and blockchain must also comply with these provisions, which include maintaining proper records, conducting audits, and adhering to disclosure norms.

Gujarat International Finance Tec-City (GIFT IFSC) is India's first International Financial Services Centre, created to channel cross-border financial activity through an onshore jurisdiction with offshore characteristics. Entities established in GIFT IFSC are incorporated under the Companies Act, 2013, pursuant to special notifications issued under the Special Economic Zones Act, 2005, such as G.S.R. 8(E) and 9(E).²⁵ These entities enjoy a set of corporate governance relaxations, including exemptions from certain CSR provisions and flexible board meeting requirements²⁶.

However, the financial identity of these companies diverges from their corporate status. Under FEMA, 1999, entities in Special Economic Zones—including GIFT IFSC—are considered "non-resident" for capital account purposes.²⁷ This classification enables them to raise funds from foreign investors, transact in freely convertible foreign currency, and maintain foreign currency accounts in India without the typical restrictions applicable to resident Indian entities²⁸. Such privileges are not merely procedural but structurally distinguish GIFT-based firms from their mainland counterparts, especially when it comes to cross-border asset control and currency regulation.

Supervisory authority over GIFT IFSC lies with the International Financial Services Centres Authority (IFSCA), a unified regulator established under the IFSCA Act, 2019.²⁹ IFSCA was granted sweeping powers—absorbing regulatory authority

²⁵ G.S.R. 8(E) and G.S.R. 9(E), Ministry of Corporate Affairs, January 4, 2017

²⁶ Ministry of Finance, Department of Revenue, SEZ Circulars (2020–2023).

²⁷ Section 2(m), Special Economic Zones Act, 2005; Section 2(v), FEMA, 1999

²⁸ RBI Master Directions on Liberalised Remittance Scheme and SEZ capital account guidelines

²⁹ Sections 3–5, IFSCA Act, 2019.

from the RBI, SEBI, IRDAI, and PFRDA—for all financial services in the GIFT zone.³⁰ Its remit includes approving fintech products, authorising fund management schemes, regulating digital exchanges, and permitting experimental operations under regulatory sandboxes. Consequently, while GIFT entities are legally Indian, their financial operations are governed by a regime that is functionally autonomous, internationally benchmarked, and often extraterritorial in application.

Additionally, GIFT IFSC permits transactions in foreign currencies without the usual capital controls imposed in India's domestic economy. This freedom facilitates seamless cross-border financial transactions, enabling global financial institutions, multinational corporations, and investors to conduct international business activities from within India's borders while enjoying the operational flexibility of an offshore centre. This unique combination allows GIFT IFSC to attract a wide range of financial services, including banking, capital markets, fund management, insurance, and fintech services, making it a comprehensive hub for global finance.

The International Financial Services Centres Authority (IFSCA) is the regulatory authority established to govern financial services activities within India's International Financial Services Centres (IFSCs), including the GIFT City. IFSCA's mandate covers a broad spectrum of financial activities, but it has taken a proactive role in regulating digital asset management, cryptocurrency exchanges, and capital flows within the IFSC framework. Unlike the regulatory regime applicable to the Indian mainland, IFSCA provides a specialized and flexible framework tailored to the unique needs of international financial services and digital asset operations. This includes setting licensing requirements for crypto exchanges, establishing compliance standards, and implementing investor protection mechanisms designed to foster trust and integrity in the market.³¹

The centre is structured as a Special Economic Zone (SEZ) and is regulated by the International Financial Services Centres Authority (IFSCA), a dedicated regulatory

³⁰ IFSCA (Capital Markets Intermediaries) Regulations, 2021; IFSCA (FinTech Sandbox) Guidelines, 2022.

³¹ Deepak Pareek, "Crypto Businesses in India – Brief Overview of Regulations," *TaxGuru* (Apr. 2022), <https://taxguru.in/corporate-law/crypto-businesses-india-overview-regulations.html>

body established to oversee the functioning of IFSCs in India. The IFSCA provides a regulatory framework that is tailored to the needs of global financial markets, balancing the requirements of international investors with India's legal and policy objectives. This regulatory environment supports innovation, ease of doing business, and compliance with international standards, further enhancing GIFT IFSC's attractiveness as a global financial hub.

In summary, GIFT IFSC is Indian in its legal foundation, subject to Indian laws and judicial oversight, yet it operates as an offshore financial centre in practice. This dual-status enables it to serve as a bridge between India's domestic financial system and the global financial markets, offering the best of both worlds: the security and stability of Indian law combined with the flexibility and incentives characteristic of offshore financial jurisdictions. This innovative model positions GIFT IFSC as a key player in India's ambition to become a major international financial centre.

B. Regulatory Vacuum During Insolvency: Friction Without Reconciliation

The application of the Insolvency and Bankruptcy Code, 2016 (IBC) to GIFT entities is unequivocal in theory—every company incorporated under the Companies Act is subject to the IBC framework. However, insolvency enforcement faces systemic hurdles when applied to GIFT-based firms that operate within IFSCA's autonomous financial ecosystem.

Resolution Professionals (RPs), upon being appointed under Section 16 of the IBC, are empowered under Sections 18(1)(f) and 35 to take custody and control of all assets of the corporate debtor.³² Yet, these provisions presuppose assets that are either physically accessible, dematerialised in Indian accounts, or governed by regulators with whom the RP can interact. In GIFT IFSC, however, assets are often held in foreign exchanges, managed by sandbox licensees, or structured through tokenised instruments approved exclusively by IFSCA. These assets may be denominated in crypto, located on-chain, or custodied in offshore jurisdictions—effectively placing them beyond the operational reach of NCLT-appointed professionals.

³² Sections 18(1)(f) and 35, Insolvency and Bankruptcy Code, 2016.

Currently, there exists no statutory obligation on IFSCA or its sandbox participants to assist or comply with IBC mandates. Unlike SEBI or RBI, which often cooperate with insolvency proceedings due to legacy coordination frameworks, IFSCA operates in a regulatory silo. It can approve a DeFi platform or token exchange for operation within the GIFT ecosystem but bears no duty to recognise NCLT orders or assist in enforcing moratoriums. This absence of statutory reconciliation creates a practical vacuum: assets governed under one regulator cannot be enforced by another, even when they belong to the same legal entity.

C. Doctrinal Conflict Between Specialised and General Laws

This jurisdictional and functional divide culminates in a doctrinal tension: the interaction between a **general law** (IBC) and a **special law** (IFSCA Act). Under the principle of *lex specialis derogat legi generali*, a special statute overrides a general one in cases of direct conflict³³. However, this interpretive principle applies only when both statutes deal with the same subject matter in overlapping domains. In the present case, the IBC governs insolvency and asset resolution, whereas the IFSCA Act regulates financial market operations. Yet when an asset—such as a crypto wallet or a foreign-currency security—is both a subject of insolvency resolution and regulated by IFSCA, the boundaries blur.

This doctrinal overlap becomes critical when considering the IBC's moratorium provisions. Section 14 imposes an immediate stay on all recovery, enforcement, and transfer of assets once CIRP begins³⁴. But if an exchange or custodian, approved under IFSCA, declines to honour this moratorium due to sandbox autonomy or foreign regulatory obligations, the RP's authority is nullified in practice. This undermines not just procedural efficiency, but the substantive goals of insolvency law—maximisation of asset value and equitable distribution. However, these sandbox protections are regulatory in nature and do not explicitly exempt entities from the moratorium imposed by the IBC. The moratorium under Section 14 is a statutory mandate aimed at preserving the debtor's estate for the benefit of all creditors, and it operates independently of regulatory sandbox frameworks. Therefore, sandbox status does not provide a legal basis to override or bypass the

³³ Bhatia International v. Bulk Trading S.A., (2002) 4 SCC 105.

³⁴ Section 14, Insolvency and Bankruptcy Code, 2016.

moratorium. Entities under the sandbox must comply with the moratorium once insolvency proceedings begin, ensuring that asset protection and creditor interests are maintained during resolution. This distinction underscores the difference between regulatory flexibility for innovation and the binding nature of insolvency laws designed to protect creditor rights and maintain market confidence.

The IBC also penalises non-cooperation and asset concealment under Section 70, which carries criminal sanctions for withholding property or records.³⁵ Yet, this section has no application to sandboxed entities or foreign custodians unless the law explicitly makes them subject to RP oversight. The absence of jurisdictional alignment means that enforcement power remains on paper, not in practice.

Is IBBI Empowered to override special IFSC Regulations?

The Insolvency and Bankruptcy Board of India (IBBI) is the regulatory body responsible for implementing and overseeing the IBC across India, including the appointment of resolution professionals and the conduct of insolvency proceedings. However, the IFSCA Act grants exclusive regulatory authority over financial services within IFSCs, limiting the jurisdiction of other regulators such as the Reserve Bank of India (RBI) and the Securities and Exchange Board of India (SEBI) within this special zone.

Since the IFSCA Act does not explicitly empower the IBBI to override its regulations, there is uncertainty about whether the IBBI can supersede IFSCA's rules in insolvency matters involving IFSC entities. This regulatory gap poses practical challenges in insolvency proceedings, especially when coordination between the IBBI and IFSCA is required to manage digital assets, capital flows, or exchange operations regulated by IFSCA. Until legislative amendments or formal inter-regulatory frameworks are established, the IBBI's authority to override special IFSC regulations remains unclear. This situation necessitates greater cooperation between regulators to ensure effective insolvency resolution and protect stakeholder interests within IFSCs.

³⁵ Section 70, Insolvency and Bankruptcy Code, 2016

D. Illustrative Hypothetical: Asset Fragmentation in Practice

To illustrate this conflict, consider the case of a GIFT-based crypto fund—“NeoChain Capital”—which raises USD-denominated tokens from global investors and holds them in custodial wallets on Binance Singapore. It operates under an IFSCA regulatory sandbox that authorises foreign crypto custodians and grants it flexibility in compliance norms. Upon default, the NCLT initiates CIRP, and an RP is appointed. The RP, attempting to marshal all assets, identifies on-chain wallet addresses containing millions in Ethereum and stablecoins but has no private keys or custodial access.

The platform’s response: it is licensed in Singapore, not bound by Indian tribunal orders, and regulated by IFSCA’s sandbox—not the IBBI or RBI. The RP petitions the NCLT, but without statutory cross-recognition or enforcement powers over the sandbox or the foreign exchange, the order is ineffectual. Creditors, despite having lawful claims, remain unpaid. Meanwhile, the crypto assets—though legally belonging to the company—continue to lie beyond the reach of India’s insolvency architecture.

This hypothetical demonstrates not just regulatory non-coordination, but legal insulation. Without a formal MoU between IBBI and IFSCA or a statutory amendment bridging insolvency and sandbox regulation, such fragmentation will persist. It is not a theoretical conflict, but a material impediment to effective financial resolution.

RP Unable to Access: IFSCA Silent; Creditors Left Without Remedy

When the insolvency proceedings commence, the RP faces the daunting task of accessing and recovering the fund’s crypto-assets held on Binance Singapore. However, due to the absence of clear legal provisions or cooperation protocols between the IFSCA and Indian insolvency authorities, the RP is unable to gain control over these assets. The regulatory sandbox framework, while supportive of innovation, is silent on mandatory disclosure, asset freezing, or cooperation in insolvency matters involving cross-border digital assets.³⁶

³⁶ Cryptocurrencies as Securities? Post-GIFT City Regulations & SEBI’s Viewpoint,” *TaxGuru* (Apr. 10, 2025), <https://taxguru.in/sebi/cryptocurrencies-securities-post-gift-city-regulations-sebis-viewpoint.htm>

This regulatory silence leaves creditors in a vulnerable position. Without access to the assets, creditors cannot enforce their claims or participate effectively in the resolution process. The inability to seize or liquidate crypto-assets custodied abroad undermines the fundamental objectives of the IBC, which seeks to maximize asset value and ensure equitable treatment of creditors. Consequently, investors may suffer significant financial losses, and confidence in the regulatory and insolvency frameworks governing digital assets within GIFT City may erode.

V. Comparative Legal Approaches to Crypto Insolvency

A. United States: Bankruptcy of FTX, Celsius, and Voyager

The U.S. has led in structuring legal frameworks for crypto insolvencies. In the **FTX Chapter 11** proceedings, the bankruptcy court issued an immediate moratorium, halted transfers of crypto, and consolidated digital assets into a centralized estate under judicial supervision. Over the following months, the court authorized deployment of custodians and forensic teams to trace, freeze, and manage tokens. According to *The Guardian*, FTX's recovery involved asset sales—including stakes in companies like Anthropic—enabling customer repayments based on the crypto's petition-date value³⁷. Additionally, *AP News* reports that by mid-2024, approximately 90% of customer claims were set to be repaid.³⁸

Similarly, insolvent entities like **Celsius Network** and **Voyager Digital** filed for Chapter 11 in 2022, triggering automatic freezes and asset preservation orders. These assets were organized into estate portfolios, with courts permitting global subpoenas to retrieve funds from overseas exchanges³⁹. Judges overseeing these cases—like Judge John Dorsey in Voyager—demonstrated specialized court expertise adapted for digital asset complexities⁴⁰.

The moratorium enables the bankruptcy court to oversee the management and potential restructuring of these assets, preventing dissipation and ensuring equitable

³⁷ R. Chatterjee & S. Raj, 'FTX set to return nearly all customer funds by mid-2024' *AP News* (31 May 2024) <https://apnews.com/article/ftx-return-funds-mid-2024>

³⁸ "'Old-fashioned embezzlement': where did all of FTX's money go?' *The Guardian* (27 Mar 2024) <https://www.theguardian.com/business/2024/mar/27/where-did-ftx-money-go>

³⁹ 'Celsius to freeze withdrawals after Chapter 11 filing' *Reuters* (13 Jul 2022).

⁴⁰ L. Friedman, 'Voyager bankruptcy judge creates industry-specific court oversight' *Law360* (Feb 2023).

treatment of creditors. However, applying Chapter 11 protections to crypto-assets introduces novel legal questions. The classification of crypto-assets—whether as property, commodities, or securities—affects their treatment under bankruptcy law and influences how courts handle valuation, custody, and distribution⁴¹. These considerations highlight the urgent need for enhanced legal frameworks, international cooperation, and judicial capacity building to effectively address the challenges posed by cryptocurrencies in insolvency proceedings. Without these measures, creditors risk significant losses, and the insolvency system may struggle to adapt to the digital economy's realities.

B. United Kingdom: Asset Recovery via Proprietary and Freezing Injunctions

In the UK, courts have proactively extended equitable relief to crypto holders. In *AA v Persons Unknown* (2019), the High Court granted a proprietary injunction over stolen Bitcoin, explicitly affirming that crypto qualifies as property and is traceable under common law⁴². Legal analysts at Howard Kennedy noted that this case set a clear precedent for freezing blockchain-based assets⁴³. Other high-profile decisions—such as *Fetch.ai v Persons Unknown*—reinforced these principles, with courts routinely issuing **freezing orders** and disclosure mandates even against pseudonymous defendants⁴⁴. *Lexology* reports underscore how these measures have forced exchanges and intermediaries worldwide to comply with UK court orders⁴⁵.

However, the court relied heavily on the UK Jurisdictional Taskforce's (UKJT) Legal Statement on Cryptoassets, which argued compellingly that cryptoassets constitute a distinct third category of “other intangible property.” This classification recognizes that while Bitcoins are intangible and virtual, they are capable of ownership, identifiable, and have permanence akin to traditional assets. The court thus concluded that Bitcoins are indeed property, enabling the grant of proprietary

⁴¹ Nydia Remolina, Aurelio Gurrea-Martínez & Daniel Liu, *The Treatment of Digital Assets in Insolvency* (Singapore Management University School of Law Research Paper, August 4, 2024), forthcoming in *Oxford Handbook of Digital Assets and the Law*, eds. Jason G. Allen, Simon Gleeson & Peter Hunn (Oxford University Press), SSRN Elec. Journal, <https://ssrn.com/abstract=4915592>

⁴² *AA v Persons Unknown* [2019] EWHC 3556 (Comm).

⁴³ ‘Bitcoin is property: a look at *AA v Persons Unknown*’ *Howard Kennedy* (Dec 2019) <https://www.howardkenedy.com/latest/article/bitcoin-is-property-a-look-at-the-decision-in-aa-v-persons-unknown>.

⁴⁴ *Fetch.ai Ltd v Persons Unknown* [2021] EWHC 2254 (Comm).

⁴⁵ ‘Crypto case analysis – injunctions and tracing’ *Lexology* (Aug 2021) <https://www.lexology.com/library/detail.aspx?g=c92f7aca-004b-48e2-a128-a17da63ce200>.

injunctions to protect such assets from fraudulent transfers.

C. Singapore and Dubai IFSC: Sandboxed Coordination for Cross-Border Cooperation

Singapore

Singapore's approach balances legal clarity with regulatory collaboration. Courts recognisable cryptocurrencies as property, thereby permitting their inclusion in insolvency proceedings and proprietary injunctions.⁴⁶ Beyond the courtroom, the **Monetary Authority of Singapore (MAS)**, together with the **Insolvency and Public Trustee's Office (IPTO)**, has released guidance on crypto-asset insolvencies, outlining protocols for asset tracing and cross-border cooperation⁴⁷. According to *The IFC Review*, recent MAS guidelines emphasize strict verification and due diligence for crypto wealth—facilitating forensic recovery during insolvency.⁴⁸

Dubai International Financial Centre (DIFC)

Under the **DIFC Insolvency Law**, the DIFC has embedded mechanisms for recognizing a company's **centre of main interests (COMI)**, thereby enabling cross-border cooperation. While crypto cases haven't emerged publicly, DFSA guidance and local press—*Gulf News* and *Khaleej Times*—indicate that DFSA-supervised crypto platforms are prepared to share transaction data and collaborate in international asset recovery scenarios⁴⁹⁵⁰.

Lessons for India

India's burgeoning crypto ecosystem, particularly within the Gujarat International Finance Tec-City (GIFT), can draw valuable lessons from offshore financial centres to enhance its regulatory approach. One key insight is the importance of sandbox contribution. OFCs like Malta and Singapore have successfully implemented

⁴⁶ *ByBit Fintech Ltd v. Ho Kai Xin* [2023] SGHC 199.

⁴⁷ MAS & IPTO, 'Digital Asset Insolvency Guidance' (2022).

⁴⁸ 'Singapore sets global standard: MAS issues guidance on crypto wealth due diligence' *IFC Review* (June 2025) <https://www.ifcreview.com/news/2025/june/singapore-singapore-sets-the-global-standard-mas-issues-guidance-on-crypto-wealth-due-diligence/>

⁴⁹ 'DIFC COMI framework helps global insolvency coordination' *Gulf News* (Sep 2023); 'DFSA crypto exchanges to assist in cross-border tracing' *Khaleej Times* (May 2024).

⁵⁰ DIFC Insolvency Law 2018; DFSA Rulebook (2021).

regulatory⁵¹ sandboxes that allow fintech and crypto firms to innovate under close supervision while gradually scaling compliance requirements. By incorporating judicial empowerment, asset-pooling provisions, inter-regulatory coordination, and COMI-based mechanisms, India can establish a comprehensive, enforceable framework for managing crypto insolvencies and plugging current systemic leaks.

India's International Financial Services Centres Authority (IFSCA) has established a sandbox framework in GIFT City to encourage innovation, but coordination between sandbox regulators, insolvency authorities, and foreign jurisdictions remains limited. Enhanced coordination can facilitate smoother resolution of disputes, asset recovery, and enforcement actions, especially given the cross-border nature of crypto-assets. Another critical lesson is the adoption of Centre of Main Interests- based jurisdiction principles for insolvency and regulatory matters. Offshore jurisdictions often rely on COMI to determine which courts have jurisdiction over crypto entities and assets, providing legal certainty and reducing jurisdictional conflicts⁵². India can benefit from clearly defining COMI for crypto firms operating in IFSCs and abroad, enabling better cooperation with foreign regulators and courts. This would help address challenges related to asset custody, insolvency proceedings, and enforcement of regulatory orders.

Moreover, India should consider harmonizing its domestic laws with international standards, such as those set by the Financial Stability Board (FSB), to ensure consistent regulation of stablecoins and crypto-assets while preventing regulatory arbitrage.⁵³ Learning from OFCs' experiences in balancing innovation with investor protection and AML compliance can help India craft a robust yet flexible regulatory framework that attracts global crypto business while safeguarding market integrity.

⁵¹ A Global Overview of Cryptocurrency Regulations in 2025, *Kychub* (2025), <https://www.kychub.com/blog/cryptocurrency-regulations-around-the-world>

⁵² **PwC Global Crypto Regulation Working Group**, *Global Crypto Regulation Report 2025* (PwC, 2025), <https://legal.pwc.de/content/services/global-crypto-regulation-report/pwc-global-crypto-regulation-report-2025.pdf>

⁵³ **PwC Global Crypto Regulation Working Group**, *Global Crypto Regulation Report 2025* (PricewaterhouseCoopers Global, 2025), <https://legal.pwc.de/content/services/global-crypto-regulation-report/pwc-global-crypto-regulation-report-2025.pdf>

These lessons underscore the need for India to strengthen regulatory coordination, adopt internationally recognized jurisdictional principles, and foster innovation-friendly environments to position itself competitively in the global crypto landscape.

VI. Institutional and Regulatory Reform Proposals

To address the doctrinal gaps and enforcement challenges identified earlier, this section recommends a multifaceted reform strategy encompassing legal, procedural, inter-regulatory, and jurisdiction-specific measures.

A. Doctrinal Reforms to the IBC

1. Explicit Inclusion of Digital Assets in Section 3(27)

Amend Section 3(27) to define “property” to include “virtual digital assets, including cryptocurrencies, tokens, and digital wallets.” This will remove any interpretative ambiguity and affirm the Code’s jurisdiction over these assets. To address this gap, it is essential to amend Section 3(27) to explicitly include digital assets within the ambit of “assets.” Such an amendment would provide legal clarity that digital assets form part of the debtor’s estate and are subject to insolvency resolution or liquidation processes. This reform would align the IBC with the contemporary financial ecosystem, where digital assets increasingly constitute a significant portion of corporate holdings, especially in fintech, blockchain, and crypto-focused enterprises. Recognizing digital assets explicitly would empower insolvency professionals to take control of these assets, enforce claims, and maximize recoveries for creditors, which is currently hindered by legal uncertainty⁵⁴

2. Mandatory Crypto Disclosure in the Information Memorandum (IM)

Under Section 29, RPs should be mandated to detail digital asset holdings, custodian arrangements, wallet addresses, key custodianship, and estimated valuations in the IM. This aligns with international transparency norms, such as the SEC's reporting requirements for digital asset funds. Mandatory disclosure would enhance transparency, enabling resolution professionals and potential bidders to accurately assess the debtor’s asset base and associated risks. It would also facilitate more informed decision-making during the bidding process,

⁵⁴ Insolvency and Bankruptcy Board of India (IBBI), *Official Website*, <https://www.ibbi.gov.in>

leading to better valuation and realistic resolution plans. Transparency in crypto asset holdings is particularly important due to their volatile nature and the complexity of custody arrangements, which often involve multiple exchanges or wallets.⁵⁵

3. Asset-Specific Valuation and Distribution Rules

A new Regulation (e.g., 40A) could prescribe valuation benchmarks based on petition-date market prices or time-weighted averages. The CoC should retain authority to decide between fiat and in-kind distribution, as observed in the Mt. Gox rehabilitation process⁵⁶.

In addition, distribution rules tailored for digital assets should address challenges related to custody, especially when assets are held by foreign exchanges or locked in smart contracts and decentralized finance (DeFi) protocols. The rules should provide mechanisms for coordination with foreign custodians and exchanges to facilitate asset recovery and protect creditor interests. By establishing clear guidelines for valuation and distribution, these reforms would ensure equitable and efficient realization of digital assets, minimizing delays and enhancing creditor recoveries.⁵⁷

B. Procedural and Custodial Reforms

1. Empowerment of RPs to Appoint Licensed Crypto Custodians

RPs must be authorised to partner with IFSCA-licensed custodians to secure digital assets during CIRP. This mirrors court-appointed custody support in U.S. cases like *In re FTX Trading Ltd.*⁵⁸. This reform would address practical difficulties faced by insolvency professionals in taking control of crypto-assets, especially when these assets are held in private wallets or with third-party custodians. Licensed crypto custodians can provide secure storage, facilitate

⁵⁵ The Insolvency and Bankruptcy Board of India Notifies IBBI (Insolvency Resolution Process for Corporate Persons) Fourth-Amendment Regulations, 2025, *Mondaq* (June 5, 2025), <https://www.mondaq.com/india/insolvencybankruptcy/1632166/the-insolvency-and-bankruptcy-board-of-india-notifies-ibbi-insolvency-resolution-process-for-corporate-persons-fourth-amendment-regulations-2025>

⁵⁶ Mt. Gox's Japanese rehabilitation offered creditors a choice between fiat and in-kind Bitcoin distributions (CoinShares, "Estimating the Market Impact of Mt. Gox Repayments," 2024) <https://blog.coinshares.com/estimating-the-market-impact-of-mt-gox-repayments-ec4a4927e50d>

⁵⁷ "IBBI Notifies Amendments to the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016," *VisionIAS* (May 29, 2025), [https://visionias.in/current-affairs/news-today/2025-05-29/economics-\(indian-economy\)/ibbi-notifies-amendments-to-the-ibbi-insolvency-resolution-process-for-corporate-persons-regulations-2016](https://visionias.in/current-affairs/news-today/2025-05-29/economics-(indian-economy)/ibbi-notifies-amendments-to-the-ibbi-insolvency-resolution-process-for-corporate-persons-regulations-2016)

⁵⁸ *In re FTX Trading Ltd.*, Case No. 22-11068 (Bankr. D. Del. 2022); CNBC reported the appointment of crypto custodians to safeguard assets during bankruptcy.

asset valuation, and assist in liquidation or restructuring efforts, thereby preserving asset value for creditors. Such authorization would also instill confidence among stakeholders that digital assets will be managed professionally and transparently during insolvency proceedings⁵⁹

2. **IBBI-Issued SOPs for Key Recovery and Wallet Seizure**

The Insolvency and Bankruptcy Board of India (IBBI) should publish standard operating procedures that guide RPs through private key recovery under Section 19(2), cross-border assistance, and forensic wallet tracing—akin to Section 105(a) mechanisms in American Chapter 11 proceedings. SOPs would provide step-by-step protocols for identifying, securing, and recovering private keys, including forensic techniques and collaboration with exchanges or custodians. Furthermore, given the cross-border nature of many crypto-assets, SOPs should outline legal and procedural mechanisms for seeking enforcement and asset repatriation from foreign jurisdictions. This may involve coordination with international regulators, mutual legal assistance treaties, and leveraging diplomatic channels. Clear SOPs would standardize practices, reduce delays, and enhance the effectiveness of insolvency proceedings involving digital assets⁶⁰

3. **Expanded Sanctions under Section 70**

Section 70 should explicitly cover non-disclosure of digital assets or private keys. RPs must be empowered to initiate legal action or recovery proceedings against deliberate concealment or tampering, strengthening accountability. Penal provisions should cover failure to disclose crypto holdings, misrepresentation of asset values, or tampering with digital records related to blockchain transactions. Enforcement of such penalties would deter malpractices and encourage cooperation from debtors and third parties, thereby facilitating accurate asset identification and recovery. The IBBI and adjudicating authorities must be empowered to investigate suspected

⁵⁹ Alokita Tangri & Akshat Sinha, *Crypto Assets and Insolvency* (IBC Law, Feb. 18, 2023), <https://ibclaw.in/crypto-assets-and-insolvency-by-alokita-tangri-and-akshat-sinha/>

⁶⁰ IBC Not Equipped to Deal with Insolvency of Digital Asset Exchanges or Holders”, *InsolvencyTracker* (Oct. 2, 2023), <https://insolvencytracker.in/2023/10/02/ibc-not-equipped-to-deal-with-insolvency-of-digital-asset-exchanges-or-holders>

nondisclosures and impose sanctions, including fines or criminal proceedings, to uphold the integrity of the insolvency process.⁶¹

C. Harmonisation Between IFSCA and IBBI

1. Memorandum of Understanding (MoU)

IBBI and IFSCA should formalise collaboration through an MoU that commits to data sharing, custodian cooperation, moratorium enforcement, and rapid alignment upon CIRP initiation for GIFT IFSC companies. The MoU would create a structured framework for sharing information, aligning enforcement procedures, and resolving jurisdictional ambiguities that arise due to the specialized regulatory environment of IFSCs. It would enable both regulators to jointly oversee insolvency resolution processes, ensuring that assets held by IFSC-licensed entities are effectively identified, preserved, and realized for the benefit of creditors. This collaboration is crucial because IFSC entities operate under IFSCA's regulatory ambit, while insolvency proceedings fall under IBBI's jurisdiction, necessitating clear protocols to avoid regulatory conflicts and delays.⁶²

2. Regulatory Requirements for Custody Cooperation

IFSCA licensing should mandate that platforms honour insolvency court orders, disclose wallet addresses, freeze assets upon NCLT CIRP initiation, and support forensic tracing. Such cooperation obligations would address current gaps where insolvency professionals face difficulties accessing digital assets held in IFSC jurisdictions due to regulatory silos or lack of explicit mandates. By embedding these obligations within IFSCA's licensing and supervisory framework, custodians would be legally bound to support insolvency enforcement, enhancing asset traceability and creditor protection. This alignment would also promote transparency and reduce the risk of asset dissipation during insolvency resolution.⁶³

3. Joint Guidelines on Asset Tracing and Moratorium Implementation

⁶¹ Insolvency and Bankruptcy Board of India, *Principles for Valuation of Corporate Debtors' Assets* (IBBI Publication, 2023), <https://ibbi.gov.in/uploads/publication/6b683482bf24ca7023aa99c8ef198bd8.pdf>.

⁶² Information and Broadcasting Board of India. (n.d.). *Information Utilities and Blockchain: An Unlikely but Holy Partnership* [PDF]. Insolvency and Bankruptcy Board of India. Retrieved July 7, 2025.

⁶³ Insolvency and Bankruptcy Board of India. (n.d.). *Understanding the IBC* [PDF]. Insolvency and Bankruptcy Board of India. Retrieved July 7, 2025.

A collaborative regulatory guide should outline roles, timelines, reporting processes, and responsibilities for asset management—particularly for offshore wallets—to support RP operations. The guidelines would outline methodologies for forensic tracing of crypto-assets across wallets and exchanges, ensuring that insolvency professionals can effectively identify and secure digital assets. They would also prescribe clear disclosure norms for IFSC entities to report digital asset holdings promptly and accurately, facilitating transparency in the resolution process. Furthermore, the guidelines would clarify how moratorium provisions apply within the IFSC regulatory context, balancing the protection of the debtor’s estate with the operational realities of digital asset custody.⁶⁴ By harmonizing these procedural elements, the joint guidelines would reduce regulatory uncertainty, promote timely enforcement, and safeguard the interests of creditors and other stakeholders. They would also serve as a model for inter-regulatory cooperation in managing the complexities of digital asset insolvencies within specialized financial zones.

D. GIFT-Specific Insolvency Protocol

1. Incorporate a Special Schedule in IBC/IBBI Regulations

A GIFT Annexure should define:

- Engagement protocols for IFSCA-regulated platforms,
- Dual compliance timelines,
- Escalation mechanisms in cases of jurisdictional conflict

This special schedule would codify procedural adaptations, jurisdictional clarifications, and asset management protocols that reflect the international character of GIFT entities, many of which deal in foreign currency loans, aircraft and vessel leasing, and digital assets. It would also incorporate provisions for cross-border insolvency cooperation, recognizing the global footprint of IFSC companies and the need for harmonization with foreign insolvency regimes. By embedding these elements into the IBC framework, the schedule would provide clarity and predictability, reducing litigation and delays in insolvency resolution⁶⁵.

⁶⁴ Insolvency and Bankruptcy Board of India. (n.d.). *Home* [Website]. Retrieved July 7, 2025, <https://www.ibbi.gov.in>

⁶⁵ Zaveri, A., & Panuganti, A. (n.d.). *Advocating for cross-border insolvency in the IFSC: A comparative perspective*. National Law Institute University (CBCL). Retrieved July 7, 2025.

2. Establish a “Dual Compliance Window”

Provide a temporary regime starting with NCLT initiation and extending through IFSCA cooperation and foreign custodian coordination before final resolution or liquidation. The dual compliance window would facilitate coordination between insolvency professionals, the IBBI, and the IFSCA, ensuring that regulatory actions such as asset freezing, disclosure, and creditor meetings align across jurisdictions. It would also enable the resolution process to accommodate IFSC-specific nuances, such as foreign currency transactions and cross-border creditor claims, without conflicting with mainland insolvency laws.⁶⁶

3. Hierarchical Compliance Framework

The protocol should affirm that in disputes, IBC provisions—such as moratorium and asset seizure—supersede conflicting sandbox or foreign regulatory provisions, subject to expedited judicial review. This hierarchy would prioritize insolvency proceedings under the IBC for matters directly related to creditor rights, asset realization, and resolution processes, while recognizing the IFSCA’s authority over prudential regulation, licensing, and market conduct within IFSCs.

Where conflicts emerge, the schedule should provide mechanisms for dispute resolution, including joint regulatory committees or arbitration panels comprising representatives from both IBBI and IFSCA. This structured approach would ensure that insolvency processes are not stalled by regulatory ambiguities and that the interests of all stakeholders—creditors, investors, and regulators—are balanced effectively.⁶⁷

VII. Conclusion

The exponential rise of cryptocurrencies and virtual digital assets (VDAs) in corporate finance has outpaced the doctrinal and procedural design of India’s insolvency framework. The Insolvency and Bankruptcy Code, 2016 (IBC), although robust in addressing conventional financial defaults, remains ill-equipped to deal with the technical, custodial, and cross-

⁶⁶ Mehta, D. (2021, September 17). *View: IFSC can act as a stepping stone for insolvency reforms*. *The Economic Times*. Retrieved July 7, 2025.

⁶⁷ Taxmann. (2023, March 1). *[Opinion] Applicability of IBC to Companies incorporated in IFSCs* [Blog post]. Taxmann. Retrieved July 7, 2025.

jurisdictional complexities posed by digital assets. This disconnect is not merely theoretical—it manifests in real-time impediments for Resolution Professionals (RPs) tasked with seizing, valuing, and redistributing crypto assets during the Corporate Insolvency Resolution Process (CIRP) or liquidation. The Code's current silence on key concepts such as private keys, extraterritorial wallets, or tokenized holdings results in a normative vacuum that creditors and courts are increasingly unable to ignore.

GIFT IFSC deepens this institutional dissonance. While companies incorporated within GIFT are subject to IBC by virtue of the Companies Act, they operate under a distinct financial regime regulated by the International Financial Services Centres Authority (IFSCA). This duality—of incorporation under domestic law and operation under offshore-like privileges—produces a structural conflict: the IBC confers jurisdiction on the National Company Law Tribunal (NCLT), yet enforcement over key digital assets lies with IFSCA-licensed custodians, sandbox entities, and foreign exchanges. The issue is not jurisdictional exclusion but enforcement fragmentation. The lack of statutory coordination between IBBI and IFSCA creates a loophole through which digital value can escape insolvency proceedings, undermining creditor rights and eroding public confidence in the rule of law.

This paper has argued that without reform, such misalignments risk becoming systemically significant. As more companies hold substantial portions of their value in digital assets—particularly those operating in or through GIFT IFSC—the inability of RPs to recover, value, or redistribute these assets will compromise the very goals of insolvency: timely resolution, asset maximisation, and equitable distribution. Regulatory silos cannot accommodate cross-chain, cross-border finance.

Therefore, a synchronised legal and regulatory ecosystem is imperative. This includes doctrinal clarity within the IBC, procedural instruments for asset tracing and recovery, and institutional collaboration between IBBI and IFSCA. Jurisdictional certainty must be accompanied by operational enforceability. Only then can India's insolvency regime adapt to the realities of digital finance—before the costs of inaction become irreversible.