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IL&FS companies to be grouped on payment ability

BY [KARUNJIT SINGH](#), ET BUREAU | FEB 05, 2019, 07.12 AM IST

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MUMBAI: The National Company Law Appellate Tribunal has asked the government and IL&FS to provide a list of group companies that have the ability to meet payment obligations in the next 12 months.

In what would lead to immediate repayment of Rs 7,000 crore, the new board of IL&FS proposed final resolution plan to split the group companies into three categories based on 12 months' solvency and cash flow.

"We cannot allow banks to suffer," said a two-judge bench led by Justice SJ Mukhopadhaya. The bench suggested that companies under the "green" category should not be put under [moratorium](#) and companies in the "amber" category should "at least provide payments to the secured creditors."

The bench asked the counsel for the government and IL&FS to propose a resolution for companies under the "red" category, which indicates that these companies are not even able to make payments which the senior secured financial creditors adding, "This is how we intend to go in this matter." According to the IL&FS resolution framework report accessed by ET, "Green", "Amber" and "Red" are categories of companies based on their ability to meet payment obligations over the next 12 months. Companies that are able to pay all payment obligations are "green", companies only able to meet operational payments and senior secured debt obligations are "amber" and those that are unable to meet obligations to even senior secured financial creditors are categorised as "red". According to the plan, IL&FS can service up to Rs 7,000 crore immediately.

"The resolution plan submitted to NCLAT by the Uday Kotak-led board confirms and assures that the seniority of SPV's project lenders will be maintained during asset monetisation and these project lenders will get utmost priority similar to the waterfall under section 53 of the IBC," said a creditor present at the hearing. "This development will bring a lot of reprieve to the project lenders of these SPVs and its stakeholders." Under Section 53 of IBC, senior secured creditors loans are cleared first and any surplus that remains thereafter is given to unsecured or subordinated creditors and thereafter to the equity owners. The board has put 64 companies in category I. Of these 64 companies, 22 are audited, which can service interest and principal payment of up to Rs 7,000 crore. These includes 2 road SPVs- NKEL and JIICL, seven wind SPVs and six fund management.

"This is a positive development for senior secured creditors of SPVs where cash flows are there," said a source close to one of the lenders opposing the moratorium.



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The government and IL&FS have agreed to the appointment of retired [Supreme Court](#) Judge DK Jain as a supervisor for the sale of the assets of the debt-laden group in response to a suggestion by the NCLAT at an earlier date.

IL&FS group companies have an outstanding debt in excess of Rs 91,000 crore. The Mumbai bench of the [National Company Law Tribunal](#) superseded the board of IL&FS with government nominated on October 1 last year.

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