

# IBC INSIGHTS

A MONTHLY NEWSLETTER FOR INSOLVENCY MATTERS

APRIL  
2026



## COVER STORY

**Analyzing the Limits of Appeal Under Sections 61(3)(ii) and 62 of the IBC in Challenging a CoC-Approved Resolution Plan** 04

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**Mandate over Mutation**, our cover story this month examines the limits of appellate intervention under Sections 61(3)(ii) and 62 of the IBC in challenging a CoC-approved resolution plan. We unpack how the courts continue to preserve the sanctity of commercial wisdom while narrowly defining the contours of permissible judicial review.

This edition's pivotal issues explore emerging fault lines across the insolvency regime. We analyse the NCLT's approach to **fabricated evidence and its penal consequences**, the circumstances in which a **pending scheme of arrangement fails to bar a Section 7 proceeding**, and the continued importance of **limitation and proper service** in personal insolvency filings.

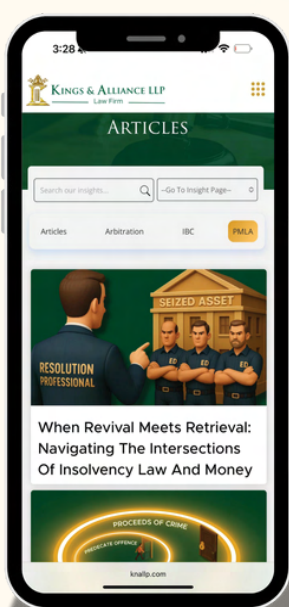
We also examine the judiciary's scrutiny of **minority exit through capital reduction**, the treatment of **pre-CIRP dues against cash deposits**, and the broader implications of the **IBC Amendment Bill, 2026**, which signals the next phase of India's resolution framework.

Our case law round-up captures key judicial developments shaping insolvency practice, alongside important **regulatory updates**, and a curated selection of **trainings and events** for professionals navigating this evolving landscape.

**To cap it off**, this edition reflects a continued emphasis on discipline, finality, and procedural integrity within the insolvency framework.

Let's dive in.

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## COVER STORY 04

Analyzing the Limits of Appeal Under Sections 61(3)(ii) and 62 of the IBC in Challenging a CoC-Approved Resolution Plan



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# COVER STORY

Analyzing the Limits of Appeal Under Sections 61(3)(ii) and 62 of the IBC in Challenging a CoC-Approved Resolution Plan

## SHIELDING THE COC'S MANDATE



Can an Arbitral Tribunal award interest as a matter of equity or compensation when the underlying contract expressly prohibits it? In its landmark ruling in *Union of India & Ors. v. Larsen & Toubro Limited (L&T)*, the Supreme Court of India reaffirmed the principle of party autonomy, declaring that the statutory framework of the Arbitration and Conciliation Act, 1996, subordinates the arbitrator's discretion to the specific terms agreed upon by the parties. The apex court held that where a contract categorically bars pre-award and pendente lite interest, any such award even if framed as "compensation" is a jurisdictional error that warrants judicial intervention.

The dispute originated from a 2011 turnkey agreement between the North Central Railway and L&T for the modernization of the Jhansi Workshop. While the project was slated for completion within 18 months, ten extensions were granted, leading to a cumulative delay of 40 months. This delay birthed a series of claims by L&T for financing charges, price variations, and unpaid bills. The Arbitral Tribunal (AT) ultimately awarded L&T over ₹5.53 crores, which included interest/compensation on several claims. The Union of India challenged this award, arguing that Clause 16(3) and Clause 64(5) of the General Conditions of Contract (GCC) created an absolute prohibition on interest for any amounts payable under the contract. Although the Commercial Court and the High Court of Allahabad initially upheld the award, the Supreme Court was tasked with deciding whether the AT had exceeded its mandate. The Supreme Court's rationale centered on the interpretation of...

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# PIVOTAL ISSUES

The Insolvency and Bankruptcy Code (Amendment) Bill, 2026: Key Developments and Legislative Update

# IBC

## The Insolvency and Bankruptcy Code Amendment Bill 2026

The landscape of Indian insolvency is witnessing its most significant transformation since the inception of the Code in 2016. On 12 August 2025, the **Insolvency and Bankruptcy Code (Amendment) Bill** was introduced in the Lok Sabha to address systemic bottlenecks that have historically hindered the efficiency of the Corporate Insolvency Resolution Process (CIRP). Following a detailed review by a Parliamentary Select Committee, the legislation was passed by the Lok Sabha on 30 March 2026, and cleared by the Rajya Sabha on 1 April 2026. This Bill is not merely a collection of procedural tweaks but a comprehensive legislative effort to recalibrate the balance between creditor rights, corporate survival, and judicial efficiency. By addressing admission delays, clarifying distribution priorities, and introducing flexible restructuring options, the 2026 Bill seeks to align India's framework with global commercial realities.

At the heart of this reform is the introduction of the Creditor-Initiated Insolvency Resolution Process (CIIRP) under a new Chapter IV-A. This mechanism marks a departure from the traditional "creditor-in-control" model by allowing financial creditors to initiate a 150-day resolution process where the existing board remains in possession under the supervision of a resolution professional. By requiring a 51% voting share for initiation and offering a non-automatic moratorium that must be specifically sought, CIIRP provides a streamlined alternative for debt restructuring...



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# PIVOTAL ISSUES

Jurisdictional Overlap: Analyzing the NCLT's Penal Powers for Fabricated Evidence under the BNSS and BSA.

## Why **NCLT** is Not a **Court**



perjury and fabrication of evidence under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)? This question was recently addressed in *Delhi Liquors v. Badri Prasad*, where the NCLT clarified that it is neither a civil nor a criminal “court,” but a statutory tribunal, a creature of statute whose powers are confined strictly to its enabling legislation.

The dispute in *Delhi Liquors* arose from a Section 9 insolvency petition filed by the Operational Creditor against Raisen Marketing Private Limited. In response, the Corporate Debtor sought to obstruct the proceedings by asserting the existence of a “pre-existing dispute,” relying on a purported demand letter allegedly dispatched via speed post prior to the issuance of the Section 8 notice. However, the Petitioner contested the authenticity of this claim by producing forensic evidence in the form of a jeweller’s certification, which conducted a precise weight-based analysis of the postal envelope. The findings revealed a discrepancy between the recorded weight of the envelope and the expected weight of the alleged demand letter, indicating that the envelope likely contained a lighter, unrelated document. On this basis, the Petitioner argued that the Respondent’s defence was factually inconsistent and misleading. Building on this evidentiary challenge, the Petitioner further sought initiation of criminal proceedings under Sections 215 and 379 of the BNSS, alleging submission of false evidence and abuse of the judicial process. The intersection of the IBC and the BNSS creates a complex jurisdictional boundary that the NCLT has now navigated with precision. The Creditor argued that the NCLT should invoke Section 379 of the BNSS...

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# PIVOTAL ISSUES

When Can a Pending Scheme of Arrangement Fail to Bar a Section 7 IBC Proceeding?

## IBC vs. The defunct Scheme of Arrangement



Corporate debtors often seek to preserve older restructuring frameworks, while financial creditors insist that once those frameworks lose legal and commercial viability, the IBC must take its course. The Supreme Court's recent decision in *Omkara Assets Reconstruction Pvt. Ltd. v. Amit Chaturvedi* confronts a variant of this tension. The issue arose when the financial creditor filed a section 7 application seeking initiation of CIRP against the corporate debtor for outstanding dues exceeding ₹154 crores. The corporate debtor resisted the insolvency petition on a seemingly technical ground stating that a Scheme of Arrangement approved by creditors in 2008 was pending before the Punjab and Haryana High Court under Sections 391–394 of the Companies Act and that initiating CIRP while the scheme proceedings remained pending would violate judicial discipline.

The NCLT admitted the CIRP, observing that the scheme had effectively become defunct due to non-compliance with statutory timelines. However, the NCLAT stayed the insolvency proceedings, holding that the High Court proceedings should first be resolved. Aggrieved by NCLAT's decision, the financial creditor took the matter to the Supreme Court. The Supreme Court scrutinized the statutory mechanics governing the "scheme of arrangement" under Section 391 of the companies act, 1956 and the Companies (court) Rules, 1959. The court highlighted three critical procedural stages, the first motion is a meeting of creditors which was recorded in July 2008. The second motion was to be an application seeking sanction of the scheme which was not filed within the prescribed...

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# PIVOTAL ISSUES

Time-Barred Debts: The Critical Role of Limitation and Service under Section 94 of the IBC

## Trigger for Limitation

NPA vs. Guarantee Invocation



When a personal guarantor files for insolvency under the Insolvency and Bankruptcy Code (IBC), does the "date of default" align with the classification of the corporate debtor's account as a Non-Performing Asset (NPA), or is it triggered by the formal invocation of the guarantee?. This critical distinction was the pivot point in Kiran Ratilal Sheth in NCLT Mumbai, where the Tribunal clarified that for a personal guarantor, the right to apply for insolvency resolution is tethered strictly to the demand for payment and the subsequent failure to honor that demand within the statutory window. Consequently, the NCLT dismissed the petition, establishing that reliance on NPA dates cannot rescue a claim that has otherwise lapsed under the three-year limitation period prescribed by the Limitation Act, 1963.

The factual background involves Mr. Kiran Ratilal Sheth, who stood as a personal guarantor for credit facilities availed by M/s. Max Flex & Imaging Systems Limited from a consortium of ten banks, including State Bank of India and Bank of Baroda. The company defaulted on its obligations, leading to a total outstanding debt of approximately ₹458.32 Crore. Following these defaults, the lenders classified the company's accounts as NPAs between 2014 and 2015. On July 18, 2016, the consortium issued a notice under Section 13(2) of the SARFAESI Act, 2002, formally invoking the guarantee and demanding payment. Despite this, the Petitioner waited until May 13, 2023, to file a petition under Section 94(1) of the IBC seeking to initiate the Insolvency Resolution Process. In its rationale, the Tribunal first addressed a significant procedural lapse: the Petitioner failed to serve the application "forthwith" to the...

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# PIVOTAL ISSUES

Minority shareholders exit through Capital Reduction: Judicial Scrutiny of Fairness, Process, and Valuation in Pannalal Bhansali v. Bharti Telecom Ltd. (2026)

## Minority at the mercy of the majority



When does a corporate decision, backed by overwhelming majority approval, cross the line into unfair treatment of minority shareholders? This question lay at the heart of Pannalal Bhansali v. Bharti Telecom Ltd., where the dispute arose from a reduction of share capital under Section 66 of the Companies Act, 2013, resulting in the forced exit of minority shareholders at a determined valuation.

The issue stemmed from allegations that the majority shareholders, under the guise of capital reduction, engineered an exit mechanism that undervalued shares and compromised procedural fairness. The Supreme Court was thus confronted with three central issues:

First, whether the procedure adopted (the “manner”), including disclosures and notices, violated statutory requirements and principles of transparency. Second, whether the methodology of valuation (the “method”), particularly the application of Discount for Lack of Marketability (DLOM), was legally and economically justified. Third, whether the price offered (the “matter”) was unfair, arbitrary, or prejudicial to minority shareholders. Additionally, a preliminary issue arose regarding the validity of the composition of the NCLAT bench, raising questions under constitutional principles governing tribunal structures. This judgment thus sits at the intersection of corporate democracy, minority protection, and judicial restraint, offering crucial clarity on the scope of judicial review in capital reduction schemes. Bharti Telecom Ltd. (BTL), a closely held company, undertook a reduction of share...

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# PIVOTAL ISSUES

The Conflict of Security and Solvency: Can Pre-CIRP Dues be Adjusted Against Cash Deposits?

## Moratorium vs. Mandate

The Supremacy of IBC over Contractual Security Mechanisms



Can an operational creditor, holding a cash security deposit "in lieu of a Letter of Credit," unilaterally appropriate those funds to settle outstanding debts once a moratorium has been triggered?. This question sits at the center of the Supreme Court of India's judgment in *Central Transmission Utility of India Limited v. Sumit Binani & Ors.*, where the Court reinforced the sanctity of the Insolvency and Bankruptcy Code (IBC) over private contractual security mechanisms. The Court ultimately answered in the negative, holding that once the Corporate Insolvency Resolution Process (CIRP) commences, the principles of pari passu and the statutory moratorium under Section 14 override any unilateral right to set-off pre-CIRP dues, even if the creditor views the deposit as an unconditional security.

The appellant, Central Transmission Utility of India Limited (CTUIL), provided transmission systems to KSK Mahanadi Power Company Limited (KMPCL) under a Transmission Service Agreement (TSA). To secure payments, KMPCL was required to provide a Letter of Credit (LoC), but instead deposited ₹108.44 crores in cash with the appellant's predecessor, PGCIL, following a directive from the Central Electricity Regulatory Commission (CERC). KMPCL subsequently defaulted on several bills between July and September 2019. On October 3, 2019, the NCLT admitted KMPCL into CIRP, triggering a moratorium. Despite this, on March 28, 2020, CTUIL invoked the Payment Security Mechanism and appropriated the ₹108.44 crores. While ₹23.31 crores were adjusted against post-CIRP dues (permitted to keep the debtor a "going concern"), the remaining ₹85.13 crores were used to satisfy pre-CIRP debts...

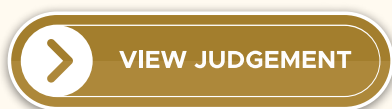
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# SIGNIFICANT CASE LAWS

## NCLT Admits Section 7 Petition Against Visakha Prime Properties Based on DRT Recovery Certificate

ASREC (India) Ltd. v. Visakha Prime Properties Constructions Ltd. The case originated from a term loan of ₹75,00,000 sanctioned by UCO Bank to Visakha Prime Properties (the Corporate Debtor) in June 1998 for a construction project. The Corporate Debtor defaulted on its first installment in June 1999, and the account was eventually declared a Non-Performing Asset (NPA) in 2002. The debt was assigned to ASREC (India) Ltd. in 2008, which continued recovery proceedings before the Debt Recovery Tribunal (DRT). While an earlier insolvency petition in 2020 was dismissed as premature, the DRT eventually issued a final order in August 2024 and a Recovery Certificate in October 2024 for over ₹58 crores. The Corporate Debtor resisted the current petition, arguing it was barred by limitation and that the DRT order was under appeal. However, the NCLT held that a Recovery Certificate creates a fresh cause of action and a new three-year limitation period for filing under Section 7 of the IBC. Consequently, the Adjudicating Authority admitted the petition, initiated the Corporate Insolvency Resolution Process (CIRP), and appointed an Interim Resolution Professional



# SIGNIFICANT CASE LAWS

## Finality of Liquidation vs. Belated Statutory Claims: NCLT Kerala Dismisses EPFO Appeal

In the case of Regional Provident Fund Commissioner-II v. Raju Palanilkunnathil Kesavan and Anr., the Kochi Bench of the NCLT addressed a dispute arising from the rejection of a supplementary claim filed by the Employees' Provident Fund Organisation (EPFO) totaling ₹2,81,71,007 for interest and damages under Sections 7Q and 14B of the EPF & MP Act, 1952. The issue began when the EPFO submitted this additional claim on August 6, 2025—over three years after the liquidation commencement date of June 2, 2022—despite having already had an earlier claim of ₹75,30,864 fully admitted and satisfied by the Liquidator. The Appellant argued that administrative exigencies and the time required for complex record verification caused the delay, but the Respondents countered that the Corporate Debtor had already been sold as a going concern and the liquidation process was reaching finality. Upon review, the Adjudicating Authority found that the fresh claim was based on assessments conducted during the moratorium period, which is prohibited under Section 14 of the IBC, and ruled that permitting fragmented, successive claims would defeat the Code's time-bound framework. Consequently, the Tribunal dismissed the appeal, characterizing it as a misuse of the legal process and imposing a notional cost of ₹5,000 to be deposited into the National Defence Fund



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# SIGNIFICANT CASE LAWS

## Insolvency Resolution of Personal Guarantor: NCLT Indore Admits Application by Ramdhari Mittal

Ramdhari Mittal v. Omkara Assets Reconstruction Pvt. Ltd. and Anr. originated from an application filed by Mr. Ramdhari Mittal, a personal guarantor for M/s Shree Geeta Textile Mills Private Limited, seeking to initiate a personal insolvency resolution process against himself under Section 94 of the Insolvency and Bankruptcy Code (IBC), 2016. The facts of the case involve the Corporate Debtor (Principal Borrower) availing credit facilities totaling ₹58.71 crores from a consortium of banks, for which the applicant executed a deed of guarantee in 2015. Following defaults and the classification of the loan accounts as Non-Performing Assets (NPA) in 2019, creditors initiated recovery actions under the SARFAESI Act and before the Debt Recovery Tribunal. Creditors, including the Bank of India and Omkara Assets Reconstruction Pvt. Ltd., opposed the insolvency application, alleging that it was a calculated attempt to stall existing recovery proceedings and suffered from non-disclosure of material facts regarding debt assignments. However, the NCLT Indore Bench observed that the pendency of other recovery proceedings does not bar a statutory remedy under the IBC and that the Resolution Professional's report confirmed the existence of a qualifying debt and default. Consequently, the final judgement of the Tribunal was to admit the application, thereby initiating the Insolvency Resolution Process and appointing a Resolution Professional to carry out the necessary statutory duties.

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# SIGNIFICANT CASE LAWS

## NCLT Directs Registration of Intra-Family Share Transfer Amidst Unrelated Property Disputes

Smt. Rita Roy v. Salt Lake Wine Pvt. Ltd. and Ors. originated from the refusal of a private limited company to register the transfer of five equity shares from a husband (Respondent No. 3) to his wife (the Petitioner). The facts involve the Petitioner's husband, an original subscriber and absolute owner of the undisputed shares, executing a transfer deed for a consideration of ₹5,000, which the company failed to process due to the deliberate absence of the only other director (Respondent No. 2) from multiple board meetings. Respondent No. 2 opposed the transfer by citing pending civil litigation and probate proceedings, although those legal battles specifically concerned a separate block of 91 shares inherited from the family matriarch and had no legal nexus with the five shares in question. The NCLT Kolkata Bench observed that the company's Articles of Association expressly permitted share transfers to spouses and stripped the Board of discretion to decline such transfers. Ultimately, the Tribunal allowed the appeal, ruling that the pending litigation was irrelevant to these specific shares and directed the company to register the transfer and issue fresh share certificates to the Petitioner within thirty days.



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# SIGNIFICANT CASE LAWS

## NCLT Dismisses Fraudulent Trading Application Against Directors of Kobo Biotech Ltd.

Kobo Biotech Ltd. v. Urja Vijaykumar Shah and Ors. originated from an application filed by the Resolution Professional of Kobo Biotech Limited under Section 66 of the Insolvency and Bankruptcy Code, 2016, seeking to recover ₹133.48 crores and ₹109.40 crores from the suspended Board of Directors for alleged fraudulent and wrongful trading. The facts of the case center on allegations that the directors diverted funds through questionable write-offs and advances to related parties, while failing to exercise due diligence to minimize losses to creditors despite the company's negative net worth. The Respondents defended their actions as legitimate business decisions necessitated by industry-wide challenges and the impact of the COVID-19 pandemic. Ultimately, the NCLT Hyderabad Bench dismissed the application, ruling that the Resolution Professional failed to provide concrete evidence of an actual "intent to defraud" or show that the directors acted with reckless disregard for creditor interests, concluding that mere suspicion or financial distress is insufficient to fasten liability under Section 66.



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# SIGNIFICANT CASE LAWS

## NCLT Authorizes Bankruptcy Proceedings Against Personal Guarantor Following Failure of Repayment Plan

Rakesh Kumar Tulsyan, RP of Mrs. Molly G originated from an application filed by the Resolution Professional (RP) under Regulation 17B of the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019, informing the Tribunal of the Personal Guarantor's failure to submit a repayment plan. The facts of the case involve Mrs. Molly G, who stood as a personal guarantor for credit facilities extended to M/s Tata Capital Limited; following the initiation of her insolvency resolution process, she failed to propose a repayment plan within the statutory period despite being granted sufficient opportunity by the RP. The RP subsequently sought the Tribunal's intervention to record this non-submission and to allow creditors to proceed with bankruptcy actions. The NCLT Kochi Bench observed that without a repayment plan, the insolvency resolution process could not proceed further, and consequently, the final judgement allowed the application, terminated the interim moratorium, discharged the RP, and granted liberty to the creditors to initiate bankruptcy proceedings against the Personal Guarantor under Section 121 of the IBC.



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# SIGNIFICANT CASE LAWS

## NCLT Rejects Premature Scheme of Arrangement and Cites Conflict of Interest in Mangomeadows Case

N.K. Kurian v. K Easwara Pillai (RP) and Anr. originated from multiple applications filed by the suspended director of Mangomeadows Agricultural Pleasure Land Pvt. Ltd. to set aside decisions made by the Committee of Creditors (CoC) during the Corporate Insolvency Resolution Process (CIRP). The facts involve the Corporate Debtor, which operates a unique man-made agricultural theme park, facing financial distress due to natural disasters and the pandemic, leading to a Section 7 insolvency admission initiated by its majority financial creditor, Kosamattom Finance. The primary dispute arose when the CoC, dominated by Kosamattom Finance with a 98.69% voting share, rejected the suspended director's proposals and instead approved a "Scheme of Compromise and Arrangement" submitted by the financial creditor itself under Section 230 of the Companies Act. Upon review, the NCLT Kochi Bench found that a Section 230 scheme is statutorily reserved for the post-liquidation stage and cannot be conflated with the CIRP stage when no liquidation order has been passed. Furthermore, the Tribunal highlighted a significant conflict of interest, noting that the majority creditor essentially approved its own takeover of a specialized business it lacked the technical expertise to manage. Consequently, the final judgement dismissed the application for the scheme as premature and legally untenable, while granting the suspended director a final seven-day opportunity to submit a comprehensive resolution proposal to the CoC.



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# REGULATORY UPDATE:

Regulatory Refinement in CIRP: Examining the IBBI Amendment Regulations, 2026

# IBBI

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INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

The Insolvency and Bankruptcy Board of India, through the **Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2026**, has introduced amendments to the regulatory framework governing the Corporate Insolvency Resolution Process. The amendments were notified in the **Official Gazette vide Notification No. F. No. IBBI/2025-26/GN/REG135** dated 25 February 2026. These changes focus on refining the valuation mechanism applicable during insolvency proceedings and aim to enhance procedural clarity, consistency, and transparency within the resolution process, thereby facilitating more reliable valuation outcomes and maximisation of distressed asset value.

The amendments have been issued by the Insolvency and Bankruptcy Board of India in exercise of the powers conferred under section 196 read with section 240 of the Insolvency and Bankruptcy Code, 2016, and they amend the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The regulatory update primarily focuses on the framework governing valuation of the corporate debtor and the procedure to be followed in cases where significant variations arise between valuation estimates submitted by registered valuers. One of the key changes introduced by the amendment concerns the definition of “fair value.” The revised regulatory formulation clarifies that fair value refers to the estimated realizable value...



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# TRAINING AND EVENTS

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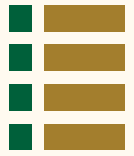
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