

MVIRDC proposes nine-point policy agenda to expedite insolvency resolution

We welcome the government's move to introduce pre-package insolvency resolution scheme for MSMEs with outstanding bank credit of less than Rs 1 crore.

We are confident that the scheme will provide relief to indebted MSME promoters who are facing genuine financial distress due to external factors beyond their control.

At the same time, we wish to highlight the following challenges pertaining to the current insolvency resolution system and propose a nine-point policy agenda to address the same.

1. The government should create separate, dedicated benches in the National Company Law Tribunal (NCLT) to hear cases on insolvency under the IBC Act and the Pre-packaged insolvency resolution ordinance. Currently, there is common bench in the NCLT to hear cases under insolvency laws and cases under Company Law.

2. Identify 8-10 cases for priority resolution: The RBI and the government should pave way for setting of benchmark, best practices and jurisprudence for the pre-packaged insolvency regime by identifying 8-10 cases to be resolved on priority basis, and pushing them into IBC as was done in 2017. Initially, the best resolution professionals and the best of commercial lawyers in the country should be involved in these 8-10 cases and guide bankers and promoters in coming out with robust resolution plans.

3. IBBI should prepare sector specific model templates of Base Resolution Plan which MSMEs can use to develop as per their

individual information memorandums, for submission to the financial creditors before filing application for PIRP.

4. The government should introduce a performance appraisal mechanism for judges in the NCLT. Such a mechanism should incentivise time-bound resolution of insolvency cases, while also having sufficient disincentives for poor track record in settlement of cases.

5. Set up a team of experienced professionals in the back office of NCLT to support judges: The government needs to hire professionals who are experienced in credit analysis and business management to staff the back office of NCLTs. These professionals should support the judges in timely settlement of cases.

The current insolvency resolution process under the IBC faces inordinate delay because of rising number of insolvency cases and limited capacity of NCLT benches.

On an average, it takes six months to admit a case under Section 7(9) of the CIRP in the NCLT and in some cases, it takes as much as two years. After submission of the resolution plan, the NCLT takes several months and at times more than a year to pass the final order. We should not allow the IBC to become a time consuming process as under the erst-while SARFAESI Act or DRT Act.

The resolution professionals and the adjudicating authority should meet strict timelines and resolve cases. After resolution plan is submitted, it should not take more than two months for the adjudicating authority to pass the final order.

By creating a cadre of experienced professionals in the back office of NCLT, we can reduce delay in settlement of cases.

6. Reserve Bank of India should come out with guidelines on provisioning norms for loan accounts resolved under Pre-packaged insolvency resolution framework.
7. Conduct training, workshops for RPs and judges: The government needs to conduct capacity building programs for resolution professionals (RPs) and NCLT judges to handle the cases likely to be filed under the pre-pack scheme.
8. Effective implementation of the subordinated debt fund: As part of the Aatmanirbhar Bharat package announced in May 2020, the government introduced a Rs. 20,000 crore subordinated debt scheme to support two lakh MSMEs whose loan accounts are identified as stressed. Reports suggest that hardly 332 MSMEs have benefited from this scheme as against the targeted 2 lakh enterprises after nine months of implementation of this scheme. The government should ensure effective implementation of this scheme for the benefit of stressed MSMEs.
9. In order to prevent frivolous applications by operational creditors, the government should increase application fee under IBC.

We are confident that the above policy measures will expedite resolution of stressed MSME loans in the banking sector and provide relief to both promoters and lenders.

From:

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