

Govt works on measures to handle business stress

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NEW DELHI : The Centre is working on measures to deal with the stress in the corporate sector once the suspension of the bankruptcy proceedings against defaulters expires on 24 March. The corporate affairs ministry has also not ruled out extending the suspension of bankruptcy proceedings against defaults that occurred during the pandemic and is likely to assess the situation in early March before taking a final call.

The ministry is also considering raising the capacity of bankruptcy courts to deal with the rise in petitions, said a government official on the condition of anonymity.

"Extending the suspension of the Insolvency and Bankruptcy Code (IBC) would require another Bill to be tabled in Parliament or the issuance of an ordinance as the law at present allows its suspension only up to one year," the official said.

The Insolvency and Bankruptcy Code (Second Amendment) Act, 2020, which was notified in September, barred fresh bankruptcy action for a year starting 25 March 2020. The defaults during this period will never be placed before a tribunal.

The ministry is also preparing to ensure that the National Company Law Tribunal (NCLT) meets its bench strength of 63 members from the existing 44 members. "Work is on to hire the rest. Most of them would be stationed in metro cities," it said.

Experts have expressed fears of a wave of bankruptcy petitions once the suspension of IBC proceedings against defaults during covid-19 ends. The NCLT continues to hear cases where defaults occurred prior to 25 March.

A section of experts has questioned the continuation of the ban, while others are of the opinion that at least shareholders of distressed firms should be allowed to voluntarily invoke IBC if they see merit in a resolution process.

The government should go back to the drawing board and redraw the vision and roadmap for IBC for three-four years, said Sumant Batra, managing partner of the law firm Kesar Dass B. and Associates. "We need changes in the code not only to plug the gaps that were exposed from past functioning, but also to address the changed geopolitical and economic realities of the world. It is a harsh reality that there are not many investors with resolution plans for stressed assets. IBC needs to be infused with fresh energy and momentum with the backing of the highest political leadership to play a meaningful role," Batra said.

Extending the IBC suspension can also be an option with some criteria instead of a blanket suspension, said Daizy Chawla, senior partner of the law firm Singh and Associates.

The Centre's priority is to save viable businesses till there is sufficient investor appetite for stressed assets as lifting the ban could be a death warrant for both unviable and viable businesses in the absence of bidders.