INSOLVENCY AND BANKRUPTCY CODE

CA. Pravin Navandar, CA. Mukund Mall

Resolution Framework for COVID-19 related financial stress released by Reserve Bank of India (refer the attached RBI Circular - RBI/2020-21/16 DOR.No.BP.BC/3/21.04.048/2020-21 dtd. 6th August 2020)

The Reserve Bank of India (RBI) has taken cognizance of the disruptions caused by the COVID-19 pandemic and the resultant financial stress for all categories of borrowers. To protect the long term viability of entities having a good track record of debt payments, the RBI has permitted a one-time restructuring of loan accounts and has set up an Expert Committee under Shri K.V. Kamath to make recommendations on financial parameters and sector specific benchmarks for the same. The lending institutions have to ensure that the resolution under this facility is extended only to those borrowers having financial stress on account of COVID-19. Businesses have been severely impacted by the COVID_19 pandemic which has resulted in financial stress and debt burden becoming disproportionate to the cash flow generation in the short term. This one-time restructuring channel enabled by RBI shall give a much-needed breather to corporate having a good reputation and debt repayment track record to align their debt repayments and business cash-flows after factoring the COVID-19 impact and thus maintain the viability of business. The promoters of companies who are eligible under this one-time restructuring scheme are permitted to restructure the debt as per the framework and continue their ownership of the business enterprise.

Some of the salient features of this one-time debt recast window are as follows:

- The one-time debt restructuring window is allowed for both corporate as well as retail loans
- Applicable for loan accounts which were classified as standard, but not in default for more than 30 days with any lender as on 01 March 2020
- The account should remain standard till the date of invocation. The date of invocation shall be the date on which both the borrower and lending institution have agreed to proceed with a resolution plan under this framework
- Inter-Creditor Agreement is to be signed between lending institutions within 30 days from date of invocation, non-compliance to the same attracts additional provisions
- If the account slips after invocation but before implementation, asset classification shall be restored after implementation, provided the resolution plan is implemented within the prescribed timelines
- Lenders are permitted to provide moratorium and extend the tenure of the loan by up to a period of two years
- The Resolution plan may provide for conversion of a portion of the debt into equity or other marketable, non-convertible debt securities issued by the borrower. The amortization schedule and the coupon carried by such debt securities are similar to the terms of the debt held on the books of the lending institutions, post implementation of the resolution plan
- Where the aggregate exposure of lending institutions at the time of invocation is INR 100 crore and above, an Independent Credit Evaluation (ICE) by one credit rating agency authorized by RBI is mandatory
- Post implementation of the resolution plan under this window, all cash-flows have to be routed through an escrow account maintained with one of the lending institutions
- The Expert Committee shall also have the responsibility of vetting the resolution plans to be implemented under this window in respect of all accounts where the aggregate exposure of the lending institutions at the time of invocation of the resolution process is INR 1500 crore and above. The Committee shall check and verify that all the processes have been followed by the parties concerned as desired without interfering with the commercial judgment exercised by the lenders