

● **INTERVIEW: MS SAHOO**, chairman, Insolvency and Bankruptcy Board of India

## ‘Surge in IBC cases unlikely once Covid subsides’

*Even as a debate rages on the desirability of the suspension of insolvency proceedings for Covid-related default for up to a year, MS Sahoo, the chief of the insolvency regulator IBBI, defends the move, saying the likelihood of finding a “white knight” to rescue failing firms is remote at this time, when every company and every industry is under stress. In an interview to FE’s Banikinkar Pattanayak, Sahoo also explains why it’s important to have a special insolvency mechanism for MSMEs and why the country badly needs an institutionalised framework for the valuation profession. He also says work has started on a pre-pack insolvency mechanism. Edited excerpts:*

Some analysts, including former RBI deputy governor Viral Acharya, have said suspending insolvency proceedings for fresh defaults for up to a year is a bad idea; at best, the suspension should have been limited to three months. Will it delay an early resolution of bad debt in the banking system?

It is important to understand the nature of suspension. It is not a suspension of the Insolvency and Bankruptcy Code (IBC) for a year, as some believe. It is a keyhole surgery to suspend a tiny part of the Code for a short period. It does not suspend (a) filing of application for initi-

ating insolvency proceeding against a company for defaults committed before March 25, 2020 or defaults arising after expiry of the Covid period, (b) the applications already filed before the adjudicating authority for the initiation of insolvency proceeding and pending for admission, and ongoing corporate insolvency proceedings (resolution and liquidation), including voluntary liquidation, and (c) provisions relating to and ongoing proceedings against personal guarantors and financial service providers.

Also, the likelihood of finding a white knight to rescue a failing firm is remote at this time, when every firm and every industry is reeling under stress. If all failing firms were to undergo insolvency proceeding (around the same time), most of them may end up with liquidation for want of saviours to rescue them. Rescuing lives of firms being the prime objective of the Code, it cannot be taking away their lives prematurely. What characterises Covid as compared to any other crisis is the uncertainty surrounding it. The law, therefore, enables suspension up to one year based on assessment of ground realities.

**The RBI’s latest Financial Stability Report has forecast a spike in bad loans to as much**



as 14.7% by March 2021 from 8.5% in March 2020 if the economy goes through a severe stress. Is the IB Code system strong and mature enough to handle a potential flood of cases once the suspension is lifted?

The surge of insolvency proceedings on the other side of the Covid is very unlikely, given that the stakeholders have many options during the Covid period for the recovery of loans as well as for resolution of stress. The period of suspension is being utilised to ease the pain in the system. RBI has come out with accommodative frameworks for Covid-related stress. The government is working on a special resolution framework for MSMEs. The work has begun on pre-pack framework. The number of insolvency proceedings could be less, as the companies will have normal business operations after Covid subsides.

Higher threshold of default (₹1 crore, against ₹1 lakh earlier) for the initiation of insolvency proceedings will keep MSMEs out of the reach as they resolve insolvency under the special framework. And the Covid period default would remain outside insolvency proceedings forever. Further, with the maturing of the ecosystem and resolution of contentious issues, the disposal of an insolvency proceeding will be faster.

**What was the need for a special resolution framework for MSMEs? When is it expected to come?**

MSMEs are different from companies in many ways as regards resolution. These are: MSMEs generally have loans from informal sources, which do not have access to resolution frameworks as available to banks; many of them do not have stamina to sustain a full-fledged CIRP-style resolution process; the value of an MSME firm often lies in informal arrangements, making it difficult for a third party to harness value through a resolution plan; the market for resolution plans for an MSME firm is local, while the entire globe is the market for a bigger firm; etc. In recognition of their uniqueness, a framework prepared in consultation with stakeholders is under consideration. It is difficult to indi-

cate a firm timeline.

**An eight-member panel, headed by you, has suggested that the government bring in a new law to set up a national body for valuation professionals. What was the idea behind such a move and what is the progress on the recommendations?**

Different statutes—banking, securities, tax, company, insolvency—require valuation for a variety of purposes. Each statute, acting as a separate island, focuses on what needs to be valued, who can render valuation services and the manner of such valuation. Several self-regulating organisations have generally tried to build expertise to meet the needs of users. This arrangement catered to the immediate needs but did not engender holistic development of the profession. The committee of experts has, inter-alia, recommended the enactment of an exclusive statute to provide for the establishment of the National Institute of Valuers to protect the interests of users of valuation services and to promote the development of, and to regulate the profession of valuers and market for valuation services. This should ensure that valuers enjoy an enviable reputation of the stakeholders while being accountable for their services.

