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There will be demand for stressed assets: IBBI chairman M.S. Sahoo

IBBI chairman M.S. Sahoo says there are enough professionals to handle bad loan cases under the insolvency and bankruptcy code

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Updated 15 Jun 2017, 03:36 AM IST

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M.S. Sahoo, chairman of the Insolvency and Bankruptcy Board of India (IBBI). RBI has come out with a loan defaulters list for bankruptcy proceedings, in an attempt to address the bad loans issue at banks. Photo: Abhijit Bhatlekar/Mint



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laid down criteria to compel banks to invoke the bankruptcy and insolvency code to solve India's Rs10 trillion stressed assets problem. In an email interview, M.S. Sahoo, chairman of the Insolvency and Bankruptcy Board of India (IBBI), said there are adequate number of insolvency professionals to handle cases. Edited excerpts:

How well is the National Company Law Tribunal (NCLT) infrastructure equipped to deal with this influx of bankruptcy cases?

You may ask this question to ministry of corporate affairs or NCLT. To my understanding, there are 11 benches of NCLT in operation. It is understood the government has plans to add further benches. The important point is that the NCLT admits or rejects an application. The actual resolution is undertaken by a committee of creditors who have to approve a resolution plan within 180 days. These 180 days are mandatory. Failure to do so has severe consequences.

What about insolvency professionals? How are you ensuring that credible entities are appointed?

There are adequate and competent insolvency professionals available. Professionals such as chartered accountants, cost accountants, company secretaries, and advocates with 10 years of experience and graduates with 15 years of managerial experience and having passed limited insolvency examination are registered as insolvency professionals. Over 300 professionals are available in this category. Under the category of limited period registration, 977 are available. [OPEN IN APP](#)

The IBBI and the IPAs (insolvency professionals associations) are undertaking a large number of capacity development programmes. An insolvency professional is empowered to engage any other professional to help him discharge his responsibilities. The existing management reports to him. He takes major decisions under the guidance of the committee of creditors.

There are provisions for a calm period when nobody disturbs him when a corporate is undergoing resolution. There would be information utilities which would expeditiously provide relevant information required by him for verification of claims. In case of very complicated cases, he can use the organisational

How confident are you that the Insolvency and Bankruptcy Code (IBC) will quickly resolve cases? Even now, debtors are resorting to delaying tactics like approaching the high court.

Everybody has the right to seek intervention of court. Such intervention helps by settling matters; once settled, the path becomes clear forever. When a new law comes, people have different views and somebody should sort it out and that should be the court. Initially, some transactions may be delayed but that will mean a large number of transactions will be smoother in the days to come. What is, however, important is that hundreds of defaults have already been admitted and corporate insolvency resolution transactions are going on. To my knowledge, not a single transaction has been stayed by any high court. We need to appreciate that resolution is equally in the interest of the corporate debtor as much in the interest of creditors. In fact, as of now, relatively more corporate insolvency resolutions are being initiated by corporate debtors.

National Company Law Appellate Tribunal (NCLAT) in a recent judgment ruled that there can be no deadline for admission of cases since it violates principles of natural justice. Do you see this as hurdle for quick resolution?

These are two different judgments—one about time line and the other about principles of natural justice. In the matter of JK Jute Mills Co. Ltd vs. [Surenra Trading Co.](#), the NCLAT reiterated that time is the essence of the IBC. The IBC broadly prescribes four timelines in respect of corporate insolvency resolution process (CIRP): (a) 14 days for the NCLT to admit or reject an application for initiation of CIRP; (b) 7 days for an applicant to rectify defects in the application for CIRP; (c) 30 days for the Interim Resolution Professional to discharge his duties; and (d) 180 days for creditors to complete a CIRP. The NCLAT held that timelines at (a) and (c) are directory, while those at (b) and (d) are mandatory.

It never held that there is no time line. “Directory” means the time line has to be followed unless a delay is justified under the circumstances. In the matter of Innoventive Industries Ltd vs. ICICI Bank, the NCLAT observed that the NCLT is bound to issue a limited notice to the corporate debtor before admitting a case for ascertainment of existence of default based on material submitted by the

adherence to principles of natural justice would not mean that in every situation the NCLT is required to afford reasonable opportunity of hearing to the corporate debtor before passing its order. These judgments, in fact, have streamlined the process for all future cases.

One of the reasons why resolution is delayed is because of lack of buyers of stressed assets. Under IBC, insolvency professionals are expected to come out with a turnaround plan. What will happen if there are few buyers?

The IBC envisages a resolution plan for every corporate insolvency. However, it is not a standard plan that has to be adopted by the committee of creditors in every corporate insolvency resolution. In fact, construction of a resolution plan is left to the imagination of stakeholders, including creditors and potential investors. It could be a turnaround plan, takeover, merger, buy out, etc. Only when it is absolutely impossible to resolve insolvency, the Committee of Creditors may decide to liquidate the insolvent corporate. Most often it may not be sale of stressed assets.

Further, there would be demand for stressed assets from domestic as well as foreign buyers and hence the number of buyers would not be too few. In any case, the number of sellers is not too large initially. What is important is that the market should be competitive which would ensure the right price. There is a buyer or a seller for every product if the price is right.

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First Published: 15 Jun 2017, 03:36 AM IST

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