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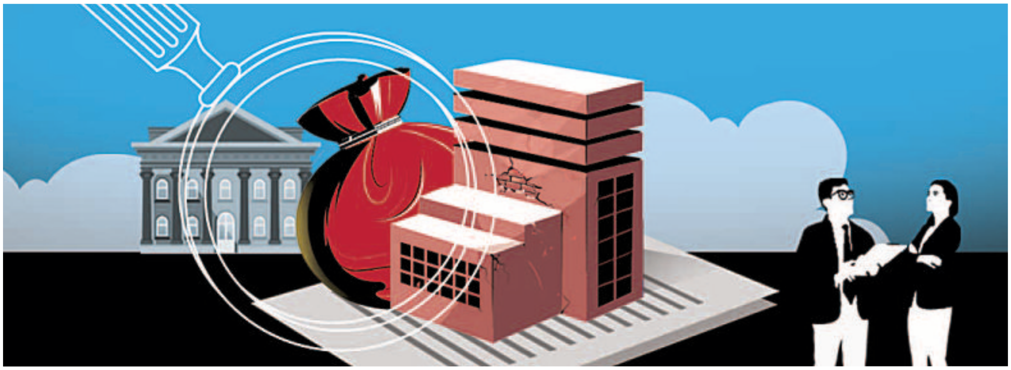

When companies write their own future

The next frontier of insolvency reforms is preparing companies for distress before it strikes

In March this year, in *Harish Rana vs Union of India*, the Supreme Court permitted the withdrawal of life-sustaining treatment where its continuation serves no therapeutic purpose. The judgment brought the advance medical directive, the living will, into Indian law. An individual of sound mind may now execute a living will specifying, in advance, how the end of life is to be managed should he later lose decision-making capacity. The principle is simple: Important decisions are best taken before a crisis strikes. The same insight applies to corporations. They should prepare for financial distress while they are still healthy.

Financial regulation already embraces this idea through the concept of resolvability, the ability of an institution to be rescued or wound down in an orderly manner without destroying value. The global financial crisis of 2008 demonstrated the enormous costs of disorderly failures and taxpayer-funded bailouts. In response, regulators required systemically important banks to prepare recovery and resolution plans while they remained solvent. The Financial Stability Board's Key Attributes institutionalised crisis preparedness as an institution's own responsibility.

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The Insolvency and Bankruptcy Code (IBC), now a decade old, largely intervenes after distress has crystallised. Yet its evolution has steadily moved upstream. The pre-packaged insolvency process introduced in 2021 requires smaller companies to prepare a base resolution plan before filing, while recent amendments enable creditors to initiate resolution earlier and outside the courtroom. The trajectory is clear: IBC is shifting from response to preparedness. The natural next step is to encourage healthy companies to remain resolvable before distress ever arises.

A real-sector company is not a systemically important bank, and its failure rarely threatens financial stability. The rationale for mandatory resolvability, therefore, does not travel intact from banking. Yet companies are no less vulnerable. Their survival depends on a delicate balance of commercial, financial, and governance forces that can shift without warning. Limited liability, designed to encourage enterprise, can shield reckless management, while controllers pursuing short-term extraction can hollow out the firm's future. The shrinking lifespan of companies is a reminder that corporate mortality is real, and many firms fail not because they are beyond rescue, but because they are unprepared for it. Resolvability separates business failure caused by economic reality from that arising from lack of preparedness.

For real-sector companies, therefore, resolvability should evolve through market discipline rather than regulatory command, at least initially among larger and more leveraged firms where the gains from preparedness are greatest. A resolvable company is inherently more valuable because it is easier to rescue in the event of distress. Investors and lenders should recognise that quality through lower borrowing costs, stronger valuations and greater confidence. To facilitate such pricing, an independent resolvability index could assess a company's structural and informational preparedness for rescue. Regulators could encourage this evolution by developing a common assessment framework and piloting a voluntary disclosure regime.

Resolvability has two dimensions. The first is structural: Keeping the company rescuable. The second is procedural: Ensuring that any rescuer knows how to rescue it.

Consider a company that operates a profitable plant, but the land beneath it is owned by its promoter. When distress strikes, a prospective buyer hesitates because the business cannot be transferred without disentangling ownership of its most important asset. What should have been a straightforward rescue becomes an exercise in legal reconstruction, with enterprise value eroding each passing week. A resolvable company avoids such obstacles by design. It keeps critical assets within the company, avoids avoidable encumbrances, maintains a simple ownership structure, keeps its records current, discloses related-party arrangements, and so on. The objective is to ensure that, if a rescuer appears tomorrow, the business can be transferred substantially as a going concern rather than reconstructed through litigation. In effect, the company has already conducted a fire drill for its own balance sheet.

A resolvable company resembles a well-managed high-rise. The fire alarm works, escape routes remain unobstructed, and evacuation plans are constantly updated. When the fire brigade arrives, a complete outsider, it can begin rescue immediately because the building has already been prepared for rescue. The brigade's success depends not only on its own skill but also on how easy the building already is to rescue. The IBC has repeatedly demonstrated this principle. Resolution professionals and prospective resolution applicants are, in effect, the fire brigade. The easier the company is to understand and transfer as a going concern, the greater the likelihood of its rescue.

The second dimension of resolvability is a standing rescue plan: A corporate living will that can be activated the moment distress emerges. It combines an information dossier with an operational playbook. The dossier records the ownership structure, financial information, material contracts, encumbrances, litigation, and a current information memorandum. Much of this information already exists. The innovation lies in keeping it assembled, current, and immediately deployable. The accompanying playbook provides a step-by-step guide: It identifies the actions necessary to preserve value, the assets that require protection, businesses that may be sold as going concerns, contracts that must be preserved, financing options that may be pursued, and the circumstances in which the company should voluntarily initiate insolvency proceedings.

Artificial intelligence (AI) is compressing business cycles and accelerating the speed at which distress can emerge and spread. Companies will have less time to recognise distress and organise a rescue. Those that maintain their resolvability can respond immediately; those that begin preparing only after distress strikes may discover that the window for rescue has already closed. AI, therefore, heightens the value of resolvability.

There is a symmetry worth ending on. Just as human beings have won the right to face the end on their own terms, having decided those terms while they were still well, companies deserve no less foresight. By maintaining their own resolvability, they do not anticipate failure; they maximise the chances of survival. When a rescuer eventually arrives, the company is not a silent collection of disputed assets and incomplete records. It can explain itself, preserve its value, and guide its own rescue. Thus, a corporate living will is less about managing failure than about improving the chances of continued life.

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