

INSOLVENCY & BANKRUPTCY

Pay up or make way, FM warns borrowers

● Says the era of lenders chasing defaulters over; new insolvency law does not aim to liquidate companies, but to save their assets

BY BUREAU
Mumbai, August 19

CAUTIONING CORPORATE DEFAULTERS, finance minister Arun Jaitley on Saturday said the old regime by which "lenders would get tired chasing small borrowers and end up recovering nothing" was over. He warned that if a borrower has to survive, he will have to service the debt or make way for somebody else.

"I think this is the only correct way by which businesses would now be done," Jaitley said, adding that for endless years, a system existed that effectively protected the debtors and allowed assets to rust away, as there was hardly any law for individual and partnership insolvencies.

He added that if one takes the cumulative effect of all the laws (DRT, SARFAESI and Insolvency and Bankruptcy Code), the message was loud and clear that the debtors will certainly have to make sure that their debts are serviced. "The ultimate objective is not the liquidation of the assets, but to save these businesses and get rid of the existing premises, with or without partners, or new entrepreneurs to come in and make sure that these valuable assets are preserved," Jaitley said.

He said the government is trying to ensure that the infrastructure is also strengthened and is in consonance with the requirements of the Insolvency and Bankruptcy Code (IBC). "The legislation has strict timelines and it is important to adhere to these timelines," he said.

He said some of the existing laws aimed at bad debt resolution have not been able to achieve their objective. "You had insolvency



FM Arun Jaitley (left) and RBI governor Urjit Patel during a conference on insolvency and bankruptcy in Mumbai on Saturday

Courts have 'two standards' on statutory timelines: Jaitley

MUMBAI, AUGUST 19: Stating that Indian courts have "two standards," finance minister Arun Jaitley said Saturday that the timelines prescribed in the laws enacted by Parliament are held as mandatory for the judiciary itself.

"Conventionally, our courts always have two standards," Jaitley said at

the meet on insolvency. "When timelines are made for the executive, they (courts) normally maintain these as binding. But when timelines are made for judicial institutions, the courts have conventionally held that these are only directional," he said.

According to him, a six-month period (since the IBC formed) would be too short to get any knee-jerk reaction, but what improvements were required.

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law in the state that were almost ineffective. You had a provision in the Companies Act that provided for commercial insolvencies and

remedial action, but was an extremely slow-moving process that would result in some form of settlement in court," Jaitley said.

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Still judging current norms to resolve bad debts: Jaitley

The objective of new bankruptcy norm is not liquidation but to save businesses by bringing in new entrepreneurs

● AGENCIES
Mumbai

Previous laws were only partly effective in resolving the problems of insolvency and bankruptcy in the corporate world and one would have to wait to judge the effectiveness of the current mechanism to deal with the issue, Finance Minister Arun Jaitley has said. "Earlier, if companies were in insolvency, they got stuck in courts indefinitely. The SICRA merely provided an 'Iron Curtain' against debtors, otherwise it was an absolute failure and could achieve very little of the purpose for which it was created," Jaitley said.

The Debts Recovery Tribunal (DRT) was somewhat

faster, but not as effective as envisaged, while the Sick Industrial Companies Act (SICA) failed and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI) served a limited purpose since being a creditor inherently put one at a disadvantage under it, he said. He added that while the Reserve Bank of India's (RBI) previous efforts to tackle insolvency met with "some success", eventually it was still tough for creditors to change the defaulting debtors.

Jaitley, while addressing a "National Conference on Insolvency and Bankruptcy: Changing Paradigm", organised by the Ministry of Corporate Insolvency and Bank-



Jaitley, while addressing a "National Conference on Insolvency and Bankruptcy: Changing Paradigm", organised by the Ministry of Corporate Insolvency and Bank-

ruptcy Board of India, urged debtors to make sure the debt is serviced under the insolvency mechanism though the ultimate objective is not liquidation but resolution of

the debt.

Jaitley said that the new bankruptcy law is a "game changer" and will help in the resolution of bad debts.

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PSBs need to cut bad loans, will need more capital: Urjit Patel

RBI governor said 9.6% NPA in system worrisome



(From left) IBBI Chairman M S Sahoo, Sebi Chairman Ajay Tyagi, Finance Minister Arun Jaitley and RBI Governor Urjit Patel at the National Conference on Insolvency and Bankruptcy in Mumbai on Saturday

ANUP ROY
Mumbai, 19 August

Reserve Bank of India (RBI) Governor Urjit Patel on Saturday said banks would need to take a haircut for resolution of current stressed assets, and this would require higher capitalisation.

"The success and credibility of all resolution efforts would be critically contingent on the strength of public sector banks' balance sheets to absorb costs," he said, addressing the National Conference on Insolvency and Bankruptcy in Mumbai.

According to IBC rules, firms being referred to insolvency tribunals will result in heavy provisioning. In some cases, this could be up to 50 per cent of the exposure at the referral stage, and could be raised to full provisioning if the asset is earmarked for liquidation. Patel said the RBI and the government were in talks to strengthen the banks' financial positions so that they could take the hit. "This could be done through a combination of raising capital from the market, debt restructuring, government support, strategic merger, and sale of non-core assets."

As well as time-bound resolution of bad debts would also free up banks, he said, adding that the RBI, the government and the Insolvency and Bankruptcy Board of India (IBBI) were working together. "Early signs were positive," he said. "Gross non-performing asset (NPA) ratio of the banking system at 9.6 per cent and stressed advances ratio at 12 per cent as of end-March this year, on the back of persistently high ratio in the past few years, is indeed a matter of concern." About 86.5 per cent of gross NPAs are accounted for by large borrowers, defined as those with an aggregate exposure of ₹5 crore and above.

"The regulatory, or rather the economic, challenge in dealing with the issue gets accentuated when seen against the capital position of some of the banks, particularly PSBs," Patel said.

Securities and Exchange Board of India Chairman Ajay Tyagi and IBBI Chairman M S Sahoo also attended the event. Tyagi said, "In my three decades in government, I haven't seen any Act enacted with such alacrity and implemented so speedily as the IBC. Sebi is committed to successful implementation of this code." Turn to Page 3

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Govt, RBI in dialogue for PSB recapitalisation: Patel

● Says bad loans at 9.6% of system not acceptable

ANUP ROY
Mumbai, 19 August

The Reserve Bank of India (RBI) Governor Urjit Patel on Saturday said the government and the RBI are in dialogue for the recapitalisation of public sector banks (PSBs).

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Defaulters have to pay up or get out, says Jaitley

'Businesses Won't Come To Standstill

Inaugural Session: An Overview



Shri Arun Jaitley, Hon'ble Minister for Finance, Corporate Affairs and Defence, addressing National Conference on Insolvency and Bankruptcy: Changing Paradigm



Session: Creditors & Debtors perspective – Striking the balance



(L to R) Shri Vinayak Bahuguna, CEO & Managing Director, Asset Reconstruction Company (India) Ltd, Shri Ajit Gulabchand, Chairman and Managing Director, Hindustan Construction Company Ltd, Shri Sunil Mehta, Managing Director & CEO, Punjab National Bank, Smt. Latha Venkatesh, Executive Editor, CNBC-TV18, Shri Uday Kotak, Executive Vice Chairman & Managing Director, Kotak Mahindra Bank Ltd, Shri Nikhil Srivastava, Director, KKR India Advisors Pvt Ltd, Shri Hari Sankaran, Vice Chairman and Managing Director, Infrastructure Leasing & Financial Services Limited.



Shri Uday Kotak
Executive Vice Chairman & Managing Director
Kotak Mahindra Bank Ltd.



Shri Sunil Mehta
Managing Director & CEO
Punjab National Bank



Shri Ajit Gulabchand
Chairman and Managing Director
Hindustan Construction Company Ltd.



Dr Urjit R Patel
Governor
Reserve Bank of India



Shri Ajay Tyagi
Chairman
Securities and Exchange Board of India



Dr M S Sahoo
Chairman
Insolvency & Bankruptcy Board of India



Shri Chandrajit Banerjee
Managing Trustee
National Foundation for Corporate Governance



Shri Amardeep Singh Bhatia
Joint Secretary
Ministry of Corporate Affairs



Shri Hari Sankaran
Vice Chairman and Managing Director
Infrastructure Leasing & Financial Services Limited



Shri Vinayak Bahuguna
CEO & Managing Director
Asset Reconstruction Company (India) Ltd.



Smt. Latha Venkatesh
Executive Editor
CNBC-TV18



Shri Nikhil Srivastava
Director
KKR India Advisors Pvt Ltd

Session: Role of NCLT- How it works in practice



(L to R) Smt. Mukulita Vijaywargiya, Member, Insolvency & Bankruptcy Board of India, Dr M S Sahoo, Chairman, Insolvency & Bankruptcy Board of India, Shri Bahram N Vakil, Managing Partner, AZB & Partners, Hon'ble M K Shrawat, Member, National Company Law Tribunal, Shri Darius J Khambata, Senior Counsel, Bombay High Court.



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Smt. Mukulita Vijaywargiya
Member
Insolvency & Bankruptcy Board of India



Shri Darius J Khambata
Senior Counsel
Bombay High Court

Inauguration of Revamped NFCG website



Audience