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Law amendments make resolution plan binding on all

330-day deadline for insolvency resolution

FC BUREAU
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In a move to fill up the critical gaps in the corporate insolvency resolution framework and ensure enhanced compliance by companies, the government on Wednesday approved a couple of important bills—the insolvency law and the amendment of the Companies Act, 2013.

For the insolvency law, the Narendra Modi-government on Wednesday cleared seven amendments to the Insolvency and Bankruptcy Code (IBC) to give more clarity on timelines for the rescue of companies and help resolve stressed assets and maximise the value of corporate debtor .

The amendments seeks to put in place a 330-day deadline for the corporate resolution process, including litigation and other judicial processes. It also make the resolution plan binding on all stakeholders, including the central government, state government or local authority to whom a debt is owed.

Further, the committee of creditors (CoC) may take the decision to liquidate the corporate debtor, any time after constitution of the committee and before preparation of Information Memorandum for the resolution, sources said.

CLEARING ROADBLOCKS

- There would be more clarity on allowing comprehensive corporate restructuring schemes such as mergers and demergers as part of the resolution plan
- The amended code would also provide greater clarity on rights and duties of representatives of voters and manner of distribution of amounts amongst financial and operational creditors

With the amendments, there would be more clarity on allowing comprehensive corporate restructuring schemes such as mergers and demergers as part of the resolution plan.

"The amended code would also provide greater clarity on permissibility of corporate restructuring schemes, clarity on rights and duties of authorised representatives of voters, manner of distribution of amounts amongst financial and operational creditors as well as applicability of the resolution plan on all statutory authorities," sources said.

Experts believe the latest set of amendments further demonstrates the government's intent to continue to strengthen the IBC. "The increase in maximum time allowed for the resolution process to 330 days from 270 days may not be much meaningful in the current scenario given that the tribunals are already overburdened with cases and until the infrastructure issues are resolved, a large portion of resolution processes would continue to remain delayed," said Abhishek Dafriya, Vice President and Co-Head, Corporate Ratings, Icra.

Cyril Shroff, Managing Partner at law firm Cyril Amarchand Mangaldas said the amendments would clear several roadblocks that are holding up resolution under the code.

"Vesting with the CoC the ability to take into account commercial considerations in respect of distributions under the resolution plan; making the resolution plan binding on all stakeholders and comprehensive restructuring through schemes will help foster flagging investor confidence," Shroff said.

Uday Bhansali, Presi-dent (Financial Advisory) at Deloitte India said dissenting creditors and operational creditors have to accept liquidation value or sum offered in the resolution plan, whichever is higher.

The Cabinet also approved a bill to amend the Companies Act, 2013. The bill would replace an ordinance issued in 2019. The proposed amendments will lead to further promotion of ease of doing business, de-clogging of NCLT and special courts, a government release said.

The focus would be on serious cases of violations of the Act and ensuring enhanced compliance by corporates. "The amendments will benefit law abiding corporates, while simultaneously plugging gaps in the corporate governance and compliance framework," the release said.