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Latest updates On Insolvency & Bankruptcy

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"Life has no undo button "

➤ **Interim finance: Should lenders throw good money after bad money to support insolvency?**

In the winter of 2017, senior officials from Yes Bank were spotted in a coffee shop at Jaypee Vasant Continental, a five-star hotel in New Delhi, preparing to make a pitch to Anuj Jain, the resolution professional (RP) of Jaypee Infratech.

The Manoj Gaur-promoted company was among the first few most prominent cases to have entered corporate insolvency soon after the government passed the Insolvency and Bankruptcy Code (IBC).

A few tables away, senior officials from Edelweiss Group were seated, and they too were preparing a presentation for the same RP. While both — Yes Bank and Edelweiss officials — exchanged pleasantries that evening, they did not disclose the purpose of their visit to the capital.

The next day, Edelweiss Group gave Jain a term sheet, offering INR600 crore as interim finance. Within a few hours, Yes Bank officials, unaware that Edelweiss had already made an offer, presented a plan to provide double the amount.

Interim finance, often referred to as rescue finance, is the finance that lenders give to companies undergoing corporate insolvency to ensure that the operations or the manufacturing unit remains functional or to complete any ongoing projects requiring last-mile funding. They provide funding with the aim of recovering it from the new buyer of the insolvent company.

Since the company is distressed, lenders command higher interest rates (in the high teens).

Interestingly, the proposal by both entities — Yes Bank, led by Rana Kapoor back then, and Edelweiss, was not in response to a tender floated by the RP. It was an unsolicited offer. For lenders, it was a no-brainer.

A priority loan to a well-established developer undergoing corporate insolvency, which earns an internal rate of return (IRR) in the high teens, is an opportunity not to be missed, they thought.

Jaypee Infratech was just one of the twelve companies that the Reserve Bank of India (RBI) directed lenders to admit for debt resolution under IBC in August 2017.

The other eleven companies included Essar Steel, Alok Industries, Amtek Auto, Bhushan Steel, Bhushan Power and Steel, Electrosteel Steels, Monnet Ispat, ABG Shipyard, Era Infrastructure, Lanco Infratech, and Jyoti Structures.

Finance companies and special-situation funds were enthusiastic about funding some of these 12 companies.

Unsolicited offers Separately, around the same time in Mumbai, some financiers had presented term sheets to Satish Gupta, the RP supported by management consultancy Alvarez & Marsal of Essar Steel.

At a committee of creditors meeting held in October 2017, Edelweiss Group officials pitched to provide INR2,500 crore interim finance for the Ruia-promoted steel company to ensure uninterrupted operations of the steel company.

Around the same time, Dinkar Venkatasubramanian of EY, RP of Amtek Auto, received at least four offers for interim finance of INR150 crore for the auto component maker. These included two alternate investment funds — Eight Capital and SSG Capital, and two finance companies — Srei Infrastructure Finance and Edelweiss Finance. They made a similar offer to the RP of Alok Industries.

The offers were made even though IBC was barely operational with few benches. In fact, the proposals for interim finance for Jaypee, Amtek Auto, and Essar Steel were made even before the respective RPs invited expressions of interest.

Super-senior status

Back then, lenders were attracted by the flexibility to charge higher interest rates — in high teens — on loans with super seniority status. It was a new law by the new government that made lenders enthusiastic about it.

“Interim finance, if raised at the right time to complete last-mile projects or to keep a unit operational, can significantly improve the valuation and attract buyers,” says Devendra Mehta, a fellow of INSOL International, an association of international restructuring and insolvency professionals.

It is part of the corporate insolvency resolution process (CIRP) cost under Section 5(3) of IBC, which states that this loan is high up in the payment order, ahead of the original lenders.

In effect, interim financiers' dues would be paid first from the recovery from selling the company, followed by existing lenders and trade creditors. It gives them super seniority status. In fact, without this clause, they would hardly be interested in funding a distressed company.

Source: The Economic times

Read Full news at: <https://economictimes.indiatimes.com/prime/fintech-and-bfsi/interim-finance-should-lenders-throw-good-money-after-bad-money-to-support-insolvency/primearticleshow/95514753.cms>

➤ **Corporate Insolvency: Insolvency regulator IBBI calls for behavioural change of creditors**

Insolvency regulator IBBI has now virtually laid the blame for the excessive delays in the completion of IBC process at the doors of the creditors—mainly banks. Asserting that stakeholders need to take actions in a time bound manner with the spirit of IBC in mind, IBBI Chairman Ravi Mital has now called for a behavioural change of creditors and urged them to submit their CIRP application early as soon as default has occurred. It is in the interest of banks to file the Corporate Insolvency Resolution Plan (CIRP) applications as soon as default occurs, Mital said writing in IBBI's latest newsletter. He highlighted that more than a year is being taken by financial creditors (basically banks) in filing CIRP applications post occurrence of default. "This delay leads to erosion in value of assets", Mital said in the article titled "leveraging behavioural change". Mital said creditors need to file their applications in time, enclosing certificate of record of default issued by the Information Utility (IU), pre-exchanged correspondences with debtor along with the CIRP application so that the examination by the Adjudication Authority (NCLT) is facilitated and time taken in admission is reduced. "This requires behavioural change at all levels", he added.

Source: The Hindu Business Line

Read Full news at: <https://www.thehindubusinessline.com/economy/corporate-insolvency-insolvency-regulator-ibbi-calls-for-behavioural-change-of-creditors/article66136225.ece>

➤ **Auditor flags Rs 13,110 cr of fraud deals in Srei Equipment Finance**

Transactions of Rs 13,110 crore that were allegedly fraudulent have been flagged in Srei Equipment Finance (SEFL), currently undergoing corporate insolvency resolution, by the transaction auditor, BDO India, appointed by the administrator of the company.

While announcing its results for the quarter ended September 30 this year, Srei Infrastructure Finance (SIFL) said the administrator received from BDO audit reports indicating in SEFL there were transactions amounting to Rs 13,110 crore that were “fraudulent” under Section 66 of the Insolvency and Bankruptcy Code (IBC).

It included transactions of Rs 1,283 crore determined to be “undervalued”.

Accordingly, the administrator filed applications under Section 60(5) and Section 66 of the IBC before the Kolkata Bench of the National Company Law Tribunal (NCLT) on various dates till October 21, 2022, for adjudication, it said. SEFL is a wholly owned subsidiary of SIFL.

The administrator did not respond to an email sent by Business Standard.

Dhruv Bhalla, a spokesperson for the former promoter family, the Kanorias, said: “We unequivocally refute these allegations as being incorrect, meritless, unfair, unilateral, prejudiced, malafide and against the IBC provisions and principles of natural justice.”

“All these allegations portray complete lack of BDO’s competence, credibility and business understanding - resulting in misunderstanding of tagging normal business practices as otherwise,” Bhalla added. “These claims, which are yet to be validated by the tribunal and are pending adjudication, stand dismissed and the promoters will be taking appropriate legal action to protect their rights and reputation if these allegations are not withdrawn immediately. A letter has also been served to the administrator in this regard,” he further said.

SIFL and SEFL have been informing the stock exchanges periodically about reports from BDO India indicating transactions “fraudulent in nature”.

The auditor was appointed to investigate the Srei companies. This followed the supersession of the boards of SIFL and SEFL by the Reserve Bank of India in October 2021. Thereafter, the Corporate Insolvency Resolution Plan was initiated on applications by the central bank.

Srei is not the only financial services company where an independent auditor has flagged fraudulent transactions. In June this year, the Central Bureau of Investigation (CBI) booked Dewan Housing Finance, its former chairman and managing director Kapil Wadhawan, director Dheeraj Wadhawan and others for bank fraud of Rs 34,615 crore. This was after the auditor, KPMG, conducted a special review audit of the DHFL books in February 2019.

KPMG in its audit highlighted funds were diverted in the garb of loans and advances to related and interconnected entities. DHFL was later taken over by the Piramal group.

In the case of Reliance Capital, BDO India’s report said loans given by the entity to various group entities during 2019-20 caused a financial impact of over Rs 1,755 crore to the company. Reliance Capital is undergoing a debt resolution.

In March 2019, Grant Thornton identified financial irregularities of Rs 13,000 crore in infrastructure financial services firm IL&FS, which had defaulted on its loans.

Meanwhile, the consolidated committee of the creditors of SIFL and SEFL, which met on Friday, decided to extend the deadline for the submission of the resolution plans for SIFL and SEFL by prospective resolution applicants till November 25, 2022.

Source: Business Standard

Read Full news at: https://www.business-standard.com/article/companies/auditor-flags-rs-13-110-cr-as-fraud-deals-in-srei-equipment-finance-122111401220_1.html

