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Latest updates On Insolvency & Bankruptcy

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“Every problem is a gift—without problems we would not grow.”

➤ **Bank of India’s insolvency petition against Future Retail ‘malicious,’ says Amazon**

US online retailer Amazon on June 20 alleged that Bank of India’s petition to initiate insolvency proceedings against debt-laden Future Retail was ‘malicious.’

At a hearing in the Mumbai bench of the National Company Law Tribunal (NCLT), the counsel for Amazon, Zal Andhyarujina, alleged that lenders to Future Retail, including Bank of India, were colluding with Future Retail.

“This is a malicious intent with which Bank of India has filed the petition,” Andhyarujina argued before the bench, led by Justice Pradeep Narhari Deshmukh. “Our humble submission is for the bench to dispose of this petition and impose a penalty.”

The court adjourned the matter for further hearing to tomorrow.

Bank of India on April 14 filed insolvency proceedings against Future Retail for non-payment of dues. Future Retail owes banks Rs 5,322.32 crore as of March 31, according to Bank of India’s petition in the NCLT. Lenders to the company include Union Bank of India, State Bank of India, Bank of Baroda, and IDBI Bank, among others.

In a stock exchange filing on April 23, Reliance Industries had said the \$3.4 billion deal to take over the retail assets of Future Retail could not be implemented because the company’s secured creditors had “voted against the scheme.”

While over 75 percent of Future Group’s shareholders and unsecured creditors had voted in favour of the deal with Reliance, 69.29 percent of secured creditors rejected the deal and the remaining 30.71 percent voted in favour of it, Future Retail said in an exchange filing on April 22.

In 2019, Amazon invested \$200 million in Future Coupons for a 49 percent stake, by virtue of which the US company got a 7.3 percent foothold in Future Retail. Amazon, an investor in Future Group's gift voucher unit Future Coupons, tried to block the deal by obtaining a freeze order from the Singapore arbitration court.

The dispute gradually snowballed into a slew of cases across multiple Indian courts.

Even as a final order in the case was pending, Reliance started taking over the assets of Future Retail. Future was unable to make lease payments for some of its outlets. Reliance bailed out Future Retail by transferring the leases of some stores to its name and subletting them to the group to operate.

Amazon's lawyers have alleged that despite knowledge back then, the lenders did not do anything about it.

Source: Money Control

Full news at: <https://www.moneycontrol.com/news/business/bank-of-indias-insolvency-petition-against-future-retail-malicious-says-amazon-8711771.html>

➤ **Bad bank rushes to avoid an extension of licence deadline**

India's bad bank is racing against time to complete its first transaction by 30 June, failing which it would have to seek an extension from the Reserve Bank of India (RBI), two people aware of the development said.

National Asset Reconstruction Co. Ltd (NARCL), the sovereign-backed asset turnaround company, had earlier set itself a deadline of 31 March to acquire ₹50,000 crore of dud assets, but failed to meet it due to what bankers called procedural reasons.

The people cited above, both of whom spoke on condition of anonymity, said that under RBI's licensing norms, the bad bank must commence operations and complete a transaction by 30 June.

However, NARCL is still in the process of valuing assets proposed to be sold by lenders.

Following this, banks will learn at what discount the bad bank is ready to buy the toxic assets, and then approach their respective boards for approval.

"At present, it seems unlikely that the exercise will be over before 30 June. Seeking an extension from the regulator seems inevitable," one of the two people cited above said, adding that there is a provision that allows a 12-month extension beyond the deadline if the regulator so agrees.

The second person said the bad bank is now expected to take over the first batch of non-performing assets only in July, a year after it was set up. The asset reconstruction company was established on 7 July 2021 with an initial authorized capital of ₹100 crore.

“There is also the requirement of running a Swiss Challenge auction for these assets after receiving an offer from NARCL. The whole process is expected to be completed by July,” the second person said.

Regulatory norms mandate banks to use the Swiss Challenge method of auctioning when selling loans of ₹100 crore and above. Under the Swiss Challenge method, after a bidder makes an offer, lenders publicly call for counter-bids to match it. If they don't receive counter-bids beyond the minimum markup price, the first offer sticks. However, if counter-bids cross the minimum price, the initial bidder has the option to match the highest counter-bid.

The second person said that from the banks' perspective, it's better to sell assets to the bad bank instead of taking companies to the National Company Law Tribunal (NCLT), since they won't need to be involved in the process till the very end. Under the NCLT process, lenders are required to form a committee of creditors and vet resolution proposals under the Insolvency and Bankruptcy Code (IBC) and take active part in the resolution process, while selling loans to ARC needs no such involvement.

Meanwhile, as bad bank operations proceed at a slow pace, lenders have already resolved about 20% of the assets originally planned for transfer in two tranches, Mint reported on 13 May. Almost ₹40,000 crore of bad loans have been resolved since the announcement was first made.

After finance minister Nirmala Sitharaman announced plans to set up a bad bank in February 2021, bankers had said that about ₹2 trillion of bad loans would be gradually transferred to the entity. It suffered from delays after the Reserve Bank of India (RBI) said it was unhappy over the proposed structure. Lenders then presented a revised proposal to the regulator.

Under the new structure approved by the regulator, NARCL will acquire and aggregate bad loan accounts from banks, while India Debt Resolution Co. Ltd (IDRCL) will handle the resolution process under an exclusive arrangement. There are further delays in store despite getting the new structure approved. The Financial Express reported on 13 June that RBI is unhappy over the lack of clarity on regulatory oversight of the asset management company, IDRCL.

Source: Mint

Full news at: <https://www.livemint.com/industry/banking/bad-bank-rushes-to-avoid-an-extension-of-licence-deadline-11655663499947.html>

➤ **Surety Bonds stuck: Irdai asked to come up with model product**

In a bid to break the deadlock over the launch of Surety Bonds, the Ministry for Road Transport & Highways (MORTH) has asked insurance regulator IRDAI to develop a model product on Surety Bonds in consultation with general insurers.

Road Transport Minister Nitin Gadkari had met the CEOs of some general insurance companies along with SN Rajeswari, Member-Distribution, and acting in charge of Non-life, IRDAI, in New Delhi to fix some of legal and technical hitches that are preventing the general insurers from launching Surety Bonds, which can replace expensive Bank Guarantees. All macro rules and regulations as prepared by the government of India and IRDAI were already in place since April 1.

The minister, who discussed several challenging issues which made Surety Bond a complete non-starter with the insurers, proposed to the IRDAI that it should design a model product having all the basic features that can be given to them for its launch. “The insurers can further improvise the product according to their capacity and on the basis of reinsurance support,” said the CEO of a general insurance company, who had attended the meeting.

A surety bond is provided by the insurance company on behalf of the contractor to the entity, which is awarding the project. When a principal breaks a bond’s terms, the harmed party can make a claim on the bond to recover losses.

The issue of changes in Indian Contract Act and Insolvency and Bankruptcy Code (IBC) as wanted by the general insurers — so that Surety Bonds can be at par with bank guarantees when it comes to recourse available to them in the case of a default — are also being looked into, but the launch of Surety Bonds should not completely wait for that, he said.

Anjan Dey, CMD, Oriental Insurance Company, Prakash Chandra Kandpal, MD & CEO of SBI General and Ritesh Kumar, MD & CEO, HDFC Ergo had attended the meeting.

Aimed at supporting the implementation of large-scale project finance, particularly in the area of road projects of National Highway Authority of India (NHAI), Finance Minister Nirmala Sitharaman, in her Union Budget 2022-23, had said that bidders for government projects could supply Surety Bonds instead of bank guarantees, which are much more expensive, thus improving the viability of their bid.

After the Union Budget, the IRDAI had come out with the detailed norms on the issuance of Surety Bonds by the general insurers. However, the general insurance industry wanted changes in Indian Contract Act and Insolvency and Bankruptcy Code (IBC) so that surety bonds can be at par with bank guarantees when it comes to recourse available to them in case of a default.

“Given the Surety Bond is an entirely new line of business, insurance companies would need clarity on various aspects such as pricing, the recourse available against defaulting contractors, reinsurance options and global best practices,” said an official. “As an industry, we would urge the regulatory bodies to facilitate changes to laws such as the Indian Contract Act and the IBC and bring surety bonds on par with bank guarantees regarding recourse available to issuers. This will help the industry approach surety solutions with much more confidence, but it will be even more a viable proposition for all stakeholders,” he said.

Officials said a huge market is available for Surety Bonds in the country and now, the onus is on the insurance fraternity to come out with products quickly. “The onus is on the insurance fraternity to come out with products quickly. We have already initiated at authority level discussions with the insurance agencies and companies,” they said.

Source: The Indian Express

Full news at: <https://indianexpress.com/article/business/banking-and-finance/surety-bonds-stuck-irdai-asked-to-come-up-with-model-product-7979067/>



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