

FIDC

Finance Industry Development Council

(A body incorporated as a Self Regulatory Organization for Registered NBFCs)

101/103, Sunflower, 1st Floor, Rajawadi Road No.2, Ghatkopar (East), Mumbai – 400 077 (India)

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PRESS RELEASE

FIDC holds an Interactive Session of IBBI Chairman with NBFCs

Finance Industry Development Council (FIDC), which is a Representative body cum Self Regularity Organisation for NBFCs, organised an interactive session of Dr M S Sahoo, Chairman, Insolvency and Bankruptcy Board of India (IBBI) with the NBFC sector in Mumbai yesterday, i.e 10th January 2018. The meeting was coordinated by National E-Governance Services Ltd (NeSL) which is the first Information Utility (IU) under the Insolvency and Bankruptcy Code, 2016 (IBC). The session saw active participation from the leading NBFCs.

In his opening address Mr Raman Aggarwal, Chairman, FIDC appreciated and welcomed the support of IBBI and NeSL in organizing the session. He informed that this was the first such session of open house discussion of any Government official with the NBFC sector, regarding the IBC. He described IBC as a game changer which was the first legislation to recognize business failures and provide an exit route. Further, IBC treats all creditors (ie, banks, All India Institutions and NBFCs) at par and has a unique provision where dues of secured creditors have been given preference over the Government dues. According to him, this single provision stands out as a clear evidence of how the Government of the day is ready to think differently. He also informed about the apprehensions being expressed by NBFCs, in filing financial information with NeSL.

Before inviting the participants to raise their queries/ clarifications/ suggestions/ issues, Dr. Sahoo briefly talked about the positive impact that the IBC has had within a short span of one year. He informed that initially, there were lot of apprehensions regarding the acceptability of the law and adherence to the stringent timelines prescribed under the IBC, by concerned agencies, especially, NCLT. However, the experience till date has been extremely encouraging and there hasn't been any significant deviation. He assured the participants that IBBI welcomes any suggestions, more so, since the law is still in its evolving stage and the Govt. has already made an amendment based on the feedback received from various stakeholders. He further clarified that while lending financial institutions, including NBFCs, can initiate insolvency proceedings against their defaulting borrowers, but any insolvency proceedings against these institutions (including NBFCs) and their resolution is outside the scope of IBC. The same are covered under the Financial Resolution and Deposit Insurance Bill, 2017 (FRDI) which is currently being examined by the Joint Parliamentary Committee. Dr. Sahoo urged all NBFCs to submit financial information relating to assets, in which any security interest has been created in favour of NBFCs, with NeSL, which is the registered Information Utility.

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Mr. S. Ramann, Managing Director and CEO of NeSL made a brief presentation on the genesis and working of NeSL as the registered IU with IBBI under the IBC. He drew attention to the RBI Circular dated 19th December 2017 addressed to all Banks, All India Financial Institutions and NBFCs mandating them to submit financial information and information relating to assets in relation to which any security interest has been created, to an IU (i.e NeSL). This has been done in compliance to Section 215 of IBC. He also informed that Chapter V of the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017 has specified the form and manner in which financial creditors are to submit this information to IU. Further as per Section 238 of the IBC, the provisions of the Code have an overriding effect on any inconsistent provisions contained in any other law for the time being in force.

Key Concerns of the Participants

Majority of the participating NBFCs expressed their concerns regarding the multiplicity of agencies with whom they are required to file such financial information under various laws, like the Registrar of Companies (RoC), CERSAI which is the central registry under the SARFAESI Act 2002 and CRILC under the Framework for Revitalising of Distressed Assets issued by RBI. This multiplicity entails lot of manpower, capital expenditure and the service charges levied by each of these agencies.

Responding to this both Dr. Sahu and Mr S. Ramann assured the participants that NeSL is fully apprised of the matter and has already initiated discussion with RoC and CERSAI to ensure “inter-operability” of any financial information including information relating to security interest being filed by financial creditors including NBFCs. This shall then do away with the need to file such information with multiple agencies in different formats.

Key Takeaways

Following are the key takeaways from the exhaustive open house discussion held:

- NeSL as the IU, not only records the initial information relating to security interest, but also keeps track of any defaults that happen during the credit period.
- NeSL ensures that all such defaults are duly authenticated both by the secured creditor and the defaulting borrower.
- In case of “no response” from the borrower, NeSL follows the practice of reminding and all such reminders are also recorded.

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- The most Important benefit of filing information with NeSL is that all records maintained by NeSL, including defaults and the reminders sent to the defaulting borrowers, are accepted as credible evidence in any court of law.
- This shall be of immense benefit to NBFCs in expediting the legal proceedings against the defaulting borrowers, as acceptable evidence is available at the click of a button.
- Dr. Sahoo clearly shared the vision where a fully operational information utility, with electronic data of all such financial transactions including defaults, can mitigate risks to a great extent and enable financial creditors to lend to the lower strata, especially, MSMEs without insisting on any tangible security.

Regards



Raman Aggarwal

Chairman

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