

AS INTRODUCED IN THE RAJYA SABHA

Bill No. XXXI of 2020

THE INSOLVENCY AND BANKRUPTCY CODE
(SECOND AMENDMENT) BILL, 2020

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BILL

further to amend the Insolvency and Bankruptcy Code, 2016.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Insolvency and Bankruptcy Code (Second Amendment) Act, 2020. Short title and commencement.

5 (2) It shall be deemed to have come into force on the 5th day of June, 2020.

2. After section 10 of the principal Act, the following section shall be inserted, Insertion of new section 10A.
namely:—

10 "10A. (1) Notwithstanding anything contained in sections 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf: Suspension of initiation of corporate insolvency resolution process.

Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.

Explanation.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25th March, 2020." 5

Amendment of
section 66.

3. In section 66 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Notwithstanding anything contained in this section, no application shall be filed by a resolution professional under sub-section (2), in respect of such default against which initiation of corporate insolvency resolution process is suspended as per section 10A." 10

Repeal and
savings.

4. (1) The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020 is hereby repealed. Ord. 9 of 2020.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act. 15

STATEMENT OF OBJECTS AND REASONS

The Insolvency and Bankruptcy Code, 2016 (the Code) was enacted to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time-bound manner for maximisation of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India.

2. In the light of the extraordinary economic situation caused by COVID-19 pandemic, a need was felt to temporarily suspend initiation of corporate insolvency resolution process under the Code, initially for a period of six months or such further period, not exceeding one year from 25th March, 2020, to provide relief to companies affected by COVID-19 to recover from the financial stress without facing immediate threat of being pushed to insolvency proceedings. The benefit of the above said suspension will be available to all those defaults of the corporate debtor that occur from 25th March, 2020 and till the end of the period of suspension.

3. In the aforesaid circumstances, it has become necessary to amend certain provisions of the Code. However, as the Parliament was not in session and immediate action was required to be taken, the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020 was promulgated by the President on the 5th day of June, 2020.

4. The Insolvency and Bankruptcy Code (Second Amendment) Bill, 2020 which seeks to replace aforesaid Ordinance, *inter alia*, provide for the following, namely:—

(a) to insert a new section 10A in the Code to provide for temporary suspension of sections 7, 9 and 10 in respect of any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf; and

(b) to insert a new sub-section (3), in section 66 of the Code to provide that no application shall be filed by a resolution professional under sub-section (2), in respect of such default against which initiation of corporate insolvency resolution process is suspended as per section 10A.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 9th September, 2020.

NIRMALA SITHARAMAN.

FINANCIAL MEMORANDUM

The Bill, if enacted, would not involve any expenditure, either recurring or non-recurring from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to insert a new section 10A after section 10 of the Code which confers power to the Central Government to notify such other date, not exceeding one year for any default arising on or after the 25th March, 2020 for which application for initiation of corporate insolvency resolution process under sections 7, 9 and 10 shall not be filed.

2. The matter in respect of which the above mentioned notification may be made is of procedure and administrative detail, and as such, it is not practical to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

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further to amend the Insolvency and Bankruptcy Code, 2016.

(Smt. Nirmala Sitharaman, Minister of Finance and Minister of Corporate Affairs)