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Impact of covid-19 on project finance, banking transactions

Industry has been struggling to cope with the ongoing economic slowdown despite fiscal, monetary and other support from the government. Reduced availability of capital has impacted several industry sectors, one of which is infrastructure. The characteristics of this sector such as being capital intensive, suffering regulatory risk and making only average returns have significantly added to its challenges. The development of many infrastructure projects has stalled, and even operational ones have seen declining revenue streams. This has an adverse effect on the ability to service the debt of existing loans. If projects are under construction and loans have not been fully drawn, lenders may refuse to release balances because of draw-stop events which typically include an event of default or potential default, an actual or forecast funding shortfall and delays in construction. The sector faces widespread payment issues from counterparties under project contracts.

To address these liquidity challenges, the government and the Reserve Bank of India (RBI) have taken initiatives such as the Atmanirbhar Bharat Abhiyan (self-reliant India mission), moratoriums and various economic relief packages. While these measures are generally appropriate, their effective implementation will be decisive in successfully overcoming problems. It is vital that banks support the goal of economic revival by supporting the government and RBI's measures. An overcautious approach will defeat the objectives behind the economic incentives and may cause the collapse of viable businesses. In conducting credit appraisals, lending institutions must do so with precision, balancing them against the objectives of the relief measures of the government and RBI. However, even if liquidity is provided to viable businesses and projects through the relief measures of the government and RBI, the borrowers may not be able to complete projects because of the unavailability of labour and raw material, disruptions to supply chains, outbreaks of the pandemic at work sites etc. Resulting cash flow issues may result in defaults and an increase in non-performing assets, which will cause lenders to initiate resolution plans and restructuring of loans.

The recovery of loans through enforcement of securities and guarantees enforcement is possible. However, the crisis has led to sharp declines in the prices of listed stocks, pledged securities, immovable property and a significant drop in the net worth of corporate and personal guarantors, resulting in depletion of security cover. In *Rural Fairprice Wholesale Limited and Anr v IDBI Trusteeship Services Limited and Ors,* the high court passed an interim order restraining lenders from enforcing pledged securities as enforcement would cause irreparable loss to the obligors consequent to the steep price drop due to the covid-19 crisis. Lenders are therefore left with little recourse. There is also a temporary suspension for a period of six months of initiating proceedings against a corporate debtor under the Insolvency and Bankruptcy Code, 2016, for any default arising after 25 March 2020. To address the defaults due to covid-19 related stress, RBI has taken a right initiative by formulating a resolution framework, notified on 6 August 2020, so as to enable the lenders to implement a resolution plan, in respect of eligible borrowers without change in ownership while continuing the account status as standard, subject to specified conditions.

The lockdown highlighted execution challenges even where businesses were able to get the loans sanctioned. Getting documents stamped, notarized, obtaining approvals from government authorities, the requirement for the physical presence of parties and registration of documents and so on have become cumbersome, given social distancing protocols, the reduced number of available officials and the closure of offices from time to time.

The present crisis has however united all stakeholders involved in financing transactions in calling for complete digitization of financing transactions such as the processing of loan applications and credit appraisals, and the execution, stamping, notarization, and registration of documents. As social distancing will be the new normal, there is an urgent need for amendments to relevant legislation to enable transactions to be executed digitally, with stamp duty payments and registration being made from the safety of homes and offices and the standardization of stamp duty rates and registration fees across states.

In order to bring about the resurgence of the sector and to mitigate the risk of disruption, banking transactions must be streamlined, run efficiently and adapt to the demands of macroeconomic dynamics. There should be immediate legislative amendments to keep banking, businesses and the economy going as they should do and to overcome the present crisis.

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