

SC order on February 12 circular: Do not expect much disruption, say bankers

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A day after the Supreme Court declared the Reserve Bank of India’s (RBI) February 12 circular ‘Resolution of Stressed Assets – Revised Framework’ ultra vires, bankers remain confident that the insolvency process will not be disrupted and believe there would be no change in the approach to stressed assets.

Most bankers FE spoke to dismissed concerns over possible delays in resolutions or change in borrower behaviour.

On Tuesday, the apex court struck down the central bank circular that directed lenders to refer loan accounts of over `2,000 crore under the Insolvency and Bankruptcy Code (IBC) if it was not resolved within 180 days from the first default and scrapped all previous restructuring mechanisms. The circular also imposed the one-day default rule, which had upset borrowers.

A senior banker said it would be premature to assume that other restructuring mechanisms are now back in force. "The RBI could file a review plea or amend the circular or issue a fresh circular," the banker said.

On Wednesday, Reuters quoted a finance ministry official as having said the government could issue directions to the state-run banks to resolve corporate default cases.

As several bankers and legal experts have pointed out, there were various operative parts to the February 12 circular — classification of loan accounts that have failed to meet loan repayment obligations even by a day as defaulters, direction to put in place a board-approved policy on resolution of stressed assets, including the timelines for resolution; withdrawal of earlier restructuring schemes and provision of flexibility to bankers to restructure a stressed account at their discretion, including change in management; guidelines on classification of accounts and provisioning requirements and; a strict timeline for bankers to refer an account under IBC in case the resolution failed, which ran afoul of Section 35AA of the Banking Regulation Act.

While experts have opined that the apex court's ruling would lead to delays and that the strict 180-day deadline after which banks have no recourse but to refer distressed accounts under IBC would not be possible, others have said banks can now decide how long they wish to work on resolution of a stressed account and if and when they decide to invoke IBC.

Another concern, expressed by experts, is that the improving credit culture among borrowers could take a hit. Earlier in January, ministry of corporate affairs secretary Injeti Srinivas said while creditors had recovered `80,000 crore through the system, recovery through indirect impact of the law has come close to almost `3-3.5 lakh crore.

However, a second banker at a state-run bank said it was true that large part of the recoveries had taken place without bankers having to drag accounts to court under IBC owing to fear among borrowers of losing control of their companies. "The credit culture was improving. But we can continue to pressure borrowers to pay back dues. Also, the threat of IBC proceedings remains even if there is no strict deadline. The judgment may disrupt the process but the judgment is unlikely to have any major adverse implications," he said.

The banker further said for the moment it remains 'business as usual', though the banks will soon require clarity on whether the remainder of the circular, excluding the mandatory timeline, is enforceable.

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agencies questioning every move and decision of lenders, it is unlikely that lenders will revert to practices of the past.”

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