#6: Impact of the Insolvency and Bankruptcy Code (IBC) on fraud

Intent of law makers to scrutinise corporate defaulters is more focused than ever before, resulting in greater corporate vigilance at all stages

Prior to insolvency

As the early signs of a corporate moving into an IBC stage start to appear, the role of the Board of Directors becomes critical. They need to keep a watch out for any management decisions or activities resulting in significant cash outflow, modification of accounts, manipulation/ deletion of records and official documents and senior management exit. Any or all of these could be tell-tale signs of either a fraud in making or an attempt to cover up the skeletons of the past. It is interesting to note that a lot of early indicators to fraud have been found in the internal control/ audit reports of the Corporate Debtor that somehow get hidden under the carpet.

Classification of an account as a stressed asset

Bankers are privy to significant financial information of the Corporate Debtor (quarterly filing, Service Organisation Control (SOC) reports etc.) and have instruments such as Asset Quality Reviews (AQR) and the more recent- advisory to initiate forensic audits - to keep a tab on the operations of the Corporate Debtor. Banks need to use these more effectively and efficiently to identify instances of fund siphoning and fictitious assets (inventory) and receivables.

Initiation of insolvency proceedings

Once the CIRP is invoked, the IRP/ RP is assigned with the responsibility of preserving the value of the Corporate Debtor and has authority to access information from various sources to validate and review the transactions of the preceding years. He must exercise his powers to gather information from various utilities, bankers and other sources and also take into immediate custody the IT systems/ records database to avoid deletion/ manipulation of sensitive data; the omission of which has appeared to be a major hindrance in carrying out forensic reviews.

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