LAW360 | Bankruptcy Authority

Portfolio Media. Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Inflation, Election Anxiety Drove Bankruptcy Hike, Experts Say

By **Yun Park**

Law360 (November 14, 2024, 8:29 PM EST) -- Bankruptcy filings for both businesses and consumers have risen by 16% over the past year, with factors such as inflation, residual impacts of high interest rates, the COVID-19 pandemic, and macroeconomic uncertainties in the run-up to a contentious presidential election as key drivers, restructuring experts told Law360.

Retail and service sectors saw several high-profile insolvencies in the past year, as the number of new bankruptcies ticked up due to economic and political uncertainties. (istock.com/Kenishirotie)

Statistics from the Administrative Office of the U.S. Courts indicate that total bankruptcy filings reached 504,112 this year ending Sept. 30, up from 433,658 cases from the previous year. All filings across Chapter 11, Chapter 7 liquidation, and Chapter 13 consumer bankruptcy cases have jumped during the period.

"Over the past year, I think a lot has been done to maintain the status quo pending the outcome of the election," American Bankruptcy Institute President Christopher A. Ward of Polsinelli said to Law360. "This led to the softening of interest rates and likely increase of bankruptcy filings as both business and consumer debtors were unsure of the uncertainty the election outcome might bring."

Now that the results of the election are in, Ward said that it will be intriguing to see how the restructuring market will respond.

"The general consensus is that on one hand, the outcome of the election will lead to a more pro-business tenor in the United States," Ward said. "Things such as the [Department of Government Efficiency] and international tariffs may play a larger role in the macroeconomy that was not expected," Ward said, referring to a Donald Trump initiative to streamline the federal government.

Looking forward, some see a likely rise in commercial filings.

"Given the administration's position on things like retaliatory tariffs, I expect commercial filings to probably increase," said Ted Gavin of turnaround shop Gavin/Solmonese LLC. "When you have such drastically different economic agendas between candidates, the presidential election can certainly cause some disruptions in spending and can cause market disruptions."

Business bankruptcy filings surged by 33.5%, rising from 17,051 to 22,762 in the year ending Sept. 30, according to the data. That's close to the 2022 level of 22,391, following 13,125 cases in 2021. Non-business bankruptcy filings also increased by 15.5%, totaling 481,350, up from 416,607 last year.

Chapter 11 filings rose from 6,473 to 9,012. Chapter 7 filings increased from 248,680 to 298,664, and Chapter 13 filings climbed from 178,214 to 195,971, the data shows.

Beyond simple inflationary pressures and uncertainty over federal policy direction, attorneys also attributed the rise to the ongoing impact of high interest rates and remaining effects of the COVID-19 pandemic.

"The rise in interest rates makes it more expensive for companies with floating rates of interest to do business," said Madlyn Gleich Primoff of Freshfields. "For companies that have enjoyed a low fixed rate of interest, the jump in interest rates is a shock to the system when it is time to refinance."

Meanwhile, a lot of businesses are still carrying significant debt caused by COVID-19, said James Vandermark of White & Williams. "Over the last year, many saw significant increases to costs of goods and labor without corresponding revenue increase and limited or no options for financing," he added.

The economic effects of COVID continue to linger, with many small businesses having relied on pandemic-related funding programs, such as the Small Business Administration's economic injury disaster loans and the Paycheck Protection Program as "financial bandaids" to keep operations going. "As COVID is left farther and farther behind in the rearview mirror, these companies have had to grip with self-sustaining themselves financially and changes in their respective markets … forcing companies to adapt or die," said Paul Hammer of Barron and Newburger PC.

Although the Federal Reserve has started to gradually reduce interest rates, struggling businesses may need time to fully recover. "It will take some time for liquidity to grow to a point where business can grow and prosper, rather than just generate enough revenue to survive," Ward said.

Attorneys mentioned that healthcare, retail and casual dining are among the major sectors that filed more bankruptcies this year.

BurgerFi International Inc., fish taco-focused chain **Rubio's Coastal Grill**, Pan-Asian restaurant chain Hawkers Asian Street Food & Craft Cocktails, **One Table Restaurant Brands LLC** which operates Tender Greens and Mexican eatery Tocaya, **World Of Beer** and **TGI Fridays Inc.** filed for bankruptcy this year blaming high costs and labor.

After pandemic-related government support dried up, some fast food chains were left with higher costs for ingredients and labor, along with a decline in customer traffic to below prepandemic levels. "Fast food has been affected by inflation and consumer spending," Primoff said. "With consumers strapped to buy groceries, many can no longer afford to eat out."

Major healthcare-related companies, including hospital operator **Steward Health Care**, nursing home operator **Petersen Health Care**, and pharmaceutical companies like **Eiger BioPharmaceuticals** and VBI Vaccines, also filed for Chapter 11 this year.

"Seeing situations like having the CEO of Steward called before the Senate, will create ripples throughout the industry," Ward said. "There seems to be a re-invigorated push to review private equity's involvement in the healthcare sector. Whether this push continues to have legs under the new administration could affect how distressed health care reacts in the coming year," he said.

--Editing by Alex Hubbard.

All Content © 2003-2024, Portfolio Media, Inc.