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BANKRUPTCY

Bankruptcy Uptick Likely to Continue

Experts say a recent swell of Chapter 11 filings is mostly coincidence but nevertheless likely to continue given economic trends.

By Stephanie Gleason

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The first days of November began with a new, significant bankruptcy filing practically every day, continuing an uptick that began in October.

The filings themselves don't speak to a specific trend, scattered across industries and the debtors providing a variety of reasons in court documents for their decisions to file for Chapter 11. It's likely, however, that the pickup will continue, given broader economic conditions.

The first week of November brought new Chapter 11 filings from **Republic Metals Refining Corp.**, a gold and silver refiner that submitted a petition Nov. 2; energy services provider **Dixie Electric LLC** (Nov. 2); hospital operator **Promise Healthcare Group LLC** (Nov. 4); and **PGHC Holdings Inc.**, operator of quick-service restaurant chain Papa Gino's (Nov. 5). On Nov. 6 alone there were three notable filings: upstream oil and gas company **PetroQuest Energy Inc.**, taco chain **Taco Bueno Restaurants Inc.** and Greek marine fuel logistics company **Aegean Marine Petroleum Network Inc.**

Restructuring attorney **Anson B. Frelinghuysen** of **Hughes Hubbard & Reed LLP** said that with the rash of November filings, his phone has been ringing. But as for an overarching trend, he doesn't see one.

"I think basically it's coincidence," he said. Referring to whether one trend might have driven so many companies into bankruptcy, he added: "I don't think there is an 'x.' The only 'x' I can think of is that the negotiation runway ran out."

Filing documents support Frelinghuysen's thesis. Two cases were driven by alleged fraud, for example. PetroQuest Energy managed to avoid a filing during the 2015-2016 oil and gas rout but couldn't hold on any longer. And quick-service restaurants have been tanking all year.

Still, the busy November follows a faster-paced October, during which Chapter 11 filings ticked up compared with both the previous month and the prior October. There were 554 total Chapter 11 filings in October 2018, according to numbers from **Epiq Systems Inc.**, a significant increase over the 309 in September and 317 in October 2017.

Sometimes a busy period just comes, as Frelinghuysen noted, coincidentally. March, for example, saw 774 Chapter 11 filings, but just 394 followed in April. Broader economic trends, though, have caused some professionals to think the filings this fall are the beginning of a broader swing.

It's no secret that the availability of cheap money is finally drying up, which will affect businesses that have long been held up by their ability to get loans as well as consumer spending that's been strengthened by access to credit.

Asked whether the shakeout practitioners have been waiting for since bankruptcy filings fell off amid a zero-interest-rate environment has finally arrived, **H. Jeffrey Schwartz** of **McKool Smith PC** said, "It's approaching."

"I can't say about this year," he added, but "in January, watch out."

Schwartz and Frelinghuysen also spoke of industry-specific trends that have been causing and will continue to cause bankruptcy filings in two areas – retail and energy.

Consumer spending tightening will continue to hamper an already-weak retail environment, Schwartz said. And energy companies that are getting along while prices are at \$70 a barrel won't be able to tolerate any kind of dip in their still-vulnerable state, Frelinghuysen said.

"There are problem situations," Schwartz said. "You can't see them well in a zero-interest-rate environment, but now you can see them."

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