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## **GM, Chrysler May Need Bankruptcy To Survive: Obama**

By **Anne Urda**

Law360, New York (March 30, 2009) -- After rejecting restructuring proposals by General Motors Corp. and Chrysler LLC and demanding the resignation of GM CEO Rick Wagoner, President Obama hinted Monday that bankruptcy could be necessary for the two troubled U.S. automakers.

"While Chrysler and GM are very different companies with very different paths forward, both need a fresh start to implement the restructuring plans they develop," he said. "That may mean using our Bankruptcy Code as a mechanism to help them restructure quickly and emerge stronger."

Obama tried to put a positive spin on GM and Chrysler's entering Chapter 11, promoting it as a way for the companies to reorganize while allowing workers to stay in their jobs building cars.

"Now, I know that when people even hear the word 'bankruptcy' it can be a bit unsettling, so let me explain what I mean," he said. "What I am talking about is using our existing legal structure as a tool that, with the backing of the U.S. government, can make it easier for General Motors and Chrysler to quickly clear away old debts that are weighing them down so they can get back on their feet and onto a path to success."

The president tried to ease fears and dispel the notion that GM and Chrysler would languish in court for years or perhaps even cease to exist altogether.

"What I am not talking about is a process where a company is broken up, sold off and no longer exists," Obama said. "And what I am not talking about is having a company stuck in court for years, unable to get out."

Kenneth Yager, a principal at turnaround firm Morris-Anderson & Associates Ltd., has long maintained that bankruptcy is the only viable option for GM and Chrysler. He says that the firing of Wagoner may be a sign that they are moving closer in that direction.

"In my mind, it is a step toward a bankruptcy," Yager said. "At this point, you have to ask, who would want that job? How will they fill those shoes? Where will the leadership come from? As such, Obama may have set into motion the bankruptcy process."

But even though GM and Chrysler have 60 and 30 days, respectively, to turn things around, Yager questions how many options other than bankruptcy the automakers have at this point.

The previous bailouts have been a Band-Aid for the automakers whereas what they really need is surgery, according to Yager.

"Bankruptcy is the dose of medicine the industry does not want, but needs," he said. "Literally, the problem is too big. It is not from a lack of effort or willpower, but rather there is something broken in these companies."

Though the bankruptcy possibility was buried halfway through Obama's prepared remarks, the beginning of the president's speech appeared to be a buildup to that idea as he detailed the tough road ahead for both companies.

"While GM has made a good faith effort to restructure over the past several months, the plan they have put forward is, in its current form, not strong enough," he said. "However, after broad consultations with a range of industry experts and financial advisers, I'm confident that GM can rise again, provided that it undergoes a fundamental restructuring."

As a first step, Obama insisted on Wagoner's departure, but Yager believes that the firing is more a case of shooting the messenger than anything else.

"Yes, Wagoner can be characterized as part of the problem, but again, it is too big for one person or any group of industry insiders," he said. "All Wagoner is guilty of is joining a tough race and not making it to the finish line. His strategy is also wrong, but firing him is not the answer."

A New York bankruptcy attorney, who asked to speak on condition of anonymity, believes Wagoner's firing was intended to send a message to the automakers that the administration

is serious about bankruptcy and that time is running out.

But while he thinks that Chrysler and GM are somewhat more likely to enter Chapter 11 now, he also believes that if enough progress can be made by the deadline, the automakers may continue to buy themselves more time out of court as in the past.

Under Obama's plan, the U.S. government will continue to provide GM with enough working capital for 60 days, but the automaker admitted Monday that despite its preference for an out-of-court restructuring, bankruptcy was a strong possibility.

"During the next 60 days, GM will address the tough issues to improve the long-term viability of the company, including the restructuring of the financial obligations to the bondholders, unions and other stakeholders," the company said. "GM will take whatever steps are necessary to successfully restructure the company, which could include a court-supervised process."

The president said that his auto task force had also determined that Chrysler would not be able to survive without a partner, giving the company 30 days of working capital to finalize a merger that has been in the works with Italian automaker Fiat Automobiles SpA.

If they are able to strike a deal, Obama indicated that the government would be willing to lend the company up to \$6 billion to help implement the plan.

Following the president's remarks, Chrysler indicated that it had agreed to a framework of a global alliance with Fiat but that substantial hurdles needed to be resolved before a deal could be reached.

Congressional Republicans were swift to criticize what they termed as another bailout, expressing skepticism that Obama would actually force the duo into bankruptcy.

"We are now told these two companies are getting their last check from the taxpayers, and that if they don't finally come up with truly viable plans then they'll be forced into bankruptcy," U.S. Senate Minority Leader Mitch McConnell, R-Ky., said. "Unfortunately, we've heard this before, from both this and the previous administrations."

Still, this time the Obama administration may mean business, Yager says.

"I am glad to see that Obama is willing to put up some money -- GM will need it for the DIP loan," he said.

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