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## Analysis - Possibility of BP bankruptcy seen remote for now

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By Tom Hals

WILMINGTON, Delaware (Reuters) - The chances of BP declaring bankruptcy to deal with oil-spill claims are remote for now, bankruptcy professionals said, although that option would be open to the company if liabilities became overwhelming -- and that very much depends on when the oil stops gushing.

BP's shares plunged this week and investors scooped up insurance to protect against the possibility the company will default on its debt.

For now, though, experts who sort out bankrupt companies say there is little likelihood that financially strong BP (BP.L: [Quote](#), [Profile](#), [Research](#)) (BP.N: [Quote](#), [Profile](#), [Research](#)) will need to seek protection from creditors.

"At this moment, the likelihood of BP filing for bankruptcy is probably remote because it has access to billions of dollars in credit, solid cash flow and a healthy balance sheet," said Brad Sandler, a bankruptcy attorney with Pachulski Stang Ziehl & Jones in Wilmington, Delaware.

Jon Pack, a BP spokesman in Houston, said the company had not been in discussion with anyone regarding bankruptcy.

The big question: How long will it be before BP finally caps the well that is spewing crude into the Gulf of Mexico, befouling shorelines and threatening fishing grounds?

Stephen Lubben, a professor at Seton Hall University School of Law in Newark, New Jersey said he didn't think BP would seek bankruptcy unless "we're still talking about this in 2011 and the price tag has reached \$75 billion or \$100 billion (51 billion to 68 billion pound) ."

BP has said it has the financial flexibility to deal with liabilities related to the spill, which to date have cost it about \$1.4 billion.

The financials tell the story of a trim company in peak condition. Its assets exceed its liabilities, a measure of solvency or shareholders' equity, by more than \$100 billion. It has had at least \$24 billion in net operating cash flow for each of the last five years, according to financial filings.

BP is no Lehman Brothers (LEHMQ.PK: [Quote](#), [Profile](#), [Research](#)), which vanished into Chapter 11 virtually overnight in a market panic.

Lehman's reported liabilities exceeded its shareholder equity by 23 times. If Lehman Brothers was a tower of assets on a razor-thin foundation of equity, BP is virtually the opposite -- a squat structure of stability.

"In the pure economic world of bankruptcy, do they have enough money to pay their debts? I don't think any of us know that for a fact," said Robert Stark, a bankruptcy attorney with Brown Rudnick in New York. "At least in the short term they have the capability to pay."

### THE ASBESTOS BLUEPRINT

The costliest U.S. oil spill was the 1989 Exxon Valdez accident, which cost about \$4 billion for clean-up, fines and damages, although it spilt less than a third the oil leaked by the Deepwater Horizon accident.

Hurricane Katrina, the worst disaster in U.S. history, ran up insured losses of about \$41 billion.

The bankruptcy talk was stoked on Wednesday by a report in Fortune magazine, which quoted Matt Simmons of boutique investment bank Simmons & Co, who said BP had a month before it would file for bankruptcy.

BP shares traded in New York tumbled 16 percent.

On Thursday, Simmons' office said he would not be able to return calls until June 15 and that there were "three pages of names" of reporters who called for an interview.

Legal liabilities related to asbestos have been forcing U.S. companies into bankruptcy for nearly 20 years, and their experience could be a blueprint for BP.

Typically, a liability-dogged company files for Chapter 11 protection from creditors, establishes a process to value claims and sets up a trust to pay those claims.

The bankruptcy immediately consolidates all legal action in one court, before one judge, eliminating the uncertainty of jury trials in varying jurisdictions.



A bankrupt BP would look a lot like the current BP -- it would continue to be a major supplier of energy to the world and a major employer.

As attractive as that might be, it is not something BP could or would do now, according to bankruptcy professionals.

David Skeel, a law professor at the University of Pennsylvania Law School in Philadelphia said BP would be hard pressed to find a bankruptcy court that would accept a Chapter 11 petition. "They are so obviously solvent," he said.

Just last month, the Bankruptcy Court for the District of Delaware punished a subsidiary of Transocean Ltd (RIG.N: [Quote](#), [Profile](#), [Research](#)), which owned the Deepwater Horizon rig, for trying to use Chapter 11 to limit its liability from an unrelated spill in Louisiana.

Skeel said a bankruptcy might make sense in the next two years, once the spill is capped. "One benefit to filing is to bite the bullet, swallow it and move on. They will have this continuing water torture of litigation," he said.

Another option might be a trust established outside of bankruptcy, which would shield the company from the uncertainties of Chapter 11, but this would probably need the involvement of the U.S. government.

The best thing for Washington is to have a BP continuing to generate cash and earnings to pay claims.

"If BP declared bankruptcy it will be viewed poorly by investors and credit markets," said Robert Hartwig, the president of the Insurance Information Institute in New York.

One sign of trouble: BP is already being forced to pay more for short-term debt and commercial paper, a form of borrowing that companies use to manage cash flow. The yield on its debt coming due next year has risen above its bonds due in 2019, a red flag that could signal fraying market nerves.

"A company that is 'solvent' on a balance sheet basis can end up in Chapter 11 if creditors panic and the company develops cash flow problems," said Lubben, the Seton Hall law professor.

(Additional reporting by [John Parry](#) in New York and [Tom Bergin](#) in London; Editing by [Ted Kerr](#))

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