

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

PRESS RELEASE

31st March, 2017

Insolvency and Bankruptcy Board of India notifies Corporate Voluntary Liquidation Process Regulations

The Insolvency and Bankruptcy Board of India (IBBI), in exercise of its powers conferred by sections 59, 196 and 208 read with section 240 of the Insolvency and Bankruptcy Code, 2016, has notified today the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2016. The regulations provide the process from initiation of voluntary liquidation of a corporate person - companies, limited liability partnerships and any other persons incorporated with limited liability - till its dissolution.

A corporate person may initiate a voluntary liquidation proceeding if majority of the directors or designated partners of the corporate person make a declaration to the effect that (i) the corporate person has no debt or it will be able to pay its debts in full from the proceeds of the assets to be sold under the proposed liquidation, and (ii) the corporate person is not being liquidated to defraud any person. If the liquidator is of the opinion that the liquidation is being done to defraud a person or the corporate person will not be able to pay its debts in full from the proceeds of assets to be sold in the liquidation, he shall make an application to the Adjudicating Authority to suspend the process of liquidation and pass any such orders as it deems fit.

The regulations prohibit an insolvency professional from acting as a liquidator for a corporate person if he is not independent of the corporate person. These prohibit partners or directors of an insolvency professional entity of which the insolvency professional is a partner or director from representing other stakeholders in the same liquidation process. These oblige the liquidator, and professional(s) assisting him in liquidation to make disclosures - initial and continuing - about pecuniary or personal relationship with any of the stakeholders or the corporate person.

The regulations specify the manner and content of public announcement, receipt and verification of claims of stakeholders, reports and registers to be maintained, preserved and submitted by the liquidator, realisation of assets and distribution of proceeds to stakeholders, distribution of residual assets, and finally dissolution of corporate person. These oblige a liquidator to preserve a physical or an electronic copy of the reports, registers and books of account for at least eight years after the dissolution of the corporate person, either with himself or with an information utility.

The regulations shall come into effect from 1st April, 2017. These are available at www.mca.gov.in and www.ibbi.gov.in