

Insolvency and Bankruptcy Board of India

Subject: Amendment in the IBBI (Voluntary Liquidation Process) Regulations, 2017

The agenda note is sub-divided into three parts. In **Part-A**, the proposals for amendments in the IBBI (Voluntary Liquidation Process) Regulations, 2017 ('Voluntary Liquidation Regulations') emerging from the Discussion Paper on the captioned matter, floated by the IBBI recently, have been mentioned. The review of the Voluntary Liquidation Regulations as provided by regulation 7 of the IBBI (Mechanism for Issuing Regulations) Regulations, 2018, with suggestions for some corrections, has been provided in **Part-B**. In **Part-C**, the Circulars pertaining to voluntary liquidation process, issued by the IBBI over a period have been examined, in pursuance of the directions of the Governing Board provided in its 25th meeting held on 24th September, 2021.

Part-A: Discussion Paper on Amendment in Voluntary Liquidation Regulations

2. While considering a Board Note on Amendment in Voluntary Liquidation Regulations circulated vide email dated 17th January, 2022, the Governing Board decided to hold public consultation on the matter as the proposals provided therein affect stakeholders at large. In pursuance of these directions, a Discussion Paper (**Annexure A**) on the following issues / proposals related to voluntary liquidation process had been floated on 01st February 2022 for seeking public comments in terms of regulation 4 of the IBBI (Mechanism for Issuing Regulations) Regulations, 2018:

I. Review of Timelines

- a. Preparation of List of stakeholders - In cases no claim(s) is received from the creditor(s), the period for preparation of list of stakeholders by liquidator may be reduced to fifteen days from the last date for receipt of claims.
- b. Distribution of sale proceeds - The period for distribution of proceeds from realization to the stakeholders may be reduced from the currently provided six months to a period of thirty days from the receipt of the amount.
- c. Submission of Final Report - The period for submission of Final Report, in cases where no claims are received from any creditor(s), may be provided as ninety days from the liquidation commencement date. On the other hand, in cases where claims are received from creditor(s), the period for submission of Final

Report may be provided as two hundred and seventy days from the liquidation commencement date. Therefore, the liquidator shall submit the Final Report, along with the application for dissolution, to the AA within ninety days or two hundred and seventy days, as the case may be, from the liquidation commencement date.

II. **Compliance Certificate**

- a. Introduction of compliance certificate - On the lines of Compliance Certificate provided under CIRP Regulations and Liquidation Regulations, a similar compliance certificate / checklist may be introduced for voluntary liquidation process, to be submitted along with final report to AA.

Summary of Public Comments:

3. In response to the said Discussion paper, a total of 62 public comments have been received and the summary of the same is enclosed at **Annexure B**. The key discussion points are given below:

I. Review of Timelines

4. Majority of the stakeholders have agreed to the proposed reduction in timelines as it shall facilitate easier exit for firms. Some stakeholders have even suggested to reduce the timeline to 180 days from the proposed 270 days, in case any claim is filed by creditors. Since the major issue delaying the voluntary liquidation process pertains to the practice of seeking NOC or NDC from the Income Tax Department and it has been taken care of, the process can be closed as per the proposed timeline.

5. Some stakeholders have raised reservations against the instant proposal, which has been summarized, along with our response thereto, as under:

- **Bank Account:** *Liquidators face difficulty in opening company's liquidation bank account which generally takes more than 30 days.*

In this regard, during consultation held with the stakeholders / insolvency professionals, it has been brought to the notice that this issue persisted in the past and now the officials manning bank branches have become more aware regarding the provisions of voluntary liquidation process. Further, the Board has been conducting several advocacy workshops to create further awareness regarding the provisions of the Code.

- **List of Stakeholders:** *The submission of claims is a dynamic and ongoing process and all the creditors may not have access to the Public Announcement or may not even check IBBI's website regularly. Therefore, some creditors might discover with delay that the Company is into voluntary liquidation and the proposed timeline of 15 days for preparation of list of stakeholders may not be feasible in such circumstances.*

It may be noted that if there are creditors of a corporate person, its voluntary liquidation process can be initiated only with the approval (by stipulated majority) of creditors. Hence, the list of creditors, if any, based on books of accounts is already available with the liquidator at the time of initiation of process itself. The public announcement by liquidator acts as an additional check to validate those debts / dues.

- **Foreign Remittance:** *In case of foreign shareholders, the amount is distributed in the form of foreign outward remittance which requires some formalities to be completed, including reporting to the Reserve Bank of India and it's a time-consuming process.*

It is submitted that in most of the corporate persons initiating voluntary liquidation, there would not be any foreign shareholder. Further, as the liquidator gets appointed by shareholders and works in close coordination with them throughout the process, the process of distribution of proceeds can be expedited by initiating it just after the last date of submission of claims, in case there is no claim by creditors, rather than waiting till the end.

- **Pending Statutory Compliances:** *Issues such as pending income tax/TDS/GST refund, pending litigation and compounding applications with statutory authorities, surrender of GST number, etc. delay closure of voluntary liquidation process.*

In this regard, it may be noted that such issues may be faced in limited number of cases only. Further, as a best practice, the liquidator may insist the corporate person to complete such formalities before initiating the voluntary liquidation process.

6. In the consultation paper, it was proposed to bifurcate the voluntary liquidation process timelines on the basis of claims submitted by creditors. To allow the Liquidator to know the timelines on ex-ante basis, it is proposed that the liquidator shall endeavour to complete the liquidation process of the corporate person within ninety days from the liquidation commencement date, where the approval of creditors was not required as mandated under section 59(3) or regulation 3(1) or otherwise, within two hundred and seventy days.

II. Compliance Certificate

7. All stakeholders have agreed to the proposal of introducing Compliance Certificate as it would assist the AA in processing the dissolution application expeditiously. It would also help in achieving the objectives of the Code by expediting the conclusion of voluntary liquidation process, release assets of the corporate debtor for alternate uses faster and balance the interest of stakeholders. The stakeholders have also suggested some changes in the contents of the proposed Compliance Certificate which have been incorporated in the draft amendment regulations.

Amendment

8. The draft amendment regulations, after suitably incorporating the public comments, are placed at **Annexure C**.

Part-B: Review of Voluntary Liquidation Regulations

9. The Code came into force on 28th May, 2016. Section 240 of the Code vests the power to make Regulations with the Board. Over a period of last five years, the Code along with the Rules and Regulations made thereunder have undergone numerous changes to evolve with the continuously evolving insolvency landscape in India.

10. The Board had notified the Insolvency and Bankruptcy Board of India (Mechanism for Issuing Regulations) Regulations, 2018 in October, 2018, which, *inter alia*, provides for review of each regulation every three years, in a manner stated below:

“7. The Board shall review each regulation every three years unless a review is warranted earlier and amend or repeal any regulation, keeping in view:

(a) its objectives;

(b) its outcome;

(c) experience of its implementation;

(d) experience of its enforcement and the related litigation;

(e) global best practices, if any;

(f) its relevance in the changed environment; and

(g) any other factor considered relevant by the Board.”

11. In compliance with regulation 7 of the aforesaid Regulations, the Voluntary Liquidation Regulations have been reviewed and the following few drafting and consequential corrections are proposed:

S. No.	Regulation / Schedule	Present position	Changes proposed	Reason
1	Regulation 2(1)(c)	“liquidation commencement date” means the date on which the proceedings for voluntary liquidation commence as per section 59(5) and Regulation 3(4);	The word ‘3(4)’ may be substituted with ‘3(3)’.	Editorial correction
2	Regulation 5(2)	The insolvency professional shall, within three days of his appointment as liquidator, intimate the Board about such appointment	The word ‘three’ may be substituted with ‘seven’.	Section 59(4) of the Code read with regulation 3(2) of Voluntary Liquidation Regulations mandates the corporate person to notify the Board within seven days. Therefore, to bring consistency, the time limit under regulation 5(2) may be changed as suggested.
3	Regulation 10(2)	The liquidator shall maintain the following registers and books, as may be applicable, in relation to the liquidation of the corporate debtor:-	The word ‘debtor’ may be substituted with ‘person’	Editorial correction
4	Regulation 10(2)(r)	such other books or registers as may be necessary to account for transactions entered into by	The word ‘debtor’ may be substituted with ‘person’	Editorial correction

		him in relation to the corporate debtor		
5	Regulation 39(7)	A stakeholder, who claims to be entitled to any amount deposited into the Corporate Voluntary Liquidation Account, may apply to the Board in Form-H for an order for withdrawal of the amount.	The word 'Form-H' may be substituted with 'Form-I'	Form-H in the CIRP Regulations and Liquidation Regulations refers to the "Compliance Certificate". To ensure consistency of nomenclature for compliance certificate across CIRP, Liquidation and Voluntary Liquidation Regulations (Proposed in this Board note), appropriate changes may be made in Voluntary Liquidation Regulations.
6	Schedule I	Form-H Withdrawal from Corporate Voluntary Liquidation Account	The word 'Form-H' may be substituted with 'Form-I'	Same as provided against S.No. 5

12. Accordingly, the draft amendment regulations are placed at **Annexure C**.

Part-C: Review of Circulars

13. In its 25th meeting held on 24th September 2021, the Governing Board advised that the IBBI may review all circulars issued till date by 31st March, 2022. Provisions in these circulars, which are required to be continued, may move to the respective regulations. It may weed out those provisions which are no longer required or relevant.

14. In pursuance of the foregoing directions, two circulars pertaining to voluntary liquidation process, issued by the Board till date have been reviewed. Out of these two circulars, one circular as presented in Table-1 does not require any further action as it is of clarificatory nature

and does not have any substantive provision which can be considered to be incorporated in the Voluntary Liquidation Regulations and therefore, needed to be retained as it is.

Table 1: Circular that may be retained

S. No.	Date of Issue	Subject	Brief of Circular	Proposal
1.	20 th January, 2020	Deposit of unclaimed dividends and / or undistributed proceeds of voluntary liquidation process in accordance with regulation 39 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017	It provides the bank account details of the Corporate Voluntary Liquidation Account for deposit of unclaimed dividends and/or undistributed proceeds of voluntary liquidation processes.	Regulation 39 of the Voluntary Liquidation Regulations provides the mechanism for operation of Corporate Voluntary Liquidation Account. The said Circular only specifies the bank account details such as account number, IFSC, bank name, etc., wherein the deposit of unclaimed dividends and/or undistributed proceeds is to be made. Since the Corporate Voluntary Liquidation Account is being maintained by the Board as a makeshift arrangement till the Corporate Voluntary Liquidation Account is operationalised in the Public Accounts of India, the Circular may continue to exist.

15. Table 2 below summarizes review of remaining circular. The review demonstrates the need to shift the provisions of the circular for being incorporated in Voluntary Liquidation Regulations:

Table 2: Circular which may be weeded out with requisite amendment in Voluntary Liquidation Regulations

S. No.	Date of Issue	Subject	Brief of Circular	Proposal
1.	15 th November, 2021	Clarification regarding requirement of seeking No Objection Certificate or No Dues Certificate from the Income Tax Department during Voluntary Liquidation Process under the Insolvency and Bankruptcy Code, 2016.	It clarifies that as per the provisions of the Code and the Voluntary Liquidation Regulations read with Section 178 of the Income-tax Act, 1961, an Insolvency Professional handling voluntary liquidation process is not required to seek any No Objection Certificate or No Dues Certificate from the Income Tax Department	<p>Since section 178 of the Income-tax Act, 1961 which, <i>inter alia</i>, obligates the liquidator to fulfil certain income tax related requirements, explicitly states that the provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force except the provisions of the Code, a clarification may be provided in the Voluntary Liquidation Regulations by way of amendment to explicitly provide that an IP handling voluntary liquidation process is not required to seek any No Objection Certificate or No Dues Certificate from the Income Tax Department as part of compliance in the said process.</p> <p>The Circular was issued on account of official exigency, after the meetings were conducted by the Hon'ble</p>

			as part of compliance in the said process.	Corporate Affairs Minister and Secretary, Ministry of Corporate Affairs. Post the proposed amendments, the Circular may be withdrawn.
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16. Approval of the Governing Board is solicited for:

- (i) Amending the provisions of Voluntary Liquidation Regulations to facilitate faster exit for firms, in consonance with the proposal modified (as mentioned in para 8 of the Agenda Note) based upon public comments received on the consultation paper.
- (ii) Drafting and consequential corrections proposed in Para 11 above.
- (iii) To amend Voluntary Liquidation Regulations for suitably incorporating contents of the circular dated 15th November 2021 as proposed in para 15 above.

Accordingly, the draft amendment regulations are placed at **Annexure C**.

Insolvency and Bankruptcy Board of India1st February 2022**Discussion Paper on Amendment in IBBI (Voluntary Liquidation Process)
Regulations, 2017**

This discussion paper solicits public comments on the following issues related to a voluntary liquidation process:

Part-A: Review of Timelines

Part-B: Compliance Certificate

Part-A: Review of Timelines**Introduction**

2. The Insolvency and Bankruptcy Code, 2016 ('Code') primarily provides for reorganisation and insolvency resolution of a corporate person, which is not able to service its debt, in a time bound manner. The corporate person may itself file an application with Adjudicating Authority (AA) for initiation of insolvency resolution process, in case of a default under section 10 of the Code. However, it may also happen that a corporate person, having no dues or being able to pay all its dues, intends to liquidate itself voluntarily for a variety of reasons including but not limited to changed market environment, technological obsolescence, entry of new players or outliving the purpose for which it was set up. The Code provides a mechanism for voluntary liquidation under section 59.

3. Section 59 of the Code read with the IBBI (Voluntary Liquidation Process) Regulations, 2017 ('Voluntary Liquidation Regulations') provide that a corporate person may initiate voluntary liquidation proceedings if two conditions are met – a) the corporate person has no debt or in a position to pay all the debts; and b) the corporate person is not being liquidated to defraud any person. Upon completion of the voluntary liquidation process, the liquidator shall submit the Final Report along with an application for dissolution of corporate person, to the AA.

4. The Code and Voluntary Liquidation Regulations provide for completely market-driven approach in voluntary liquidation process in order to ensure faster outcomes at least possible cost. *Under normal circumstances*, the intervention of AA in voluntary liquidation process is

envisaged only once, i.e., at the time of dissolution of corporate person. The role of AA is limited in voluntary liquidation process (as compared to liquidation process) since most corporate persons initiating voluntary liquidation process either have zero or negligible claims of creditors and are not party to any litigation.

Statement of Problem

5. The value of assets falls drastically with time. Therefore, it is important to ensure that the assets are liquidated quickly and efficiently. The Code, however, does not stipulate any time limit for completion of the voluntary liquidation process. Keeping into consideration the principle of preservation of time value enshrined in the BLRC report, the Voluntary Liquidation Regulations provides that the liquidator shall endeavour to complete the liquidation process of the corporate person *within twelve months* from the liquidation commencement date.

6. As per the data available with the Board, as on 31st December, 2021, 1105¹ voluntary liquidation processes have been initiated. Of which, the liquidators have submitted final reports to the AA in 546 cases. In other words, more than 50% (i.e., 559 cases) of the voluntary liquidation processes are still ongoing. On closer perusal of the ongoing cases, it is found that 293 cases (around 52%) of them have crossed one-year time mark.

7. It can be observed that majority of voluntary liquidations processes are getting delayed. Several meetings have been held with the stakeholders in the past few months to review and take holistic view on the causes of delay in the voluntary liquidation processes and suggest suitable measures to address them.

8. One of the important issues unduly prolonging the voluntary liquidation process (which was highlighted by stakeholders) pertains to the practice of seeking 'No Objection Certificate' (NOC) or 'No Dues Certificate' (NDC) from the Income Tax Department by liquidators during the process even though the Code and the Voluntary Liquidation Regulations do not mandate seeking such NOC/NDC. To curb this undesirable practice, the Board had recently issued a Circular clarifying that an Insolvency Professional handling voluntary liquidation process is

¹ It excludes 10 cases which have been withdrawn.

not required to seek any NOC/NDC from the Income Tax Department as part of compliance in the said process.

9. In the roundtable held with the insolvency professionals (IPs) on 21st August 2021, it was stated by the IPs that as a best practice, an IP, before taking up a voluntary liquidation assignment, should insist that all pending regulatory / statutory compliances are completed by the corporate person. Once the same is ensured, the voluntary liquidation process being non-adversarial in nature can be completed within three to six months under normal circumstances. Considering the above, apart from the action already undertaken as enumerated in para 8 above, there is a critical need for comprehensive review of the timelines provided for various activities under voluntary liquidation process, to further streamline and strengthen the process.

Timelines

10. The IBBI (Liquidation Process) Regulations, 2016 ('Liquidation Regulations') provides that "*The liquidator shall liquidate the corporate debtor within a period of one year from the liquidation commencement date...*". The Voluntary Liquidation Regulations also provides that, "*The liquidator shall endeavor to complete the liquidation process of the corporate person within twelve months from the liquidation commencement date*". Therefore, technically a same period of one year has been provided for completion of both liquidation and voluntary liquidation processes. However, both the processes vary a great deal regarding the number of stakeholders involved, complexity of the issues entailed, size and composition of assets to be realized, litigation pending, etc.

11. In general, the voluntary liquidation process is much simpler in nature on account of nil or negligible claims of creditors filed against the corporate person, fewer assets, if any, to be realized and not many litigations being pending. Therefore, it may not appear justifiable to put both the processes on equal footing in terms of the timelines provided for their completion. In pursuance of the foregoing, the timelines provided for the following activities under voluntary liquidation process are reviewed, with the focus on compressing the overall process timeline, as under:

Activity 1: Preparation of List of stakeholders

12. In almost all cases of voluntary liquidation process, there are no creditors or very few creditors. Therefore, the stakeholders involved in such cases are only the shareholders / partners

of the corporate person and few creditors, if any. Sub-regulation (2) of regulation 30 of the Voluntary Liquidation Regulations provides that “*The liquidator shall prepare the list of stakeholders within forty-five days from the last date for receipt of claims*”. It may be noted that a period of thirty days from the liquidation commencement date is provided for submission of claims by the stakeholders. Therefore, a total period of seventy-five days from the liquidation commencement date is provided for preparation of the list of stakeholders. However, in cases where there are no creditors, the preparation of list of stakeholders should not take such an unduly long period, as the list of shareholders / partners is available with the liquidator at the time of commencement.

Proposal

13. In cases where no claims are received from the creditor(s), the period for preparation of list of stakeholders by liquidator may be reduced to fifteen days from the last date for receipt of claims.

Activity 2: Distribution

14. Sub-regulation (1) of regulation 35 of the Voluntary Liquidation Regulations provides for a period of six months from the receipt of the amount for its distribution to the stakeholders. In cases where there are no creditors, the stakeholders who are entitled for distribution are the shareholders / partners of the corporate person. As the voluntary liquidation process commences with the resolution passed by the shareholders / partners of the corporate person and the corporate person provides active guidance to the liquidator during the process, it can be safely assumed that the liquidator remains in close contact with them and hence should be able to distribute the proceeds quickly. Further, in cases where there are creditors, since the resolution regarding commencement of the process is approved by the creditors representing two-thirds in value of the debt of the corporate person, distribution to the creditors should also take much lesser time than is currently stipulated.

15. It may be noted that prior to the amendment dated 25th July 2019, the Liquidation Regulations also provided a period of six months for distribution of proceeds from realization to the stakeholders. The same was reduced to ninety days vide the amendment dated 25th July 2019. Since the liquidation proceedings are generally more complex and involves far greater number of stakeholders, the distribution under voluntary liquidation process may not require even ninety days.

Proposal

16. The period for distribution of proceeds from realization to the stakeholders may be reduced from the current six months to a period of thirty days from the receipt of the amount.

Activity 3: Submission of Final Report

17. As noted above, the role of AA is relatively limited in a voluntary liquidation process as compared to the liquidation process, since most of the corporate persons initiating voluntary liquidation process either have nil or negligible claims of creditors and are not party to any litigation. Further, unlike the liquidation process where there is a Stakeholders' Consultation Committee (SCC) to advise / monitor the liquidator, there is no oversight / consultation committee in the voluntary liquidation process. Therefore, the entire voluntary liquidation process is driven by the corporate person itself and the liquidator.

18. The liquidation estate of the corporate person undergoing voluntary liquidation process is generally straightforward both in terms of the size and heterogeneity of the assets involved. Therefore, the realisation of the assets involved during voluntary liquidation process takes lesser time as compared to the liquidation process. On completion of voluntary liquidation process, the liquidator prepares a Final Report, containing, *inter alia*, details regarding the disposal of the assets and discharge of debt of the corporate person.

19. In cases where there are no creditors, the liquidator is not required to undertake various activities such as verification of claims, intimation about decision of acceptance / rejection of claims, etc. or the activities such as preparation of list of stakeholders, may take lesser time. Therefore, in case of no creditors involved in a voluntary liquidation process, the preparation and submission of Final Report should take much lesser period as compared to the situation where creditors are involved.

Proposed Amendment

20. It is proposed that the period for submission of Final Report, in cases where no claims are received from any creditor(s), may be provided as ninety days from the liquidation commencement date. On the other hand, in cases where claims are received from creditor(s), the period for submission of Final Report may be provided as two hundred and seventy days

from the liquidation commencement date. Therefore, the liquidator shall submit the Final Report, along with the application for dissolution, to the AA within ninety days or two hundred and seventy days, as the case may be, from the liquidation commencement date.

Economic Analysis

21. The proposed amendments by curtailing the unwarranted time spent on various activities aim to ensure early completion of voluntary liquidation process, thereby, provide quicker exit for the corporate person, release the idle resources faster, and put them into productive uses. Further, the proposed reduction in the time taken for distribution of proceeds would result in early distribution to the stakeholders and thereby, promote entrepreneurship and availability of credit. Since the main reason for the delay in voluntary liquidation process (as informed by the IPs in various meetings), i.e., the issue of delay in obtaining NOC from IT Department, has been resolved by the Board by way of issuing Circular dated 15th November 2021, it is now reasonable to expect a much shorter time being spent in completion of voluntary liquidation process.

Amendment Regulations

22. A draft of the amendment regulations is given in Annexure A

Part-B: Compliance Certificate

Statement of Problem

23. The liquidators have submitted final reports to the AA in 546 cases, as on 31st December, 2021. Of which, 263 cases (around 48%) are still pending for dissolution.

24. It may not be possible for the AA to go through bulky documents in each case to verify the compliances by the liquidator. It is pertinent to note that the voluntary liquidation proceedings before AA are not adversarial and the dissolution of corporate person by AA would be expeditious if the checklist of compliances is made available. In case there are any non-compliances, they could also get flagged through such checklist so that findings regarding them could be recorded by AA.

25. The Board had conducted Round Table Discussion with the IPs handling voluntary liquidation cases on 21st August, 2021 to ascertain the reasons for delay in timely completion

of voluntary liquidation process and possible solutions to address them. One of the suggestions put forward by the IPs therein that the availability of such checklist / certificate would enable faster disposal of voluntary liquidation cases by the AA. It is also understood (from the IPs) that in some cases, the AA is already insisting on filing of such checklist. However, the checklists being submitted by the liquidators vary on case-to-case basis and across benches of AA in terms of its format and content.

Comparable Provisions in other Processes

26. The CIRP Regulations and Liquidation Regulations provide that the resolution professional (RP) or liquidator, as the case may be, shall submit the Compliance Certificate, containing relevant details of the process, along with the application for approval of resolution plan during CIRP, or dissolution of corporate person or closure of liquidation process. The relevant provisions are as under:

i) Regulation 39(4) of the CIRP Regulations provides that, *“The resolution professional shall endeavour to submit the resolution plan approved by the committee to the Adjudicating Authority at least fifteen days before the maximum period for completion of corporate insolvency resolution process under section 12, along with a compliance certificate in Form H of the Schedule...”*.

ii) Regulation 45 of the Liquidation Regulations provides that, *“The liquidator shall submit an application along with the final report and the compliance certificate in form H to the Adjudicating Authority...”*

27. This enables the AA to quickly ascertain the status of various actions undertaken or not, by the RP or liquidator in a concise manner.

Proposed Amendment

28. On the lines of Compliance Certificate provided under CIRP Regulations and Liquidation Regulations, it is proposed that a similar compliance certificate / checklist may be introduced for voluntary liquidation process, to be submitted along with final report to AA, in the specified Form under regulation 38(3) of the Voluntary Liquidation Regulations. It would contain summary of the voluntary liquidation process including the time taken for various actions by the liquidator (against the prescribed time limit), details of receipts and payment during the process, etc

Economic Analysis

29. The proposed amendment would assist the AA to process the dissolution applications expeditiously and ensure consistency across its benches. This would facilitate in saving of precious judicial time and resources and thus, reduce the overall burden on the AA. Early disposal would not only reduce the liquidation cost but would also allow liquidator to move to his / her next assignment sooner than otherwise. Further, the presentation of the key details of the voluntary liquidation process in a summary format would form a rich and systemic source of data for analysis by the Board / Government. It would also help to achieve the objectives of the Code by expediting the conclusion of voluntary liquidation process, release assets of the corporate debtor for alternate uses faster and balancing the interest of stakeholders.

Amendment Regulations

30. A draft of the amendment regulations is given in Annexure A.

31. It is considered to have discussion on the following two issues:

- a. Should the timelines, both activity-wise and overall, for voluntary liquidation process be reduced?
- b. Is there a need for introducing compliance certificate under voluntary liquidation process on the lines of CIRP and liquidation process?

Public Comments

32. The proposals in the preceding paragraphs aim at achieving the objectives of the Code by expediting the voluntary liquidation process and balancing the interest of all stakeholders. This is issued in pursuance to regulation 4 of the Insolvency and Bankruptcy Board of India (Mechanism for Issuing Regulations) Regulations, 2018. The Board accordingly solicits comments on:

- a. points mentioned in Para 31.
- b. any specific regulations in the draft Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) (Amendment) Regulations, 2022, placed at Annexure A.

33. Comments may be submitted electronically by 22nd February 2022. For providing comments, please follow the process as under:

- (i) Visit IBBI website, www.ibbi.gov.in;

(ii) Select 'Public Comments'; and then select 'Discussion paper – Voluntary Liquidation February, 2022';

(iii) Provide your Name, and Email ID;

(iv) Select the stakeholder category, namely, -

- a) Corporate Debtor;
- b) Personal Guarantor to a Corporate Debtor;
- c) Proprietorship firm;
- d) Partnership firm;
- e) Creditor to a Corporate Debtor;
- f) Insolvency Professional;
- g) Insolvency Professional Agency;
- h) Insolvency Professional Entity;
- i) Academics;
- j) Investor; or
- k) Others.

(v) Select the kind of comments you wish to make, namely,

- a) General Comments; or
- b) Specific Comments.

(vi) If you have selected 'General Comments', please select one of the following options:

- a) Inconsistency, if any, between the provisions within the regulations (intra regulations);
- b) Inconsistency, if any, between the provisions in different regulations (inter regulations);
- c) Inconsistency, if any, between the provisions in the regulations with those in the rules;
- d) Inconsistency, if any, between the provisions in the regulations with those in the Code;
- e) Inconsistency, if any, between the provisions in the regulations with those in any other law;
- f) Any difficulty in implementation of any of the provisions in the regulations; and
- g) Any provision that should have been provided in the regulations, but has not been provided; or
- h) Any provision that has been provided in the regulations but should not have been provided.

And then write comments under the selected option.

(vii) If you have selected 'Specific Comments', please select para/regulation number and then sub-para/sub-regulation number and write comments under the selected para/sub-para or regulation/sub-regulation number.

(viii) You can make comments on more than one para/sub-para or regulation / sub-regulation number, by clicking on **More Comments** and repeating the process outlined above from point 33(v) onwards.

(ix) Click 'Submit', if you have no more comments to make.

THE GAZETTE OF INDIA
EXTRAORDINARY
PART III, SECTION 4
PUBLISHED BY AUTHORITY
NEW DELHI, _____, 2022

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

NOTIFICATION

New Delhi, the _____, 2022

Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) (Amendment) Regulations, 2022

No. IBBI/2021-22/GN/REG.080. - In exercise of the powers conferred by clause (t) of sub-section (1) of section 196 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following regulations further to amend the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, namely: -

1. (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) (Amendment) Regulations, 2022.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 (hereinafter referred to as the principal regulations), in regulation 8, in sub-regulation (1), for the words “Annual Status Report”, the words “Status Report” shall be substituted.

3. In the principal regulations, in regulation 30, after sub-regulation (2), the following proviso shall be inserted, namely -

“Provided that where no claim from creditors has been received till the last date of receipt of claims, the liquidator shall prepare the list of stakeholders within fifteen days from the last date for receipt of claims”.

4. In the principal regulations, in regulation 35, in sub-regulation (1), for the words “six months”, the words “thirty days” shall be substituted.

5. In the principal regulations, in regulation 37 -

(i) for sub-regulation (1), the following sub-regulation shall be substituted, namely:-

“The liquidator shall endeavor to complete the liquidation process of the corporate person and submit the Final Report under regulation 38-

(a) within ninety days from the liquidation commencement date, in case no claim from creditors has been received during the process;

(b) within two hundred and seventy days from the liquidation commencement date, in case claim(s) from creditors has been received during the process.

(ii) in sub-regulation (2), for the words “twelve months”, the words “ninety days or two hundred and seventy days, as the case may be” shall be substituted and for the words “Annual Status Report”, the words “Status Report” shall be substituted.

(iii) in sub-regulation (3), for the words “Annual Status Report”, the words “Status Report” shall be substituted.

6. In the principal regulations, in regulation 38, for the sub-regulation (3), the following sub-regulation shall be substituted, namely -

“The liquidator shall submit the Final Report and the compliance certificate in Form-I, along with the application under section 59(7), to the Adjudicating Authority.”

7. In the principal regulations, in Schedule I, after Form-H, the following form shall be inserted, namely -

“FORM-I

COMPLIANCE CERTIFICATE

[Under Regulation 38(3) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017]

I, *[Name of the Liquidator]*, an insolvency professional enrolled with *[name of insolvency professional agency]* and registered with the Board with registration number *[registration number]*, am the Liquidator for the Voluntary Liquidation Process of *[name of the corporate person]*.

2. The details of the Voluntary Liquidation Process are as under:

Sl. No.	Particulars	Description
(1)	(2)	(3)
1	Name of the corporate person	
2	CIN/LLPIN of the corporate person	
3	NCLT Bench	
4	Date of initiation of voluntary liquidation process	
5	Date of appointment of Liquidator	
6	Liquidator's Registration No. as IP	
7	Whether the Liquidator was replaced during the process (Yes / No)	
8	If yes to Sl.No. 7, name of previous Liquidator and his registration No. as IP	
9	If yes to Sl.No. 7, date of replacement of previous Liquidator	
10	Date of opening of bank account for liquidation (with account details)	
11	Date of notice for uncalled capital/unpaid capital contribution	
12	Date of realization of uncalled capital/unpaid capital contribution	
13	Date of intimation to statutory authority as applicable. a. PF b. ESI c. Income Tax d. Inspector of Factory e. GST/VAT f. RBI	

	g. Others	
14	Amount deposited into Corporate Voluntary Liquidation Account: a. Amount of unclaimed dividends b. Amount of undistributed proceeds c. Income referred to in sub-regulation (2) and (3) of regulation 39 d. Interest referred to in sub-regulation (4) of regulation 39 Total	
15	Remuneration of Liquidator (Rs.)	

3. Details of the corporate person:

Sl. No.	Particulars	Description
(1)	(2)	(3)
1	Year of Incorporation	
2	Objects in brief	
3	Paid up Share Capital (Amount in Rs.)	
4	Assets as on Liquidation Commencement date (Amount in Rs.)	
5	Debt payable as on Liquidation Commencement date (Amount in Rs.)	
6	Net-worth of the Corporate Person (Amount in Rs.)	
7	Reasons for initiating voluntary liquidation, in brief	

4. Details of realisation during Voluntary Liquidation Process:

Sl. No.	Particulars	Amount (Rs)
(1)	(2)	(3)
1	Sale of Assets	
2	Refund from Statutory Authorities	
3	Cash / Bank balance	
4	Realisation of uncalled/unpaid capital contribution	
5		

Total	
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5. Details of distribution to stakeholders as per section 52 or 53 of Code

(Amount in Rs. lakh)

Sl. No.	Stakeholders* under section 52 and 53 (1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed to the Amount Claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Realization of Security Interest [Sec. 52(1)(b)]					
2	Liquidation Cost [Sec. 53(1)(a)]					
3	Workmen's Dues [Sec. 53(1)(b)(i)]					
4	Debts of Secured Creditors [Sec. 53(1)(b)(ii)]					
5	Wages and Unpaid Dues to Employees [Sec. 53(1)(c)]					
6	Debts of Unsecured Financial Creditors [Sec. 53(1)(d)]					
7	Government Dues + Amount Unpaid following Enforcement of Security Interest [Sec.53(1)(e)]					
8	Any remaining Debts and Dues [Sec. 53(1)(f)]					
9	Preference Shareholders [Sec. 53(1)(g)]					
10	Equity Shareholders					

	[Sec.53(1)(h)]				
Total					

*If there are sub-categories in a category, please add rows for each sub-category.

6. The Voluntary Liquidation Process has been conducted as per the stipulated timeline:

Sl. No.	Section / Regulation	Description of Task	Norm (Number of Days)	Compliance Date	Actual Timeline (Number of days)
(1)	(2)	(3)	(4)	(5)	(6)
1	Section 59(3)(a), Regulation 3(1)(a)	Declaration from majority of directors / partners regarding solvency of corporate person and it not being liquidated to defraud any person	T – 28		
2	Section 59[(3)(c) and (5)], Regulation 3(1)(c) and 3(3)	Passing of resolution / special resolution by members / partners about commencement of voluntary liquidation process and appointment of insolvency professional as liquidator	T = 0		
3	Proviso to Section 59(3)(c), Regulation 3(1)(c)	Approval of creditors representing two-third in value of debt, if the corporate person owes any debt, of the resolution passed under section 59(3)(c) and regulation 3(1)(c)	T + 7		
4	Regulation 5(2)	Intimation by Insolvency Professional regarding his appointment as Liquidator, to the Board	T + 3		

5	Regulation 14 (1)	Public Announcement in Form A by the Liquidator	T + 5		
6	Section 59(4), Reg. 3(2)	Notification to Registrar of Companies and Board about the resolution passed under section 59(3)(c) and regulation 3(1)(c) or subsequent approval of creditors thereto, as the case may be, by corporate person	T + 7 or T + 14		
7	Section 38(1), Regulation 14 (2)	Submission of claims by stakeholders	T + 30		
8	Section 38(5)	Withdrawal/ modification of claim by stakeholders	T + 44		
9	Regulation 9(1)	Submission of preliminary report to the corporate person by the Liquidator	T + 45		
10	Regulation 29(1)	Verification of claims by the Liquidator	T + 60		
11	Section 40 (2)	Intimation about decision of acceptance/ rejection of claim to the stakeholders by the Liquidator	T + 67		
12	Regulation 30(2)	Preparation of list of stakeholders by the Liquidator	T + 45*/75		
13	Section 42	Appeal by creditor against the decision of the Liquidator	T + 81		
14	Regulation 35(1)	Distribution of the proceeds to stakeholders by the Liquidator	Date of realization + 30		
15	Regulation 39(2)	Deposit of amount of unclaimed dividends and undistributed proceeds in Corporate	Prior to submission of		

		Voluntary Liquidation Account by the Liquidator	application under sub-section (7) of section 59		
16	Regulation 38(2)	Submission of Final Report to the Board and Registrar of Companies by the Liquidator	T + 90*/270		
17	Section 59(7), Regulation 38(3)	Submission of Final Report, along with the application for dissolution, to AA	T + 90*/270		
18	Regulation 37(1)	Completion of Voluntary Liquidation Process	T + 90*/270		
19	Regulation 37(2)	Meeting of Contributories and presentation of Status Report, if process continues for more than 90 / 270 days, as the case may be	T + 105*/285		

T=Liquidation Commencement Date

* Applicable where no claims from creditors are received by the Liquidator

7. The following are deviations / non-compliances with the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made, or circulars issued thereunder (If any deviation/ non-compliances were observed, please state the details and reasons for the same):

Sl. No.	Deviation / Non-compliance observed	Section of the Code / Regulation No. / Circular No.	Reasons	Whether rectified or not
(1)	(2)	(3)	(4)	(5)
1				
2				
3				

8. If the process has taken more than 90 / 270 days, as the case may be, for completion, please state reasons thereof.

9. All undischarged matters pending, if any, before any Court or Tribunal relating to corporate person have been reported to AA, along with the details of provision made to sufficiently meet the obligations arising from such pending litigations.

10. The records referred to in regulations 8 and 10 shall be preserved as mandated under regulation 41.

11. Any other information which the Liquidator may like to submit.

12. I [Name of Liquidator], hereby certify that the contents of this certificate are true and correct to the best of my knowledge and belief, and nothing material has been concealed there from.

(Signature)

Name of the Liquidator:

IP Registration No:

Address as registered with the Board:

Email id as registered with the Board:

Date:

Place:"

Navrang Saini, Chairperson
[ADVT]

Note: The Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 were published *vide* notification No. IBBI/2016-17/GN/REG010 on 31st March, 2017 in the Gazette of India, Extraordinary, Part III, Section 4, No. 130 dated 31st March, 2017 and were last amended by the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) (Second Amendment) Regulations, 2020 published *vide* notification No. IBBI/2020-21/GN/REG.063 dated 05th August 2020 in the Gazette of India, Extraordinary, Part III, Section 4, No. 26 on 05th August, 2020.

**Gist of Public Comments on Discussion Paper on Amendment in IBBI (Voluntary Liquidation Process) Regulations, 2017
and Views of the Division thereon**

Sr. No.	Issue	Number of Comments	Gist of Comments / Suggestions	Comments of the Division
1.	Should the timelines, both activity-wise and overall, for voluntary liquidation process be reduced?	52	<p><u>In favour (23)</u></p> <ul style="list-style-type: none"> • The proposed amendment shall facilitate easier exit for firms. In case any claim is filed by creditors, timeline should be reduced to 180 days (instead of the proposed 270 days). • The timeline for verification of claims by liquidator may be reduced to 10/15 days from the presently stipulated 30 days. <p><u>Against (11)</u></p> <ul style="list-style-type: none"> • Section 178 of Income-tax Act, 1961 prescribes that the Assessing Officer shall notify to the liquidator within three months from the date on which he receives notice of 	<p>Proposed 270 days' timeline in such cases, is only <i>guiding</i> upper threshold. The process can be closed even before that if the corporate person gets liquidated at a faster pace.</p> <p>Process of claim verification is a complex exercise and the liquidator may seek / require further evidence / clarification from the claimant before arriving at a conclusive decision. Therefore, the present timelines for verification of claim of 30 days may be kept intact.</p> <p>Section 178 of Income-tax Act, 1961 which, inter alia, obligates the liquidator to fulfil certain income tax related requirements,</p>

Sr. No.	Issue	Number of Comments	Gist of Comments / Suggestions	Comments of the Division
			<p>appointment of the liquidator, the tax which is payable by the company. Accordingly, the liquidator needs to wait for three months before distributing the proceeds. Hence, the overall period should not be reduced below 120 days.</p> <ul style="list-style-type: none"> Liquidators face difficulty in opening company's liquidation bank account which generally takes more than 30 days. 	<p>explicitly states that the provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force except the provisions of the Code. Further, the Code explicitly mandates stakeholders for submission of their claim on or before the last date mentioned in public announcement and income-tax department should file its claim, if any, like other stakeholders within stipulated time. The liquidator is not required to wait for three months for submission of claim by Assessing officer to distribute proceeds.</p> <p>During the consultation held with the stakeholders / insolvency professionals, it has been brought to the notice that this issue persisted in the past and now the officials manning bank branches have become more aware regarding the provisions of</p>

Sr. No.	Issue	Number of Comments	Gist of Comments / Suggestions	Comments of the Division
			<ul style="list-style-type: none"> Trying to limit the timeline for preparation of list of stakeholders to 15 days in case of no claims by creditors is counterproductive. It is to be noted that the submission of claim is a dynamic and ongoing process. All the creditors may not have access to the Public Announcement or may not even check IBBI's website regularly. Therefore, some creditors might discover with delay that the company is into voluntary liquidation. 	<p>voluntary liquidation process. Further, the Board has been regularly conducting advocacy workshops to create further awareness regarding the provisions of the Code.</p> <p>If there are creditors of a corporate person, then its voluntary liquidation process can be initiated only with the approval (by stipulated majority) of creditors. Hence, the list of creditors, if any, based on books of accounts is already available with the liquidator at the time of initiation of process itself. The public announcement by liquidator acts as an additional check to validate those debts / dues. To facilitate liquidator know the timelines on ex-ante basis, we may provide the timelines based on the fact that the corporate person has ascertained the existence of creditors while initiating the process.</p>

Sr. No.	Issue	Number of Comments	Gist of Comments / Suggestions	Comments of the Division
			<ul style="list-style-type: none"> • In case of foreign shareholders, the amount is distributed in the form of foreign outward remittance which requires some formalities to be completed, including reporting to the Reserve Bank of India and it's a time-consuming process. • Issues such as pending income tax/TDS/GST refund, surrender of GST number, etc. delay closure of voluntary liquidation process and the overall period should not be reduced 	<p>The Code provides for time-bound completion of the process and to ensure the same, it is important to have reasonable timelines for various activities under the process. Presently specified timeline of 45 days for preparing list of stakeholders after the last date of submission of claims is unreasonably long if there is no creditor.</p> <p>In most of the cases initiating voluntary liquidation, there would not be any foreign shareholder. Further, as the liquidator gets appointed by shareholders and works in close coordination with them throughout the process, the process of distribution of proceeds can be expedited by initiating it just after the last date of submission of claims, in case there is no claim by creditors, rather than waiting till the end.</p> <p>Such issues may not be faced in substantial cases. Further, as a best practice, the liquidator may</p>

Sr. No.	Issue	Number of Comments	Gist of Comments / Suggestions	Comments of the Division
			<p>below 180/270days. Further, there is also a need to fast-track disposal of litigation pending with direct / indirect tax authorities and compounding applications with statutory authorities.</p> <ul style="list-style-type: none"> • Sale of immovable assets take time. Further, the option of distribution of assets to stakeholders may be provided to expedite the process. 	<p>insist the corporate person to complete such formalities before initiating the voluntary liquidation process.</p> <p>Reg.31 of Voluntary Liquidation Regulations provides that the liquidator may sell assets in the manner and mode approved by the corporate person. Further, reg. 35 states that the liquidator may, with the approval of the corporate person, distribute amongst stakeholders, an asset that cannot be readily or advantageously sold due to its peculiar nature or other special circumstances. Thus, the liquidator, in consultation with corporate person, is adequately empowered to sell / distribute the assets expeditiously.</p> <p>It is pertinent to submit that, out of 566 closed voluntary liquidation cases till 31st January, 2022, almost one-fourth cases had realized assets (both tangible and intangible) of less than Rs.10 lakh</p>

Sr. No.	Issue	Number of Comments	Gist of Comments / Suggestions	Comments of the Division
			<ul style="list-style-type: none"> • Proposed timeline is not feasible since the liquidator is required to identify PUFEE transactions, if any and report to AA. • Instead of bifurcating process timelines on the basis of claims submitted by creditors, it should be based upon kind of assets to be disposed off during the process. 	<p>and more than two-third cases had such realized assets of less than Rs.1 crore. Since minor assets are involved in voluntary liquidation, the process of realisation is also not a complex one.</p> <p>Section 59 of the Code read with the Voluntary Liquidation Regulations provide that a corporate person may initiate voluntary liquidation proceedings if two conditions are met – a) the corporate person has no debt or in a position to pay all the debts; and b) the corporate person is not being liquidated to defraud any person. Hence The existence of PUFEE transactions may be an exception rather than a norm under a voluntary liquidation process.</p> <p>As stated above, in general, the corporate person under voluntary liquidation have minor assets involved as they dispose off major assets before initiating the process.</p>

Sr. No.	Issue	Number of Comments	Gist of Comments / Suggestions	Comments of the Division
			<p><u>Suggestions/Issue (18)</u></p> <ul style="list-style-type: none"> • Liquidator should be empowered to appoint requisite administrative staff (including seeking support services from IPE) for liquidating the corporate person, which shall ensure early completion of the process. • Proposed regulations require contributories meeting and presenting of Status Report every 90 or 270 days, as the case may be. The Status Report includes audited accounts (of the liquidation showing receipts and payments pertaining to liquidation since the liquidation commencement date) and therefore, the audit cost shall be an additional burden on the corporate person. Hence, audited accounts should be required only if the process crosses 12 months period. 	<p>During voluntary liquidation, the liquidator works in close coordination with and overall guidance of the corporate person, which decides terms and conditions of his appointment. Since the market is best placed to decide upon the requirement of support services, which differs from case to case, regulatory intervention may not be required.</p> <p>May be agreed</p>

Sr. No.	Issue	Number of Comments	Gist of Comments / Suggestions	Comments of the Division
			<ul style="list-style-type: none"> • In reg.8, the words '<i>Minutes of consultations with stakeholders</i>' may be removed since it is an unnecessary obligation and delays the process. • Timeline for submission of claims should be reduced to 15 days (from the currently stipulated 30 days) since the voluntary liquidation gets initiated with the approval of shareholders and creditors, and they are well aware that they need to submit the claim form. • Time taken in legal proceedings may be excluded from the proposed timelines. • There is a need to stipulate process of changing the status of corporate person on MCA21 post its dissolution. 	<p>Maintenance of such minutes of consultation and sharing them with the stakeholders ensures transparency in the conduct of the process.</p> <p>There may be a situation wherein some creditor (especially statutory authority) may file its claim after public announcement which was not initially accounted for by the corporate person. Therefore, the period of 30 days is a reasonable timeframe for receipt of such claims.</p> <p>Since voluntary liquidation proceedings are non-adversarial in nature, they are generally free from litigation. Hence, no exclusion in the proposed timelines may be required.</p> <p>The issue has been taken up with the Government and it is under their active consideration.</p> <p>Reg.40 provides that in such situation, the liquidator shall file</p>

Sr. No.	Issue	Number of Comments	Gist of Comments / Suggestions	Comments of the Division
			<ul style="list-style-type: none"> • Provision to declare voluntary liquidation void ab initio needs to be inserted in case of detection of fraud. • There needs to be a provision for filing the vacancy in case of liquidator's death, disqualification, and voluntary resignation. 	<p>an application before AA to suspend the process of liquidation and pass any such orders as it deems fit. Therefore, the necessary provision already exists.</p> <p>Regulation 5(1) provides that corporate person may replace the liquidator by appointing another insolvency professional as liquidator.</p>
2.	Is there a need for introducing compliance certificate under voluntary liquidation process on the lines of CIRP and liquidation process?	10	<p><u>In favour (3)</u></p> <ul style="list-style-type: none"> • Introduction of Compliance Certificate would facilitate early completion of the process and would form a rich and systematic source of data for analysis by the Board/ Government. <p><u>Against (0)</u></p> <p><u>Suggestions/Issue (7)</u></p> <ul style="list-style-type: none"> • Under Item 4 which seeks details of realisation, an additional row for assets which cannot be realised and distributed to 	<p>Noted</p> <p>May be agreed.</p>

Sr. No.	Issue	Number of Comments	Gist of Comments / Suggestions	Comments of the Division
			<p>the stakeholders as per reg.35 may be provided.</p> <ul style="list-style-type: none"> • It would be difficult for the liquidator to report the details of undischarged matters pending to AA as mentioned under para 9 of the proposed Compliance Certificate. • Under Item No. 6, at Sr. No. 16,17 and 18, the timeline of T+90*/270 days is given. Such a timeline has been given by assuming that AA would approve the dissolution, along with Final Report, on the same day. However, in reality, it appears inappropriate. • Details about avoidance transactions may be provided in Compliance Certificate. 	<p>Such statement is already required to be provided by the liquidator as part of the Final Report under reg.38. Therefore, no additional compliance requirement is being imposed on the liquidator.</p> <p>The proposed timeline only provides for submission of Final Report by the liquidator to the AA.</p> <p>May be agreed.</p>
Total		62		

THE GAZETTE OF INDIA

EXTRAORDINARY

PART III, SECTION 4

PUBLISHED BY AUTHORITY

NEW DELHI, _____, 2022

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

NOTIFICATION

New Delhi, the _____, 2022

**Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process)
(Amendment) Regulations, 2022**

No. IBBI/2021-22/GN/REG.081.- In exercise of the powers conferred by clause (t) of sub-section (1) of section 196 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following regulations further to amend the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017, namely: -

1. (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) (Amendment) Regulations, 2022.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 (hereinafter referred to as the principal regulations), in regulation (2), in sub-regulation (1), in clause (c), for the word “3(4)”, the word “3(3)” shall be substituted.

3. In the principal regulations, in regulation 5, in sub-regulation (2), for the word “three”, the word “seven” shall be substituted.

4. In the principal regulations, in regulation 10, in sub-regulation (2), for the word “debtor”, the word “person” shall be substituted.

5. In the principal regulations, in regulation 14, after sub-regulation (2), the following clarification shall be inserted, namely:-

“Clarification: Section 178 of Income-tax Act, 1961 mandates certain tax related compliances for the liquidator of a company in liquidation. However, sub-section (6) of the said section provides that *“The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force except the provisions of the Insolvency and Bankruptcy Code, 2016.”*”

6. In the principal regulations, in regulation 30, after sub-regulation (2), the following proviso shall be inserted, namely -

“Provided that where no claim from creditors has been received till the last date of receipt of claims, the liquidator shall prepare the list of stakeholders within fifteen days from the last date for receipt of claims”.

7. In the principal regulations, in regulation 35, in sub-regulation (1), for the words “six months”, the words “thirty days” shall be substituted.

8. In the principal regulations, in regulation 37 for sub-regulation (1), the following sub-regulation shall be substituted, namely:-

“The liquidator shall endeavour to complete the liquidation process of the corporate person and submit the Final Report under regulation 38-

(a) within two hundred and seventy days from the liquidation commencement date, where the creditors have approved the resolution as mandated under section 59(3) or regulation 3(1); or

(b) within ninety days from the liquidation commencement date, where the approval of creditors was not required under section 59(3) or regulation 3(1).”

9. In the principal regulations, in regulation 38, for the sub-regulation (3), the following sub-regulation shall be substituted, namely -

“The liquidator shall submit the Final Report and the compliance certificate in Form-H, along with the application under section 59(7), to the Adjudicating Authority.”

10. In the principal regulations, in regulation 39, in sub-regulation (7), for the word “Form-H”, the word “Form-I” shall be substituted.

11. In the principal regulations, in Schedule I, the “Form-H” shall be renamed as “Form-I”.

12. In the principal regulations, in Schedule I, after Form-G, the following form shall be inserted, namely -

“FORM-H

COMPLIANCE CERTIFICATE

[Under Regulation 38(3) of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017]

I, *[Name of the Liquidator]*, an insolvency professional enrolled with *[name of insolvency professional agency]* and registered with the Board with registration number *[registration number]*, am the Liquidator for the Voluntary Liquidation Process of *[name of the corporate person]*.

2. The details of the Voluntary Liquidation Process are as under:

Sl. No.	Particulars	Description
(1)	(2)	(3)
1	Name of the corporate person	
2	CIN/LLPIN of the corporate person	
3	NCLT Bench	
4	Date of initiation of voluntary liquidation process	
5	Date of appointment of Liquidator	
6	Liquidator’s Registration No. as IP	
7	Whether the Liquidator was replaced during the process (Yes / No)	
8	If yes to Sl.No. 7, name of previous Liquidator and his registration No. as IP	

9	If yes to Sl.No. 7, date of replacement of previous Liquidator	
10	Date of opening of bank account for liquidation (with account details)	
11	Date of notice for uncalled capital/unpaid capital contribution	
12	Date of realization of uncalled capital/unpaid capital contribution	
13	Date of intimation to statutory authority as applicable. a. PF b. ESI c. Income Tax d. Inspector of Factory e. GST/VAT f. RBI g. Others	
14	Amount deposited into Corporate Voluntary Liquidation Account: a. Amount of unclaimed dividends b. Amount of undistributed proceeds c. Income referred to in sub-regulation (2) and (3) of regulation 39 d. Interest referred to in sub-regulation (4) of regulation 39 Total	
15	Remuneration of Liquidator (Rs.)	

3. Details of the corporate person:

Sl. No.	Particulars	Description
(1)	(2)	(3)
1	Year of Incorporation	
2	Objects in brief	
3	Paid up Share Capital (Amount in Rs.)	
4	Assets as on Liquidation Commencement date (Amount in Rs.)	
5	Debt payable as on Liquidation Commencement date (Amount in Rs.)	
6	Net-worth of the Corporate Person (Amount in Rs.)	
7	Reasons for initiating voluntary liquidation, in brief	

4. Details of realisation during Voluntary Liquidation Process:

Sl. No.	Particulars	Amount (Rs)
(1)	(2)	(3)
1	Sale of Assets	
2	Refund from Statutory Authorities	
3	Cash / Bank balance	
4	Realisation of uncalled/unpaid capital contribution	
5	Distribution of unsold asset	
6		
Total		

5. Details of distribution to stakeholders as per section 52 or 53 of Code

(Amount in Rs. lakh)

Sl. No.	Stakeholders* under section 52 and 53 (1)	Amount Claimed	Amount Admitted	Amount Distributed	Amount Distributed to the Amount Claimed (%)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Realization of Security Interest [Sec. 52(1)(b)]					
2	Liquidation Cost [Sec. 53(1)(a)]					
3	Workmen's Dues [Sec. 53(1)(b)(i)]					
4	Debts of Secured Creditors [Sec. 53(1)(b)(ii)]					
5	Wages and Unpaid Dues to Employees [Sec. 53(1)(c)]					
6	Debts of Unsecured					

	Financial Creditors [Sec. 53(1)(d)]					
7	Government Dues + Amount Unpaid following Enforcement of Security Interest [Sec.53(1)(e)]					
8	Any remaining Debts and Dues [Sec. 53(1)(f)]					
9	Preference Shareholders [Sec. 53(1)(g)]					
10	Equity Shareholders [Sec.53(1)(h)]					
Total						

*If there are sub-categories in a category, please add rows for each sub-category.

6. The Voluntary Liquidation Process has been conducted as per the stipulated timeline:

Sl. No.	Section / Regulation	Description of Task	Norm (Number of Days)	Compliance Date	Actual Timeline (Number of days)
(1)	(2)	(3)	(4)	(5)	(6)
1	Section 59(3)(a), Regulation 3(1)(a)	Declaration from majority of directors / partners regarding solvency of corporate person and it not being liquidated to defraud any person	T – 28		
2	Section 59[(3)(c) and (5)], Regulation 3(1)(c) and 3(3)	Passing of resolution / special resolution by members / partners about commencement of voluntary liquidation process and appointment of insolvency professional as liquidator	T = 0		

3	Proviso to Section 59(3)(c), Regulation 3(1)(c)	Approval of creditors representing two-third in value of debt, if the corporate person owes any debt, of the resolution passed under section 59(3)(c) or regulation 3(1)(c)	T + 7		
4	Regulation 5(2)	Intimation by Insolvency Professional regarding his appointment as Liquidator, to the Board	T + 3		
5	Regulation 14 (1)	Public Announcement in Form A by the Liquidator	T + 5		
6	Section 59(4), Reg. 3(2)	Notification to Registrar of Companies and Board about the resolution passed under section 59(3)(c) and regulation 3(1)(c) or subsequent approval of creditors thereto, as the case may be, by corporate person	T + 7 or T + 14		
7	Section 38(1), Regulation 14 (2)	Submission of claims by stakeholders	T + 30		
8	Section 38(5)	Withdrawal/ modification of claim by stakeholders	T + 44		
9	Regulation 9(1)	Submission of preliminary report to the corporate person by the Liquidator	T + 45		
10	Regulation 29(1)	Verification of claims by the Liquidator	T + 60		
11	Section 40 (2)	Intimation about decision of acceptance/ rejection of claim to the stakeholders by the Liquidator	T + 67		

12	Regulation 30(2)	Preparation of list of stakeholders by the Liquidator	T + 45*/75		
13	Section 42	Appeal by creditor against the decision of the Liquidator	T + 81		
14	Regulation 35(1)	Distribution of the proceeds to stakeholders by the Liquidator	Date of realization + 30		
15	Regulation 39(2)	Deposit of amount of unclaimed dividends and undistributed proceeds in Corporate Voluntary Liquidation Account by the Liquidator	Prior to submission of application under sub-section (7) of section 59		
16	Regulation 38(2)	Submission of Final Report to the Board and Registrar of Companies by the Liquidator	T + 90*/270		
17	Section 59(7), Regulation 38(3)	Submission of Final Report, along with the application for dissolution, to AA	T + 90*/270		
18	Regulation 37(1)	Completion of Voluntary Liquidation Process	T + 90*/270		
19	Regulation 37(2)	Meeting of Contributories and presentation of Annual Status Report	T + 365		

T=Liquidation Commencement Date

* Applicable where approval of creditors was not required under section 59(3) or regulation 3(1)

7. The following are deviations / non-compliances with the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made, or circulars issued thereunder (If any deviation/ non-compliances were observed, please state the details and reasons for the same):

Sl. No.	Deviation / Non-compliance	Section of the Code / Regulation No. / Circular	Reasons	Whether rectified or not
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	observed	No.		
(1)	(2)	(3)	(4)	(5)
1				
2				
3				

8. The details of application(s) filed / pending in respect of avoidance of transactions.

Sl. No.	Type of Transaction	Date of Filing with Adjudicating Authority	Date of Order of the Adjudicating Authority	Brief of the Order
(1)	(2)	(3)	(4)	(5)
1	Preferential transactions under section 43			
2	Undervalued transactions under section 45			
3	Extortionate credit transactions under section 50			
4	Fraudulent transactions under section 66			

9. If the process has taken more than 90 / 270 days, as the case may be, for completion, please state reasons thereof.

10. All undischarged matters pending, if any, before any Court or Tribunal relating to corporate person have been reported to AA, along with the details of provision made to sufficiently meet the obligations arising from such pending litigations.

11. The records referred to in regulations 8 and 10 shall be preserved as mandated under regulation 41.

12. Any other information which the Liquidator may like to submit.

13. I [Name of Liquidator], hereby certify that the contents of this certificate are true and correct to the best of my knowledge and belief, and nothing material has been concealed there from.

(Signature)

Name of the Liquidator:

IP Registration No:

Address as registered with the Board:

Email id as registered with the Board:

Date:

Place:”

Ravi Mital, Chairperson

[ADVT]

Note: The Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 were published *vide* notification No. IBBI/2016-17/GN/REG010 on 31st March, 2017 in the Gazette of India, Extraordinary, Part III, Section 4, No. 130 dated 31st March, 2017 and were last amended by the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) (Second Amendment) Regulations, 2020 published *vide* notification No. IBBI/2020-21/GN/REG.063 dated 05th August 2020 in the Gazette of India, Extraordinary, Part III, Section 4, No. 26 on 05th August, 2020.