

Insolvency and Bankruptcy Board of India

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Press Release

Insolvency and Bankruptcy Board of India amends the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016

The Insolvency and Bankruptcy Board of India notified the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2024 ('Amendment Regulations') on 12th February 2024.

2. To strengthen the regulatory framework of the liquidation process, certain key amendments have been made to the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. These changes are aimed at facilitating a smoother process for liquidation, ensuring accountability, and bolstering the confidence of stakeholders in the liquidation process. Key amendments include:

- a. The liquidator may reduce the reserve price by up to 25% for assets with existing valuation of the Corporate Insolvency Resolution Process (CIRP) on one occasion with the approval of the Stakeholders' Consultation Committee (SCC) at any time during the process. For assets where fresh valuation is conducted during liquidation, the reserve price can be reduced by up to 10% in subsequent auctions with SCC's approval.
- b. The liquidator may sell the assets of the corporate debtor (CD) by means of private sale only upon prior consultation with SCC, and the successful buyer shall be confirmed only after such consultation. Further, the option for the private sale of an asset, i.e., 'the asset is sold at a price higher than the reserve price of a failed auction' by the liquidator, has been removed.
- c. Liquidators are mandated to convene SCC meetings with a maximum interval of 30 days, to ensure timely decisions and oversight. However, the SCC may reduce the frequency of meetings if deemed necessary, provided that at least a minimum of one meeting is held per quarter. Decisions during these meetings are to be taken based on present and voting members.
- d. At every SCC meeting, liquidators are required to present a comprehensive report which *inter alia* includes progress made in the liquidation process, the consolidated status of all legal proceedings, and cumulative costs incurred during the process. Any cost overruns beyond initial estimates must be justified with a rationalization plan.
- e. For fresh asset valuations, liquidators are required to facilitate meetings where registered valuers explain their methodology and reasons for significant deviations, if any, from the CIRP valuations. Further, the liquidator shall share the valuation reports with the SCC members after obtaining a confidentiality undertaking.
- f. Before initiating or continuing any legal proceedings, liquidators must consult the SCC, presenting the economic rationale.
- g. The liquidator, upon considering the viability, must consult the SCC before deciding to run the affairs of the corporate debtor as a going concern. Further, the sale of the CD as a going concern cannot be put on an auction exclusively after the first auction, and in case of a failed auction, the liquidator shall review the marketing strategy in consultation with the SCC.

- h. Prior to applying for early dissolution, the liquidator must seek the SCC's views and recommendations, providing a detailed report in the application to the Adjudicating Authority (AA).
- i. To capture additional details regarding the realisation and distribution made during the process, the Compliance Certificate under Form H has been modified.
- j. During the period after submission of the final report but before a corporate debtor is dissolved, stakeholders claiming entitlement to any amounts deposited in the Corporate Liquidation Account can apply to the liquidator for withdrawal. Upon receiving such a request, the liquidator shall verify the claim and request the Board to release the funds to him/her for onward distribution.
- k. The liquidator shall file the proposal of compromise or arrangement only in cases where the Committee of Creditors made such a recommendation during the CIRP and such proposal shall not be filed after the expiry of thirty days from the liquidation commencement date.
- l. The liquidator may extend the payment period of balance sale consideration beyond ninety days, after consultation with the SCC.
- m. Wherever the corporate debtor has given possession to an allottee in a real estate project, such asset shall not form a part of the liquidation estate of the corporate debtor.
- n. The Form A for reporting consultation with the stakeholders has been modified to capture the meetings details such as the interval between two meetings, dissent by the SCC etc.

3. The Amendment Regulations are effective from 12th February, 2024. These are available at www.mca.gov.in and www.ibbi.gov.in.