



Recap of Recent Regulatory & Legal Updates

(March, 2024)



Company Law



Rules of listing of equity shares in permissible jurisdictions notified



- Sub-sections (3) and (4) of Section 23, inserted by the Companies (Amendment) Act, 2020 had enforced on **30th October 2023**.
- Now, MCA has notified the Companies (Listing of Equity Shares in Permissible Jurisdictions) Rules, 2024 on 24th January, 2024 which allows to unlisted public companies and listed public companies to list their equity shares on permitted International Exchanges.
- Parallely, The Department of Economic Affairs has amended the FEMA (Non-debt Instruments) Rules, 2019 which provides the eligibility criteria for listing and list of permitted International Exchanges.



Rules of listing of equity shares in permissible jurisdictions notified

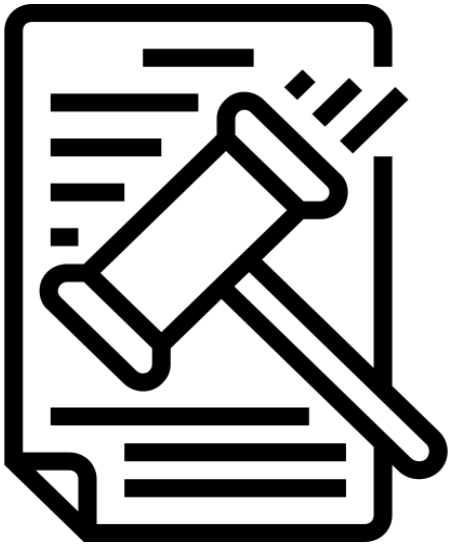


- The unlisted public company must file the prospectus in **Form LEAP-1** within 7 days after finalization, and it should be filed in the permitted international exchange;
- According to NDI Rules, permitted International Exchanges are India International Exchange and NSE International Exchange at IFSC;
- The unlisted public company and its existing shareholders must comply with the requirements of the Scheme specified in **Schedule XI** of the NDI Rules;



Rules of listing of equity shares in permissible jurisdictions notified

Certain companies are not eligible for issuing equity shares for international listing:



- Section 8 Company;
- Nidhi Company;
- Company limited by guarantee with share capital;
- Company having outstanding public deposits;
- Company having negative net worth;
- Company which have defaulted in payment of bank/ PFI/ debentures/ secured creditor dues;
- Company undergoing winding-up proceedings;
- Company which have defaulted in filing annual returns or financial statements.



MCA establishes a Central Processing Centre for processing and disposing off e-forms



- MCA has established a **Central Processing Centre (CPC)** having territorial jurisdiction all over India, for processing and disposing off e-forms filed under the Companies Act, 2013.
- The jurisdictional Registrar within whose jurisdiction the registered office of the company is situated shall continue to have jurisdiction over the companies whose e-forms are processed by the Registrar of the Central Processing Centre in respect of all other provisions of the Companies Act, 2013 and the rules made thereunder.



MCA empowers Central Processing Center for processing and disposing off certain e-forms

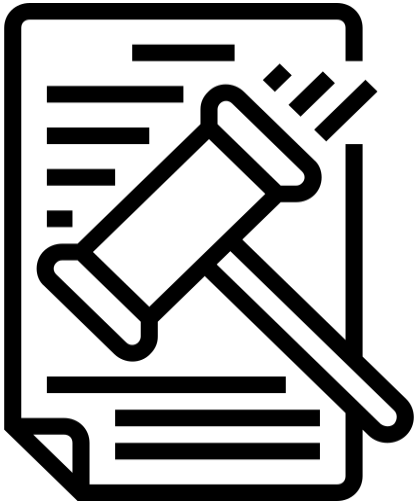
The Registrar, CPC shall processes and disposed off the following e-forms w.e.f. **16th February, 2024:**



MGT-14	Filing of Resolutions and agreements to the Registrar
SH-7	Notice to Registrar of any alteration of share capital
INC-24	Application for approval of Central Government for change of name
INC-6	One Person Company- Application for Conversion
INC-27	Conversion of public company into private company or vice-versa
INC-20	Intimation to Registrar of revocation/surrender of license issued under section 8
DPT-3	Return of deposits
MSC-1	Application to ROC for obtaining the status of dormant company
MSC-4	Application for seeking status of active company
SH-8	Letter of Offer for buy-back
SH-9	Declaration of Solvency for buy-back
SH-11	Return of Buy-back



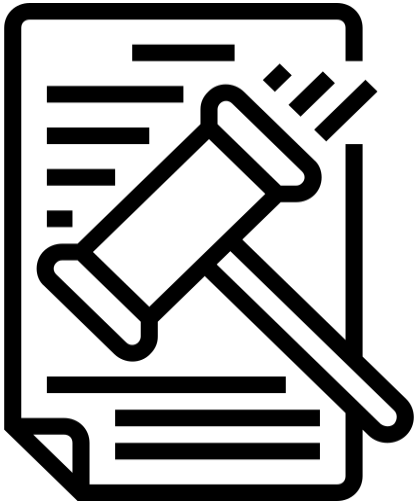
Deployment and usage of Change Request Form (CRF) on MCA21



- MCA has clarified that **Change Request Form (CRF)** is available on V3 portal for the convenience of users of MCA-21 services.
- This web-based Form is to be used only under exceptional circumstances, for making a request to Registrar of Companies (RoCs), for the purposes which cannot be catered through any existing form or services or functionality available either at Front Office level (users of MCA-21 services) or Back Office level (RoCs).



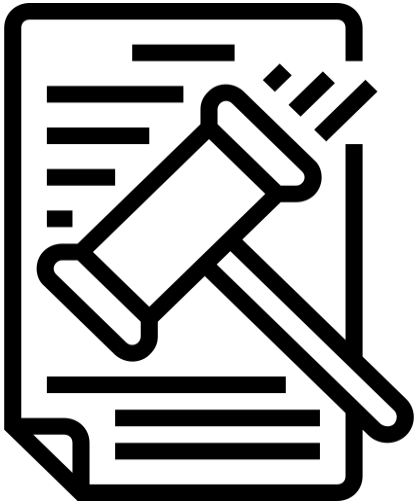
Deployment and usage of Change Request Form (CRF) on MCA21



- It is not a substitute to any reporting, application and registry requirements as per Companies Act, 2013, and LLP Act, 2008, and for such purposes the Form shall not be entertained and requests through this form are liable to be summarily rejected.
- This Form should also not be used as a substitute for any approval related and registration related queries for which existing tickets and help desk facilities must be used.



Relaxation of additional fees and extension of last date of filing of Form LLP BEN-2 and Form LLP 4D under the LLP Act, 2008



- MCA introduced LLP (SBO) Rules, 2023 on 09/11/2023, requiring LLPs to file **Form LLP BEN-2** for declaration under Section 90 of the Companies Act, 2013. Similarly, MCA has amended LLP rules on 27/10/2023, prescribing **Form LLP 4D** for reporting beneficial interest in contributions.
- To facilitate compliance during MCA-21 transition to version-3, LLPs can file these forms without additional fees until **15th May, 2024**. The two forms shall be made available in version 3 for filing purposes w.e.f. **15th April, 2024**.





Securities Law



Extension of timeline for verification of market rumours by listed entities



SEBI has further extended the effective date of implementation of the proviso to Regulation 30(11) of the LODR Regulations relating to verification of market rumours:

Listed Entities	W.e.f.
Top 100 Listed Entities	01st June, 2024
Top 250 Listed Entities	01st December, 2024



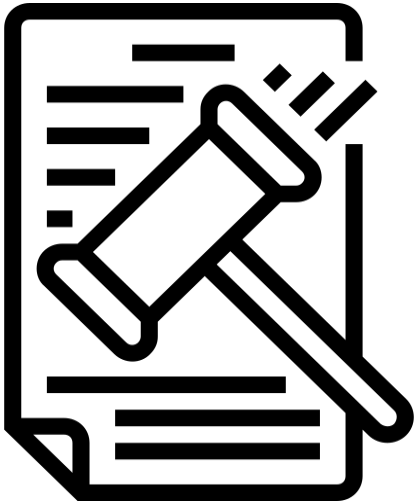


Insolvency Law: **Amendments in** **Regulations**



IBBI amends Model Bye-Laws and Governing Board of Insolvency Professional Agencies & Insolvency Professionals Regulations

IBBI has amended the IBBI (Insolvency Professionals) Regulations, 2016 and IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016:



Key Highlights of the Amendments are:

- Introduction of provision to allow an IP to resign from the assignment in corporate insolvency resolution process, liquidation process and insolvency resolution process of personal guarantor to the corporate debtor subject to the recommendation of the respective committees in the processes or the debtor or the creditor, as the case may be, and approval of the Adjudicating Authority (AA). IP shall however continue to discharge his duties, functions, and responsibilities till the approval of resignation by the AA.



IBBI amends Model Bye-Laws and Governing Board of Insolvency Professional Agencies & Insolvency Professionals Regulations

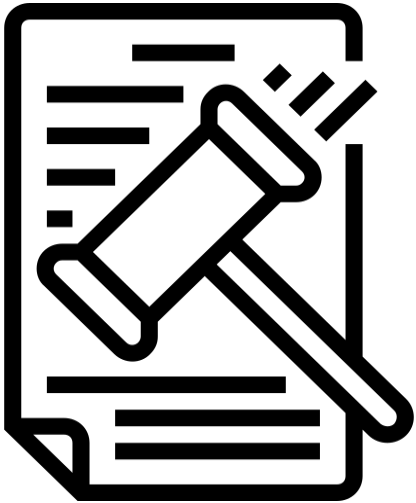


- Insertion of explanation to allow an IPE acting as IP to engage or appoint its partner or director, as the case may be, for or in connection with any work relating to any of its assignment other than work related to valuation and audit of the debtor. This would facilitate better use of inhouse resources by the IPE.
- Insertion of explanation to allow an IPE acting as IP to provide any service, other than service related to valuation and audit, for or in connection with the assignment which is being undertaken by any of its partners or directors, as the case may be. This would assist in leveraging institutional resources of an IPE and facilitate efficient conduct of processes.
- Further it seeks to relax the validity of authorisation for assignment (AFA) of IPs from existing one year period and to align it with the duration of panels of IPs prepared for appointment by the AA.



IBBI amends Insolvency Resolution Process for Personal Guarantors to Corporate Debtors and Bankruptcy Process for Personal Guarantors to Corporate Debtors Regulations

IBBI has amended the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 and IBBI (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019:

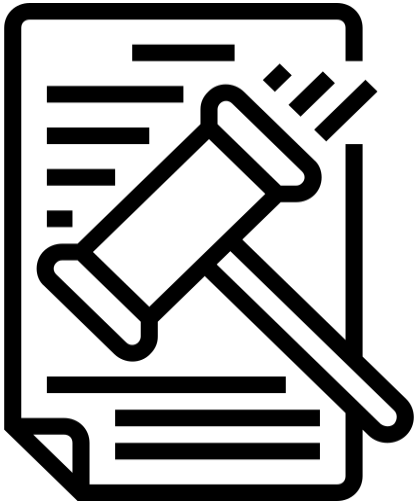


Key Highlights of the Amendments are:

- Removal of the restrictions on an insolvency professional (IP) to be appointed as resolution professional (RP) or bankruptcy trustee (BT) in the insolvency resolution process or bankruptcy process of personal guarantors (PGs) to corporate debtors (CDs) respectively, if he has acted or is acting as IPR, RP or liquidator during the corporate insolvency resolution process (CIRP) or liquidation process of the CD. Removal of this restriction will allow the appointment of same IP in both the corporate process as well as the insolvency and bankruptcy proceeding of the PGs to the CDs for better harmonization and effective coordination of both the processes.



IBBI amends Insolvency Resolution Process for Personal Guarantors to Corporate Debtors and Bankruptcy Process for Personal Guarantors to Corporate Debtors Regulations

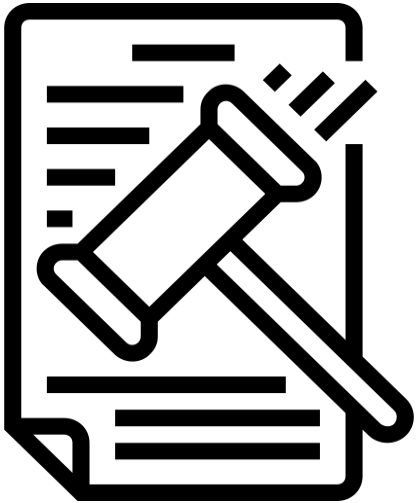


- The RP evaluates repayment plans from PGs and recommends whether to call a creditors' meeting. Initially designed for speedier resolution, there was no mandatory requirement for such meetings. However, the complexities of PG cases now necessitate mandatory meetings to address financial interdependencies. This ensures comprehensive involvement, enhancing efficacy and fairness. The amendment fosters stakeholder participation, reinforcing a robust framework for resolving PG financial distress.



IBBI amends Voluntary Liquidation Process Regulations

IBBI has amended the IBBI (Voluntary Liquidation Process) Regulations, 2017 to streamline the voluntary liquidation process and facilitate the distribution of unclaimed proceeds to the stakeholders before the dissolution of the corporate person:

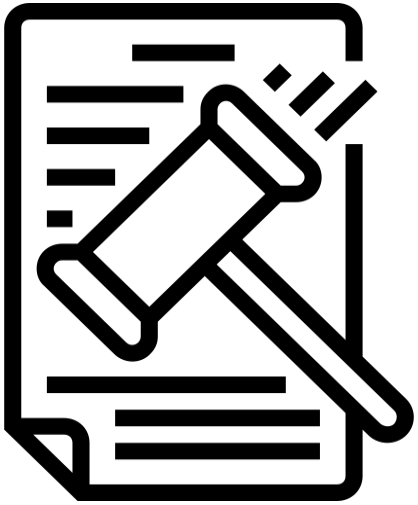


Key Highlights of the Amendments are:

- The directors of the corporate person while initiating the voluntary liquidation process shall make disclosure about pending proceedings or assessments before statutory authorities, and pending litigations and shall also declare that sufficient provision has been made to meet the likely obligations arising, if any, on account of the pending proceedings.



IBBI amends Voluntary Liquidation Process Regulations

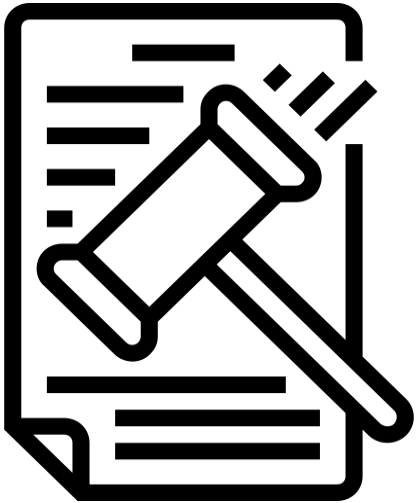


- If the liquidator fails to liquidate the corporate person within stipulated period of 90 days or 270 days as the case may be, he shall hold a meeting of contributories of the corporate person and present a status report within 15 days from the end of such period and thereafter at the end of every such succeeding period, specifying the reasons for not completing the process within the stipulated time period and apprise the meeting about additional time required for completing the process.
- In the period after submission of final report but before a corporate person is dissolved, stakeholders claiming entitlement to funds in the Corporate Voluntary 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.



IBBI amends Liquidation Process Regulations

IBBI has amended the IBBI (Liquidation Process) Regulations, 2016 to facilitate a smoother process for liquidation, ensuring accountability, and bolstering the confidence of stakeholders in the liquidation process:



Key Highlights of the Amendments are:

- 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.



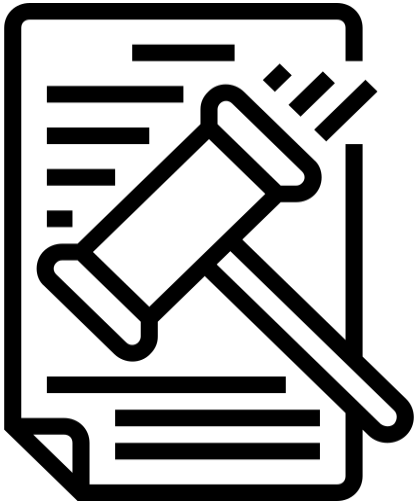
IBBI amends Liquidation Process Regulations



- 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.
- 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.



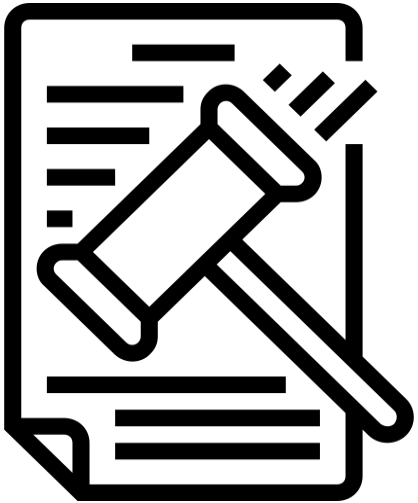
IBBI amends Liquidation Process Regulations



- 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.
- 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.
- Before initiating or continuing any legal proceedings, liquidators must consult the SCC, presenting the economic rationale.



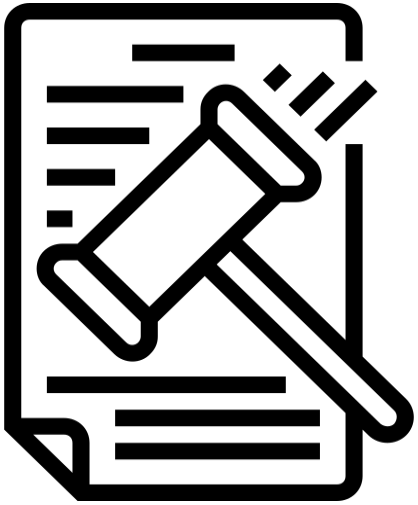
IBBI amends Liquidation Process Regulations



- 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.
- 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).
- To capture additional details regarding the realisation and distribution made during the process, the Compliance Certificate under Form H has been modified.



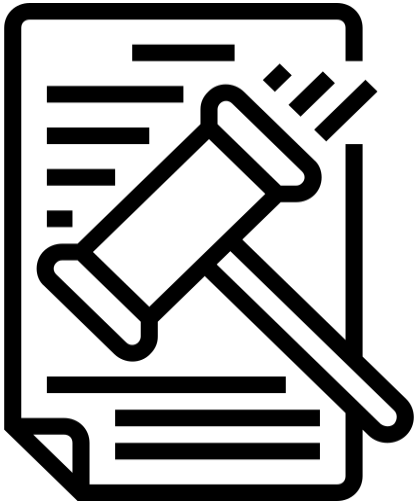
IBBI amends Liquidation Process Regulations



- 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.
- 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.
- The liquidator may extend the payment period of balance sale consideration beyond ninety days, after consultation with the SCC.



IBBI amends Liquidation Process Regulations



- 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.
- 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.



IBBI amends Insolvency Resolution Process for Corporate Persons Regulations

IBBI has amended the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 to streamline the corporate insolvency resolution process:

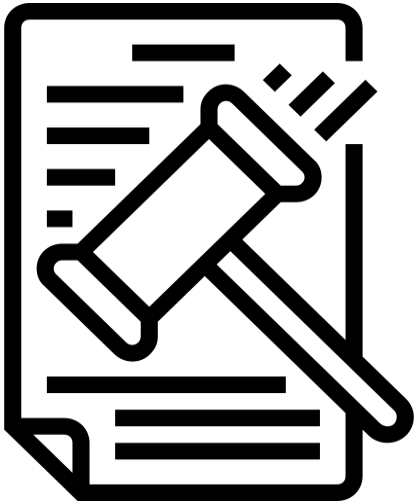


Key Highlights of the Amendments are:

- **Operating separate bank accounts for real estate projects:** To ensure financial transparency and accountability, the amendment makes it mandatory to have a separate bank account for each real estate project under a corporate debtor.
- **Monthly meetings of the committee of creditors (CoC):** Under the amended dispensation, the resolution professional (RP) is mandated to convene a CoC meeting at least once in every 30 days, with a provision to extend the interval between meetings to a maximum of one meeting per quarter, if CoC so decides.



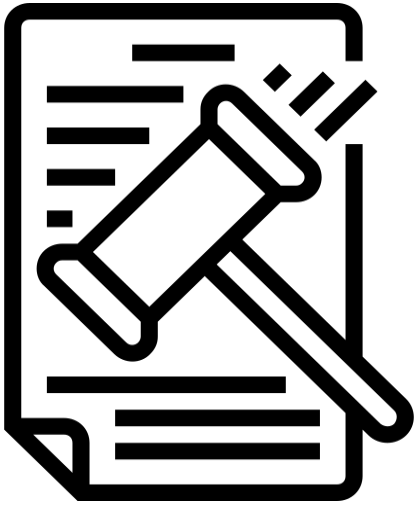
IBBI amends Insolvency Resolution Process for Corporate Persons Regulations



- **Voting procedures:** In place of provision of minimum period specified for the opening of the voting window with no upper limit, the amended regulation empowers the CoC to decide the period of opening of electronic voting window with a minimum of 24 hours and a maximum of 7 days with further increments of 24 hours each. Further, to streamline the voting process, the amendment mandates that where the matters listed for voting have already received requisite majority vote, the RP shall provide one last opportunity to vote by extending the voting window by a maximum period of 24 hours.
- **Approval of insolvency resolution process costs:** With a view to enhance the oversight of the CoC over going concern costs, the amendment provides that the RP to seek approval from the CoC for all costs including going concern costs related to the insolvency resolution process.



IBBI amends Insolvency Resolution Process for Corporate Persons Regulations



- **Disclosure of valuation methodology:** With an aim to increase transparency and reduce disputes over valuation related issues, the amendment provide for explaining the valuation methodology to the members of the CoC before the computation of estimates.
- **Disclosure of fair value in the information memorandum:** For fostering informed participation in the process, the amendment provides that the fair value may be made part of the information memorandum (IM). However, the CoC, after recording the reasons, can decide not to share such an information where in it's considered view such a disclosure is not beneficial for the resolution.
- **Flexibility in inviting resolution plans in real-estate cases:** With a view that each project in a real estate case may need different treatment in terms of resolution, the amendment clarifies that after due examination, the CoC may direct the RP to invite separate plan for each project.



IBBI amends Insolvency Resolution Process for Corporate Persons Regulations



- **Monitoring committee for implementation of resolution plan:** The amendment enables the CoC to decide for constitution of a monitoring committee for overseeing the implementation of the resolution plan. The committee may include the RP, any other insolvency professional or any other person as its member. In case the RP is made part of the committee, the monthly fee payable to him shall not exceed the monthly fee received by him during the corporate insolvency resolution process.
- **Continuation of the resolution process pending extension application:** A clarification has been provided to ensure that RP continues to discharge his responsibilities under the resolution process till an application for extension is being decided by the Adjudicating Authority.

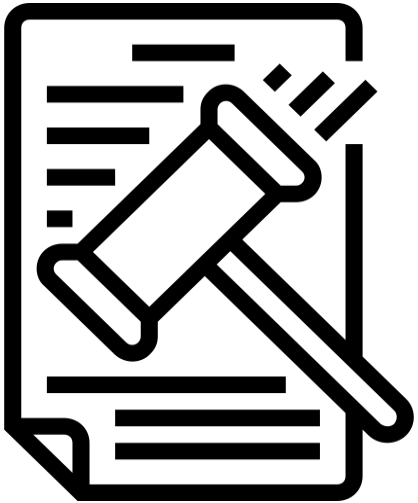




Insolvency Law: Circulars



Sharing of the Report prepared by the Resolution Professional under section 99 of IBC, 2016 to both debtor and creditor

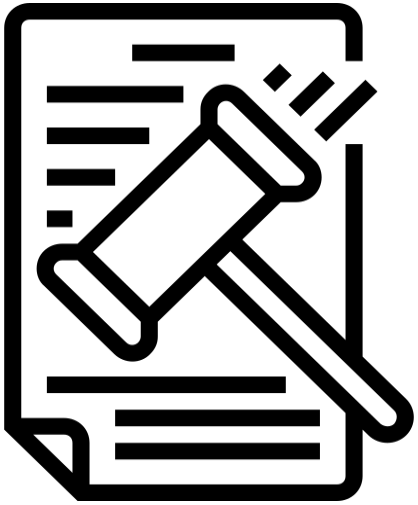


- The Resolution Professional (RP) under IBC, 2016 examines applications and submits a report to the Adjudicating Authority, recommending approval or rejection. However, some RPs haven't shared this report with both debtors and creditors, causing unequal access to information.
- To address this, IBBI issued a circular to mandate RPs to provide a copy of the report to both debtors and creditors in all cases. This promotes transparency and informed decision-making.



Reporting / Sharing of information in the Voluntary Liquidation process

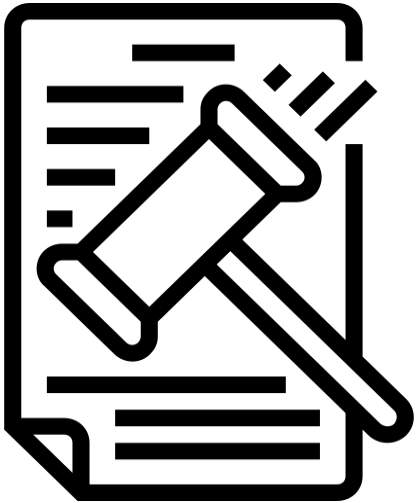
Compliances for initiation of Voluntary Liquidation of a Financial Service Provider



- IBC, 2016 allows for voluntary liquidation, excluding financial service providers (FSPs). FSPs can undergo voluntary liquidation only if notified by the Central Government and with prior permission from the regulator. Some FSPs have started voluntary liquidation without proper notification or permission.
- Accordingly, IBBI has mandated that FSPs in voluntary liquidation must declare notification by the government and obtain regulator permission. Liquidators must submit required documents to IBBI via email at liqvol@ibbi.gov.in.



Deposit and withdrawal of unclaimed dividends and / or undistributed proceeds in accordance with regulation 39 of IBBI (Voluntary Liquidation Process) Regulations, 2017



- Regulation 39 of IBBI (Voluntary Liquidation Process) Regulations, 2017 mandates liquidators to deposit unclaimed funds into the Corporate Voluntary Liquidation Account and inform IBBI. Stakeholders can claim deposited amounts via **Form-G**.
- To facilitate the request received from a stakeholder, who claims to be entitled to any amount deposited into the Corporate Voluntary Liquidation Account for withdrawal before the dissolution of the corporate person, the liquidator shall apply to IBBI in the format as specified in the Circular, for the release of the amount for onward distribution to the stakeholders.



Enhancing Transparency and Stakeholder Engagement in Liquidation Process

Circulation of progress reports to stakeholders:



Regulation 15 of IBBI (Liquidation Process) Regulations, 2016 mandates liquidators to submit quarterly Progress Reports to the Adjudicating Authority (AA) and IBBI. However, these reports are not shared with creditors, causing information gaps. To address this, IBBI's recent circular (Feb 22, 2024) requires liquidators to share the progress reports with the Stakeholders' Consultation Committee (SCC) members upon receiving a confidential undertaking. Further, the liquidator shall submit the progress reports under Regulation 15 till the filing of the final report under Regulation 45.



Enhancing Transparency and Stakeholder Engagement in Liquidation Process

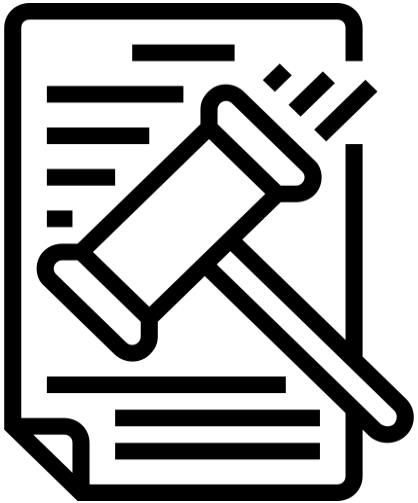
Preparation of preliminary report



Regulation 13 of the Liquidation Regulations requires liquidators to submit a Preliminary Report to the AA, outlining the liquidation process. However, this regulation currently lacks SCC consultation, risking oversight of stakeholder insights. In response, IBBI's Circular dated February 22, 2024, directs liquidators to seek suggestions/observations from SCC members when preparing the Preliminary Report. The liquidator must finalize the report after considering these inputs and then submit it to the AA, IBBI, and SCC members.



Enhancing Transparency and Stakeholder Engagement in Liquidation Process

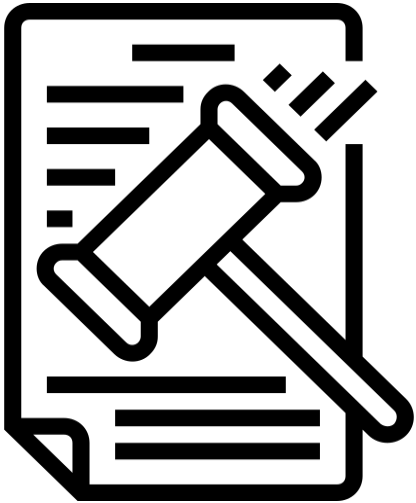


Sharing of final report, Form H, and process closure/dissolution order with IBBI

Further, IBBI has directed that the liquidator shall submit a copy of Form H along with final report filed before the Adjudicating Authority as per Regulation 45, and the order for process closure/dissolution to the IBBI to the email ID: liq.cirp@ibbi.gov.in.



Deposit and withdrawal of unclaimed dividends and / or undistributed proceeds in accordance with regulation 46 of IBBI (Liquidation Process) Regulations, 2016



- Regulation 46 of the IBBI (Liquidation Process) Regulations, 2016 addresses the management of unclaimed deposits and undistributed proceeds in liquidation. Liquidators must deposit these amounts into the Corporate Liquidation Account and inform the IBBI.
- Stakeholders entitled to any deposited amount before the corporate debtor's dissolution can request withdrawal through the liquidator, who applies to the IBBI for release, as per the IBBI Circular dated **February 22, 2024.**



THANK YOU