

The Insolvency and Bankruptcy Board of India notifies Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016

The Insolvency and Bankruptcy Board of India (Board), in exercise of its powers conferred under Section 240 of the Insolvency and Bankruptcy Code, 2016 (Code), has notified the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. These Regulations inter alia provide for the details of activities from issue of liquidation order under Section 33 of the Code to dissolution order under Section 54. These Regulations come into force with immediate effect.

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

These Regulations specify the manner and contents of public announcement, receipt and verification of claims of stakeholders, reports and registers to be maintained, preserved and submitted by the liquidator, the manner of realisation of assets and security interest, and distribution of proceeds to stakeholders.

These Regulations provide that a liquidator should ordinarily sell the assets through auctions. He may sell the assets through private sale only when the asset is perishable; the asset is likely to deteriorate in value significantly if not sold immediately or the asset is sold at a price higher than the reserve price of a failed auction. He may sell an asset on standalone basis, or assets in a slump sale, assets in parcels or a set of assets collectively.

These Regulations provide that the fee payable to a liquidator shall form a part of liquidation cost. These further provide that a liquidator shall be paid such fees and in such manner as has been decided by the committee of creditors during the resolution process. In all other cases, the liquidator shall be entitled to a fee as a percentage of the amount realised net of other liquidation costs and of the amount distributed.

Please find the enclosed detailed document on Insolvency and Bankruptcy Board Of India (Liquidation Process) Regulations, 2016 for your kind reference.

Please contact for any query related to this mail to Ms. Surbhi Sharma, Sr. Research Officer at surbhi@phdcci.in with a cc to Dr. S P Sharma, Chief Economist, PHD Chamber of Commerce & Industry.

Warm regards,

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