

EXIT OPTION FOR A SOLVENT COMPANY - VOLUNTARY LIQUIDATION

The provisions relating to voluntary liquidation of a company were earlier covered under the Companies Act, 2013. After the notification of Insolvency and Bankruptcy Code, 2016 ("IBC") the voluntary liquidation of a company is now governed by the provisions of section 59 of IBC and relevant regulations issued under IBC. The corresponding provisions under the Companies Act, 2013 in this regard have been repealed.

A corporate person will be eligible to opt for voluntary liquidation under IBC provided it fulfils the following two mandatory conditions:

- (i) Either the company has no debt or that it will be able to pay its debts in full from the proceeds of assets to be sold in the voluntary liquidation; and
- (ii) the company is not being liquidated to defraud any person.

The broad steps involved in the voluntary liquidation are summarised below:

1. Board of Directors will hold a board meeting and approve the voluntary liquidation and also issue a declaration of solvency.
2. A meeting of the shareholders shall be convened to approve the voluntary liquidation of the company and appointment of an Insolvency Professional as a liquidator of the company.
3. If the company owes any debt to any person, creditors representing two-thirds in value of the debt of the company shall approve the resolution passed by the shareholders within seven days of such resolution.
4. Necessary filings will be done with the Registrar of Companies, Insolvency and Bankruptcy Board of India and Income Tax authorities.
5. The liquidator will take over the charge of the company will proceed with further steps including realisation of assets of the company, settlement of outstanding dues and distribution of proceeds to the stakeholders.
6. The liquidator shall give a public notice and invite claims from stakeholders.



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7. The liquidator shall endeavor to complete the liquidation process of the corporate person within twelve months from the liquidation commencement date.
8. Where the affairs of the corporate person have been completely wound up, and its assets completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate person.
9. The Adjudicating Authority shall on an application filed by the liquidator, pass an order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.
10. A copy of the order shall be forwarded to the authority with which the corporate person is registered.

In view of above provisions, voluntary liquidation is an expeditious process for winding up the affairs of a company without much complications or compliances.