



**REGULATORY INSIGHTS | Insolvency and Bankruptcy**  
**January 06, 2020**

**HIGHLIGHTS OF CHANGES IN LIQUIDATION PROCESS - Corporate Liquidation Account, proceeds to realize the security interest by a Secured Creditor, eligibility to submit a Resolution Plan**

In order to fill up the critical gaps in the corporate insolvency framework of a Corporate Debtor, the Insolvency and the Bankruptcy Board of India has introduced the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2020.

Further, the said Regulations bearing No. [IBBI/2019-20/GN/REG053](#) introduced on January 06, 2020 shall come into force with immediate effect.

**Background**

The President has promulgated an ordinance to further amend the Insolvency and Bankruptcy Code 2016 on December 28, 2019 and in order to streamline the said Code with Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016, a further amendment was introduced to these regulations on January 06, 2020. A Circular has also been issued on January 9, 2020 for further clarities.

**Key Highlights**

**Unclaimed Dividend and the Undistributed Proceeds**

- The amendment provides that a Liquidator shall deposit the amount of unclaimed dividends, if any, and undistributed proceeds, if any, in a liquidation process along with any income earned thereon into the **Corporate Liquidation Account** before he submits an application for dissolution of the corporate debtor. **Immediate Action- A liquidator who holds such amount on the date of commencement of these regulations, shall deposit the said amount within fifteen days of the date of the commencement of these regulations, along with the interest earned thereon till the date of deposit.**
- If the liquidator, fails to do so, shall deposit the same along with interest thereon at the rate of twelve percent per annum from the due date of deposit till the actual date of deposit.
- The liquidator is required to submit a statement in **Form I, to the Authority** with which the Corporate Debtor is registered and the Board, setting forth the **nature of the amount deposited** into the Corporate Liquidation Account under this regulation and he shall be entitled to acknowledgment of the same.
- The stakeholder who claims to be entitled to such amount, may **apply to the Board in Form J** along with the evidence to satisfy the Board, for withdrawal of the amount
- The board on being satisfied, make an order for the withdrawal of the said amount from the Liquidation Account.
- Any amount deposited in the Liquidation Account in pursuance of the said regulations, which remains unclaimed or undistributed **for a period of fifteen years** from the date of order of dissolution of the Corporate Debtor and any amount of income or interest received or earned in the Corporate Liquidation Account shall be **transferred to the Consolidated Fund of India**.
- For depositing the said amount of unclaimed dividends and undistributed profit, if any, IBBI has opened a **separate bank account** and provided details of the said bank account in its Circular No. [IBBI/LIQ/027/2020 dated January 09, 2020](#) as mentioned below:



Name of the Account : IBBI- Corporate Liquidation Account

Account No : 2254005800000015

Nature of Account : Current

Name of the Bank : Punjab National Bank

IFSC Code : PUNB0225400

Name of the Branch : Barakhamba Road Branch, New Delhi

- The liquidator shall maintain a **Register of unclaimed dividends and undistributed proceeds** along with other specified registers for a period of eight years after the dissolution of the Corporate Debtor.

#### Proceeds to realize the Security Interest by a Secured Creditor

- A secured creditor cannot sell or transfer an asset, which is subject to security interest, to any person, who is **not eligible** under the Code to submit a resolution plan for insolvency resolution of the corporate debtor
- A secured creditor, who proceeds to realize its security interest, shall **contribute its share** of the insolvency resolution process cost, liquidation process cost and workmen's dues, **within 90 days** of the liquidation commencement date
- It shall also pay **excess of realized value of the asset**, which is subject to security interest, over the amount of its claims admitted, **within 180 days** of the liquidation commencement date. Where the secured creditor fails to pay such amounts to the Liquidator within 90 days or 180 days, as the case may be, the asset shall become part of Liquidation Estate.

#### Eligibility to submit a Resolution Plan

- A person, who is not eligible under the Code to submit a resolution plan for insolvency resolution of the corporate debtor, **shall not be a party in any manner** to a compromise or arrangement of the corporate debtor under section 230 of the Companies Act, 2013.

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