

## ICSI IIP - IBC KNOWLEDGE CAPSULE 8

### Voluntary Liquidation: A Snapshot

The following table shows the entire process and timeline as well as relevant Sections and Regulations of Voluntary Liquidation under IBC. Table 1 shows the process and timeline for Voluntary Liquidation under IBC. Table 2 specifies the relevant Sections for Voluntary Liquidation under IBC.

Process	
Steps	
Timelines	

**TABLE 1: PROCESS AND TIMELINE OF VOLUNTARY LIQUIDATION**

Process	Steps	Timeline(in days)
Initiation	Requires a declaration from majority of Directors/Designated Partners to be verified by an Affidavit.	28 days before the Voluntary liquidation is commenced.
	To be accompanied by latest two years audited financial statements or for a period since incorporation as the case may be	
	Report of valuation of the Company, if any, by Registered Valuer	
Convening General Meeting	Sending notice of General Meeting	
	To approve Voluntary Liquidation	

	To appoint liquidator and fix his remuneration	Date)*
Public Announcement in FORM A of Schedule 1 of IBBI (Voluntary Liquidation Process) Regulations, 2016	To be made within 5 days from the date of appointment of liquidator.	T+5
	To be published in one English and one Regional language newspaper, on the website of Corporate Person and at IBBI Website (public.ann@ibbi.gov.in)	
	To specify the last date of claim which shall be 30 days from liquidation commencement date	
Intimation of Commencement of Voluntary Liquidation	The Liquidator shall intimate about the resolution passed for voluntary liquidation of the company to IBBI and ROC.	T+7
	NOC from creditors representing 2/3 <sup>rd</sup> of value of debt	
Opening of bank account	The liquidator shall open a bank account in the name of corporate PERSON followed by the words, ' <i>In voluntary liquidation</i> ' in a Scheduled Banks, for the receipt of all moneys due to the Corporate Person	
Intimation and NOC	Intimation to Income Tax Department within One month of passing resolution regarding Voluntary Winding up of the Company and to obtain NOC for the same.	T+30
Receipt of claims	Last date for submission of claim shall be mentioned in the public	T+30

	announcement made by the liquidator.	
Preliminary Report	Submission of preliminary report will be done by the liquidator detailing the contents mentioned in Regulation 9 of IBBI (Voluntary Liquidation) Regulations, 2016	T+45
Verification of claims and preparing a list of stakeholders	Liquidator shall verify the claims submitted and may either admit or reject the claim, in whole or in part.	T+60
	Liquidator to prepare list of stakeholders within 45 days from the last date for receipt of claims along with : <ul style="list-style-type: none"> <li>• Amount of Claim admitted</li> <li>• Extent of Debts-Secured or Unsecured</li> <li>• Details of Stakeholders</li> <li>• Proofs (Admitted or Rejected- In part or wholly rejected)</li> </ul>	T+75
Realization of Assets	The liquidator shall endeavor to recover and realize all assets and dues of the corporate person in a time bound manner for maximization of value for the stake holders	
Distribution of proceeds	The liquidator shall distribute the proceeds from realization within six months from the receipt of the amount to the stakeholders.	
Completion of liquidation process	The liquidator shall endeavor to complete the process within 12 months from liquidation commencement date.	T+365
	In the event of the process	T+377

	continues beyond 12 months, the liquidator shall hold a meeting within 15 days from the end of 12 months and shall present an Annual Status Report.	
Unclaimed proceeds of liquidation or undistributed assets	Liquidator shall apply to NCLT for an order to pay into the Companies Liquidation Account in the public account of India any unclaimed proceeds on the date of order of dissolution.	
Final Report	Submission of Final Report to be made to ROC, IBBI and NCLT	
Order of Dissolution	Application to NCLT has to be moved by the liquidator along with Final Report for the dissolution of Corporate Person	
	NCLT shall pass an order and the Corporate Person shall be dissolved from the date of such order.	
	The copy of the order to be forwarded to the authority with which the Corporate Person is registered.	

*\*Liquidation Commencement Date to be calculated from the date of approval of resolution for Voluntary Liquidation*

**TABLE 2: RELEVANT SECTIONS OF THE CODE APPLICABLE TO THE PROCESS OF VOLUNTARY LIQUIDATION\*\***

*\*\* The process of Voluntary Liquidation is primarily governed by Section 59 of the Code and the IBBI (Voluntary Liquidation) Regulations, 2016.*

Sections	Particulars
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Sec 35	<p><u><i>Powers and duties of Liquidators</i></u></p> <ul style="list-style-type: none"> <li>• The liquidator has powers and duties subject to directions of the Adjudicating Authority</li> <li>• The liquidator shall have the power to consult any of the stakeholders entitled to a distribution of proceeds under section 53</li> </ul>
Sec 36	<p><u><i>Liquidation Estate</i></u></p> <ul style="list-style-type: none"> <li>• The liquidator shall form an estate of the assets mentioned in 36(3) which will be called the liquidation estate in relation to the corporate debtor.</li> <li>• The liquidator shall hold the liquidation estate as a fiduciary for the benefit of all the creditors.</li> <li>• Certain assets as per Section36(4) shall not be used for recovery in the liquidation</li> </ul>
Sec 36	<p><u><i>Powers of liquidator to access information.</i></u></p> <ul style="list-style-type: none"> <li>• The liquidator shall have the power to access any information systems for the purpose of admission and proof of claims and identification of the liquidation estate assets relating to the corporate debtor</li> <li>• The creditors may require the liquidator to provide them any financial information relating to the corporate debtor.</li> <li>• The liquidator shall provide the required information as requested by the creditor within a period of seven days from the date of such request or provide reasons for not providing such information.</li> </ul>
Sec 38	<p><u><i>Consolidation of claims</i></u></p> <ul style="list-style-type: none"> <li>• The liquidator shall receive or collect the claims of creditors within a period of thirty days from the date of the commencement of the liquidation process.</li> <li>• A creditor may withdraw or vary his claim under this section within fourteen days of its submission.</li> </ul>
Sec 39	<p><u><i>Verification of claims</i></u></p> <ul style="list-style-type: none"> <li>• The liquidator shall verify the claims submitted within</li> </ul>

	such time as specified by the Board
Sec 40	<p><u>Rejection of claims</u></p> <ul style="list-style-type: none"> <li>• The liquidator may, after verification of claims either admit or reject the claim, in whole or in part, as the case may be, provided he shall give reasons for rejection in writing.</li> <li>• The liquidator shall communicate his decision of admission or rejection of claims to the creditor and corporate debtor within seven days of such admission or rejection of claims.</li> </ul>
Sec 41	<p><u>Determination of valuation of claims</u></p> <ul style="list-style-type: none"> <li>• The liquidator shall determine the value of claims admitted in such manner as may be specified by the Board.</li> </ul>
Sec 42	<p><u>Appeal against the decision of liquidator</u></p> <ul style="list-style-type: none"> <li>• A creditor may appeal to the Adjudicating Authority against the decision of the liquidator accepting or rejecting the claims within fourteen days of the receipt of such decision.</li> </ul>
Sec 43	<p><u>Preferential transactions and relevant time</u></p> <ul style="list-style-type: none"> <li>• Where the liquidator or the resolution professional, as the case may be, is of the opinion that the corporate debtor has at a relevant time given a preference in such transactions and in such manner as laid down in Sec 43(2), to any person as referred in Sec 43(4), he shall apply to the Adjudicating Authority for avoidance of preferential transactions.</li> </ul>
Sec 44	<p><u>Orders in case of Preferential Transactions</u></p> <ul style="list-style-type: none"> <li>• The Adjudicating Authority, may, on an application made by the resolution professional or liquidator under Sec43(1) may by an order give directions as per 44(1)</li> </ul>
Sec 45	<p><u>Avoidance of undervalued transactions</u></p> <ul style="list-style-type: none"> <li>• If the liquidator or the resolution professional, as the case</li> </ul>

	<p>may be on an examination of the transactions of the corporate debtor referred in Sec 45(2) determines that certain transactions were made during the relevant period under section 46, which were undervalued, he shall make an application to the Adjudicating Authority to declare such transactions as void and reverse the effect of such transaction</p>
Sec 46	<p><u>Relevant period for avoidable transactions</u></p> <ul style="list-style-type: none"> <li>• In an application for avoiding a transaction at undervalue, the liquidator or the resolution professional, shall demonstrate that- <ul style="list-style-type: none"> <li>– such transaction was made with any person within the period of one year preceding the insolvency commencement date; or</li> <li>– such transaction was made with a related party within the period of two years preceding the insolvency commencement date.</li> </ul> </li> </ul>
Sec 47	<p><u>Application by creditor in cases of undervalued transactions</u></p> <ul style="list-style-type: none"> <li>• Where an undervalued transaction has taken place and the liquidator or the resolution professional as the case may be, has not reported it to the Adjudicating Authority, a creditor, member or a partner of a corporate debtor, as the case may be, may make an application to the Adjudicating Authority to declare such transactions void and reverse their effect.</li> </ul>
Sec 48	<p><u>Order in cases of undervalued transactions</u></p> <ul style="list-style-type: none"> <li>• The order of the Adjudicating Authority under Sec 45(1) may provide for the following- <ul style="list-style-type: none"> <li>– require any property transferred as part of the transaction</li> <li>– release or discharge any security interest granted by the CD</li> <li>– require any person to pay such sums, in respect of benefits</li> <li>– received by such person, to the liquidator or the</li> </ul> </li> </ul>

	<p>resolution professional</p> <ul style="list-style-type: none"> <li>– require the payment of such consideration for the transaction.</li> </ul>
Sec 49	<p><u>Transactions defrauding creditors</u></p> <ul style="list-style-type: none"> <li>• Where the corporate debtor has entered into an undervalued transaction as referred in Sec 45(2) and the Adjudicating Authority is satisfied that such transaction was deliberately entered then Adjudicating Authority shall make an order as per Sec 49(1).</li> </ul>
Sec 50	<p><u>Extortionate credit transactions</u></p> <ul style="list-style-type: none"> <li>• Where the corporate debtor has been a party to an extortionate credit transaction involving the receipt of financial or operational debt during the period within two years preceding the insolvency commencement date, the liquidator or the resolution professional as the case may be, may make an application for avoidance of such transaction to the Adjudicating Authority if the terms of such transaction required exorbitant payments to be made by the corporate debtor.</li> </ul>
Sec 51	<p><u>Orders of Adjudicating Authority in respect of extortionate credit transactions</u></p> <ul style="list-style-type: none"> <li>• Where the Adjudicating Authority after examining the application made under Sec 50 is satisfied that the terms of a credit transaction required exorbitant payments to be made by the corporate debtor, it orders as per Sec 51(1).</li> </ul>
Sec 52	<p><u>Secured creditor in liquidation proceedings</u></p> <ul style="list-style-type: none"> <li>• A secured creditor in the liquidation proceedings may relinquish its security interest to the liquidation estate and receive proceeds from the sale of assets by the liquidator or realise its security interest in the manner specified in this section.</li> </ul>
Sec 53	<p><u>Distribution of assets</u></p> <ul style="list-style-type: none"> <li>• Notwithstanding anything to the contrary contained in any</li> </ul>



	law enacted by the Parliament or any State Legislature for the time being in force, the proceeds from the sale of the liquidation assets shall be distributed in the order of priority as mentioned in this section
Sec 59	<p><u><i>Voluntary Liquidation of Corporate Persons</i></u></p> <ul style="list-style-type: none"><li>• The process of initiating and seeing through the voluntary liquidation process is explained in brief in the abovementioned section.</li></ul>

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**Notes:**

**Abbreviations used:**

IBBI: Insolvency and Bankruptcy Board of India  
IPA: Insolvency Professional Agency  
ICSI IIP: ICSI Institute of Insolvency Professionals  
IP: Insolvency Professional  
CIRP: Corporate insolvency resolution process  
IRP: Interim Resolution Professional  
AR: Authorised Representative  
COC: Committee of Creditors  
CD: Corporate Debtor  
FC: Financial Creditor  
OC: Operational Creditor  
Code: Insolvency and Bankruptcy Code, 2016

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