



INSOLVENCY & BANKRUPTCY

New Winding-up Rules Notified by MCA Ease Process of closing small businesses

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The Ministry of Corporate Affairs (“MCA”) vide its notification dated 24th January, 2020 has notified the long awaited rules for winding up i.e. Companies (Winding Up) Rules, 2020 (“Winding-up Rules”). The Winding-up Rules will come into effect from 1st April, 2020. Through the said rules, the MCA has notified 95 different forms applicable in case of the dissolution of a company, namely Form WIN-1 to WIN-95. According to the Winding-up Rules, the liquidation of the company will be carried out by the official liquidator, who will take charge of the assets and deal with the claims of the company.

The striking feature inter alia of the Winding-up Rules is the ‘Summary Procedure for Liquidation’ introduced through Part V which provides for summary procedure for liquidation of small companies falling within the specified thresholds (“Specified Companies”). The Winding-up Rules notified by the MCA further defines the provisions of Section 361 of the Companies Act, 2013.

Specified Companies:

The following companies are eligible to apply under Summary Procedure for Liquidation:

- * Companies having total outstanding deposit of up to 25 lakh; or
- * Companies having outstanding loan including secured loan up to 50 lakh; or
- * Entities with up to Rs 50 crore sales; or
- * Companies having with paid up capital up to Rs. 1 crore.

At present, the Insolvency and Bankruptcy Code, 2016 governs the proceedings pertaining to voluntary winding up (u/s 59) and winding up on the grounds of inability to pay debts (u/s 7, 9 and 10) of the corporate persons. The Specified Companies will henceforth require the approval of the Central government instead of the National Company Law Tribunal (“NCLT”). The Central Government will issue directions to the liquidator in case of companies going for summary liquidation. This shift of jurisdiction for summary liquidation from NCLTs to Central Government will reduce the burden of NCLTs.