

FREQUENTLY ASKED QUESTIONS ON FILING OF CLAIMS BY THE

SHAREHOLDERS

1. Are shareholders considered as stakeholders and who are stakeholders?

Yes, shareholders are considered as stakeholders. As per Regulation 2(k) of Insolvency and Bankruptcy Board of India (Liquidation Regulations), 2016 (“**Liquidation Process Regulations**”) stakeholders mean *“the stakeholders entitled to distribution of proceeds under Section 53 of the Code.”*

2. How are proceeds distributed under Section 53 of the Insolvency and Bankruptcy Code (“Code”)?

As per Section 53 of the Code, the proceeds from the sale of the liquidation assets shall be distributed in the following order of priority and within such period as may be specified, namely:-

- (a) the insolvency resolution process costs and the liquidation costs paid in full;
- (b) the following debts which shall rank equally between and among the following:
 - (i) workmen’s dues for the period of twenty-four months preceding the liquidation commencement date; and
 - (ii) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52;
- (c) wages and any unpaid dues owed to employees other than workmen for the period of twelve months preceding the liquidation commencement date;
- (d) financial debts owed to unsecured creditors;
- (e) the following dues shall rank equally between and among the following: -
 - (i) any amount due to the Central Government and the State Government including the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the liquidation commencement date;
 - (ii) debts owed to a secured creditor for any amount unpaid following the enforcement of security interest;
- (f) any remaining debts and dues;
- (g) preference shareholders, if any; and
- (h) equity shareholders or partners, as the case may be.

3. How are proof of claims filed by the shareholders under Liquidation Process Regulation?

As per Regulation 20 of the Liquidation Regulations, a person, claiming to be a stakeholder other than those under Regulations 17(1), 18(1), or 19(1) of Liquidation Regulations, shall submit proof of claim to the liquidator in person, by post or by electronic means in Form G of Schedule II.

4. What are the supporting documents are required to be submitted for filing proof of claims?

As per sub-regulation (2) of Regulation 20 of Liquidation Regulations, the existence of the claim of the stakeholder may be proved on the basis of:-

- (a) the records available in an information utility, if any, or
- (b) other relevant documents which adequately establish the claim, including any or all of the following-

- i. documentary evidence of notice demanding payment of unpaid amount or bank statements of the claimant showing that the claim has not been paid and an affidavit that the documentary evidence and bank statements are true, valid and genuine;
- ii. documentary or electronic evidence of his shareholding; and
- iii. an order of a court, tribunal or other authority that has adjudicated upon the non-payment of a claim, if any

5. Where is Form G available?

Form G can be downloaded from the following link:

https://ibbi.gov.in/uploads/downloads/Form_G_LP.pdf