

Rules for insolvency resolution of Non-Banking Finance Companies

December 6, 2019

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Source: PRS India

The Ministry of Corporate Affairs notified the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authorities) Rules, 2019. These Rules were issued under the Insolvency and Bankruptcy Code, 2016. The Code provides a time-bound process for resolving insolvency in companies and among individuals.

The Rules create a framework for insolvency **resolution of financial service providers (FSPs)** or a category of FSPs notified by the central government. **Currently, the government has notified non-banking finance companies (including housing finance companies) with an asset size of Rs 500 crore or more as FSPs.**

Modifications

The Rules state that the process for insolvency resolution, liquidation and voluntary liquidation of corporate debtors will also apply to FSPs with modifications. These modifications include:

- **Resolution: The insolvency resolution process can only be initiated by a financial regulator notified by the National Company Law Tribunal (NCLT).** This is different from the provisions **for non-financial companies which allows any financial creditor to file an application**

before the NCLT for initiating the insolvency resolution process of a corporate debtor.

- **Administrator:** The NCLT will appoint an administrator proposed by the regulator **to handle the insolvency resolution.**
- Approval of any resolution plan will require a **'no objection' from the regulator** in relation to the persons who will take over the management of the FSP. During the resolution process, the license or registration of the FSP cannot be suspended or cancelled.
- **Liquidation:** During the liquidation of the FSP, the license or registration of the FSP cannot be suspended or cancelled, without giving an opportunity of hearing to the liquidator. Further, if an FSP makes an application for voluntary liquidation, it will need the prior permission of the regulator.