

Liquidation Process under the Insolvency and Bankruptcy Code, 2016

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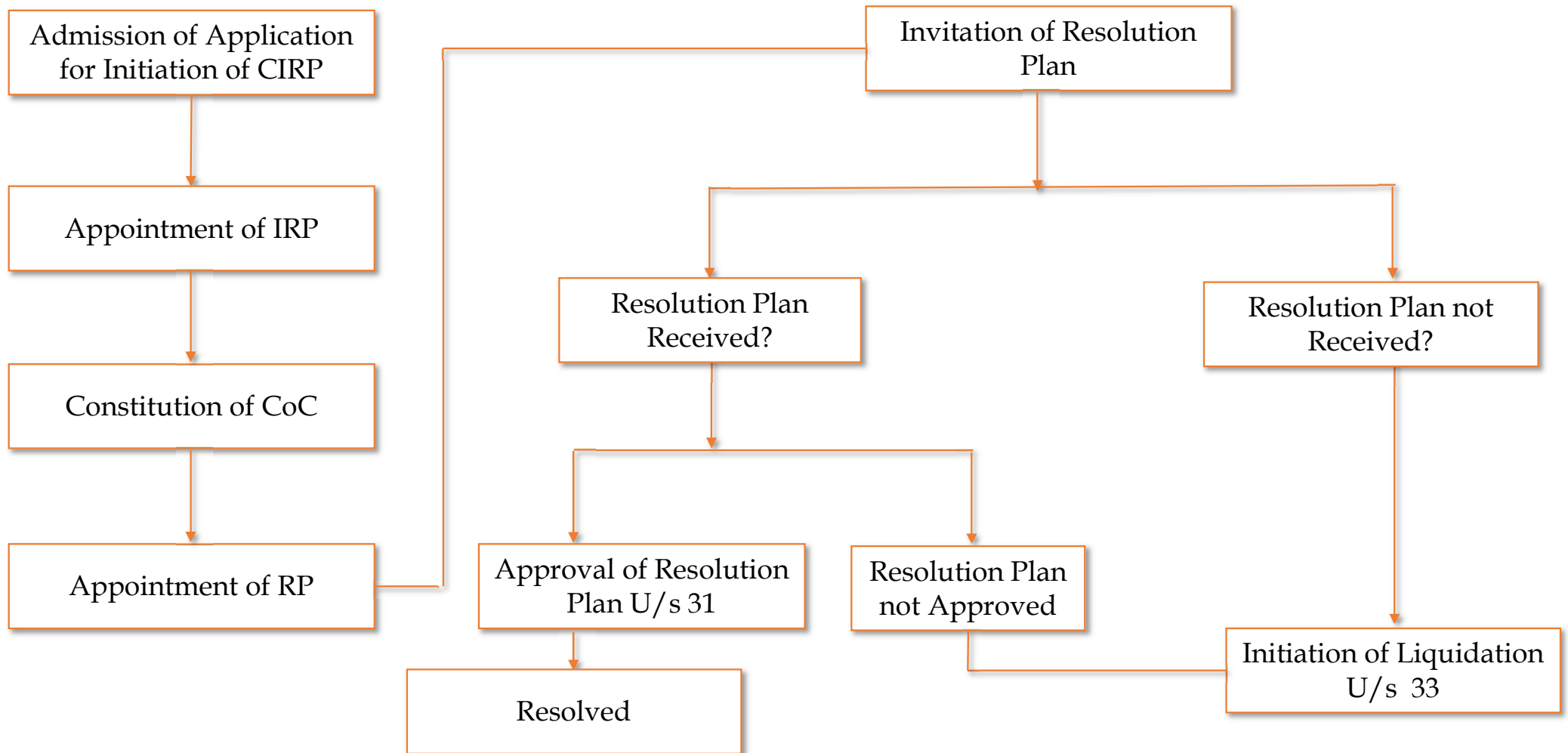
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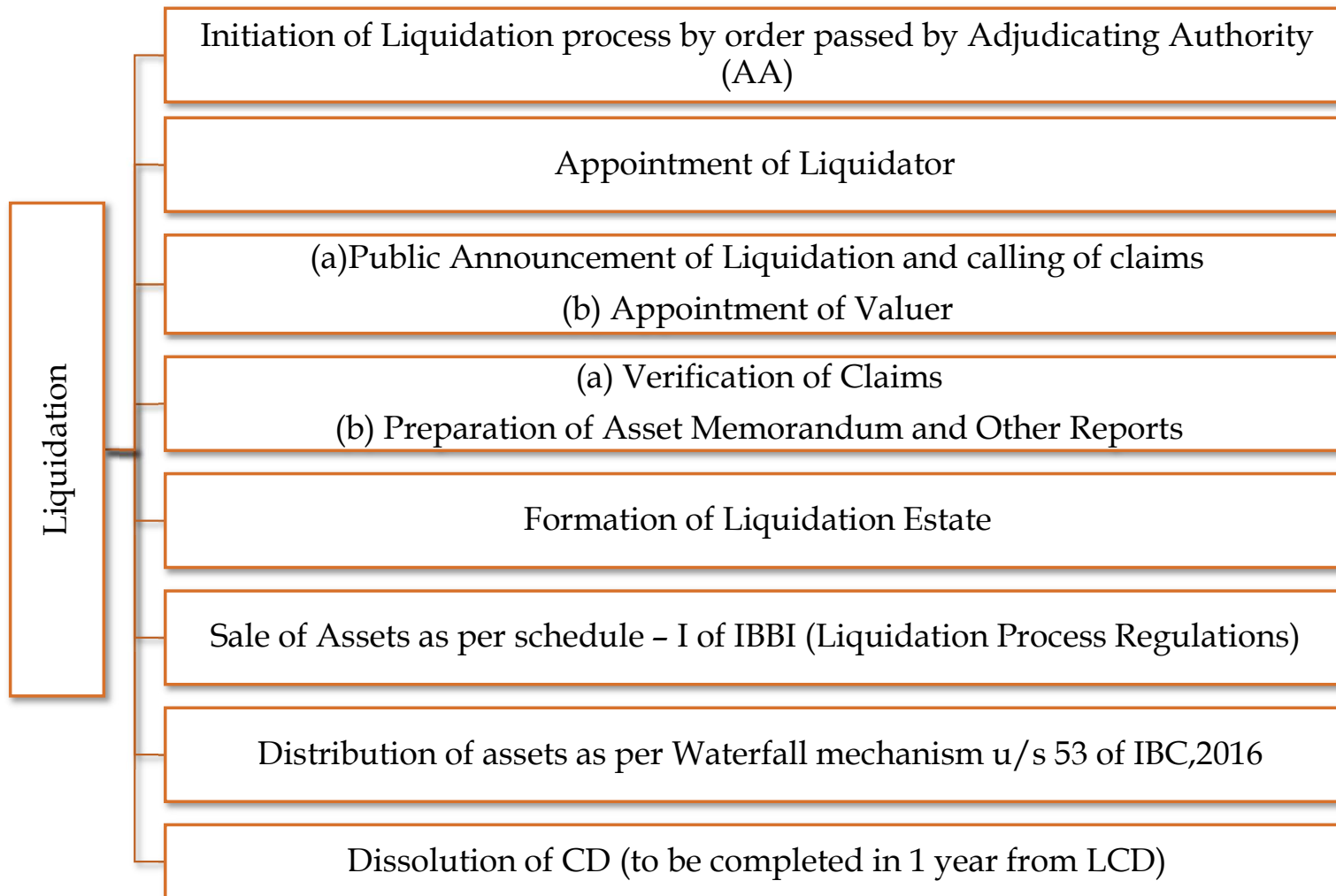
Initiation of Liquidation u/s 33 of IBC,2016



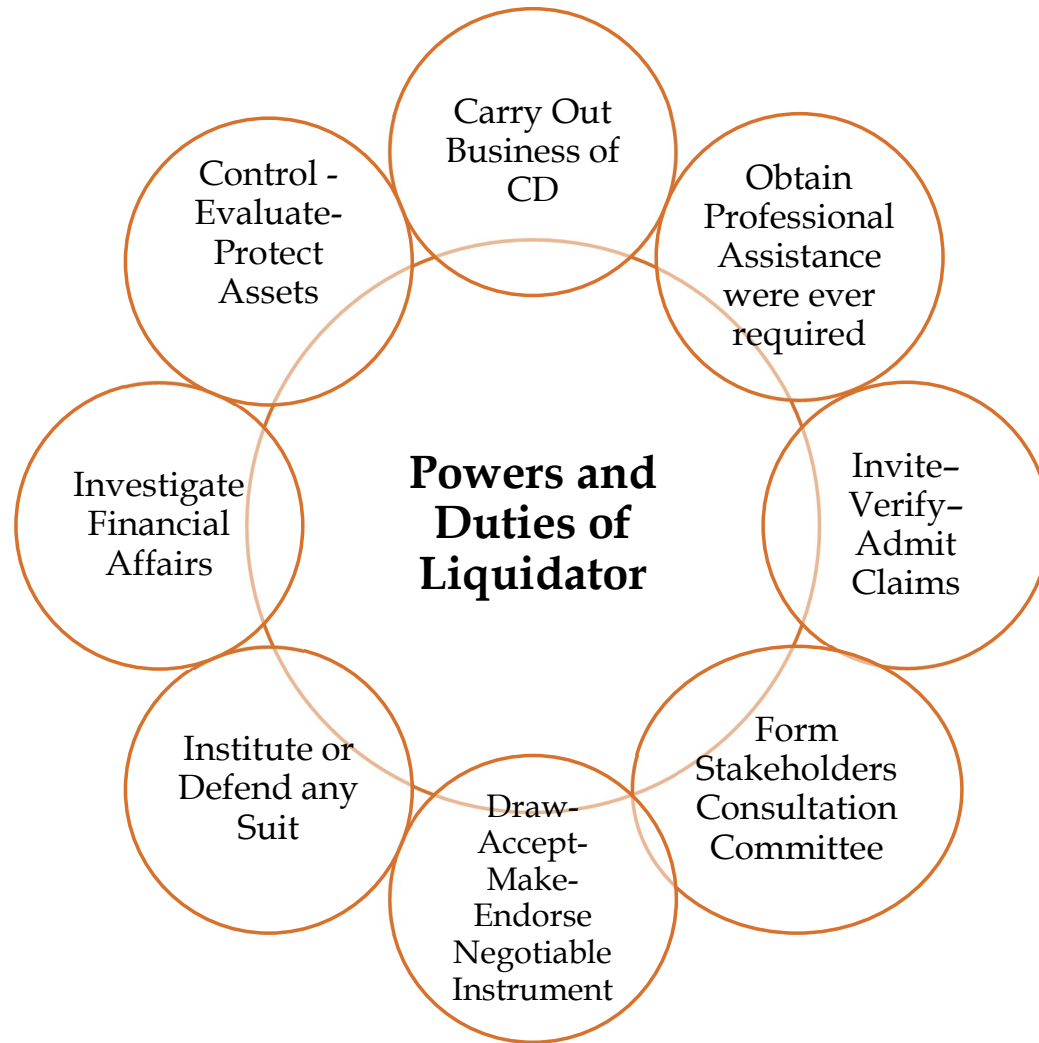
Effects of Liquidation Order

- Upon commencement of Liquidation, **initiation of suits or proceedings** by or against the CD shall be subject to **approval of the AA**.
- On passing of order, the Resolution Professional (RP) shall be appointed as Liquidator subject to approval by the AA.
- All powers of the board of directors, key managerial personnel and partners of the CD shall rest with the Liquidator.
- The fees to be charged by the Liquidator shall be approved by the CoC or as specified in Regulation 4 of the IBBI (Liquidation Process) Regulations, 2016.
- The Order of Liquidation shall be deemed to be notice of discharge to the officers, employees and workmen, except when the business of the CD is continued during by the Liquidator during Liquidation.

Steps involved in Liquidation



Some of the Powers and Duties of Liquidator u/s 35 of IBC,2016



This is apart from the primary task of Liquidating the assets of the CD as per the provisions of the Code read with Regulations.

Reporting & Other Activities to be performed by Liquidator as per IBC,2016

Preliminary Report -
75 days

Asset Memorandum
- 75 days

Quarterly Progress
Reports

Asset Sale Report

Consultation with
Stakeholders

Final Report

Dissolution

**Timelines of all reports are specified
in the Regulations**

In the manner specified as per Regulations

A copy of all the submissions have to be shared with IBBI

Contents of Some of the Reports

Preliminary Report

- Capital Structure of the CD
- Estimates of Assets & Liabilities of the CD as per Books of Account
- If the books are not reliable, his estimates of Assets & Liabilities based on any other reliable records/ data
- Whether he intends to conduct any further inquiry relating to promotion, formation & failure of CD
- Plan of action for liquidation

Asset Memorandum

- Details of Assets to be realised – like
 - Valuation of assets,
 - intended manner
 - Intended mode of sale
 - Expected amount of realization

Asset Memorandum shall not be accessible to any person during the course of Liquidation

Contents of Some of the Reports

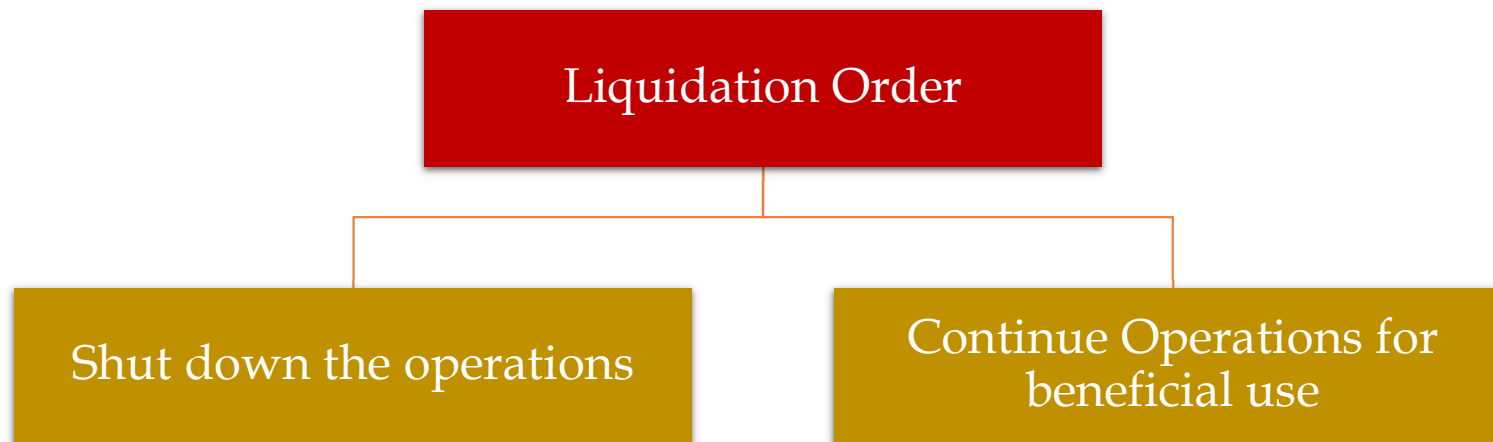
Asset Sale Report

- Realized Value
- Cost of Realisation
- Manner & Mode of Sale
- If the value realised is less than the value in Asset Memorandum, reasons for the same
- Persons to whom the sale is made

Final Report

- Account of how the Liquidation has been conducted and how the CD's assets have been liquidated
- If the Liquidation Cost exceeds estimated cost, reasons for the deviation
- Application to be submitted along with final report –
 - ✓ For closure of liquidation process where the CD is being sold as a going concern
 - ✓ For dissolution of the CD where CD is not sold as a going concern.

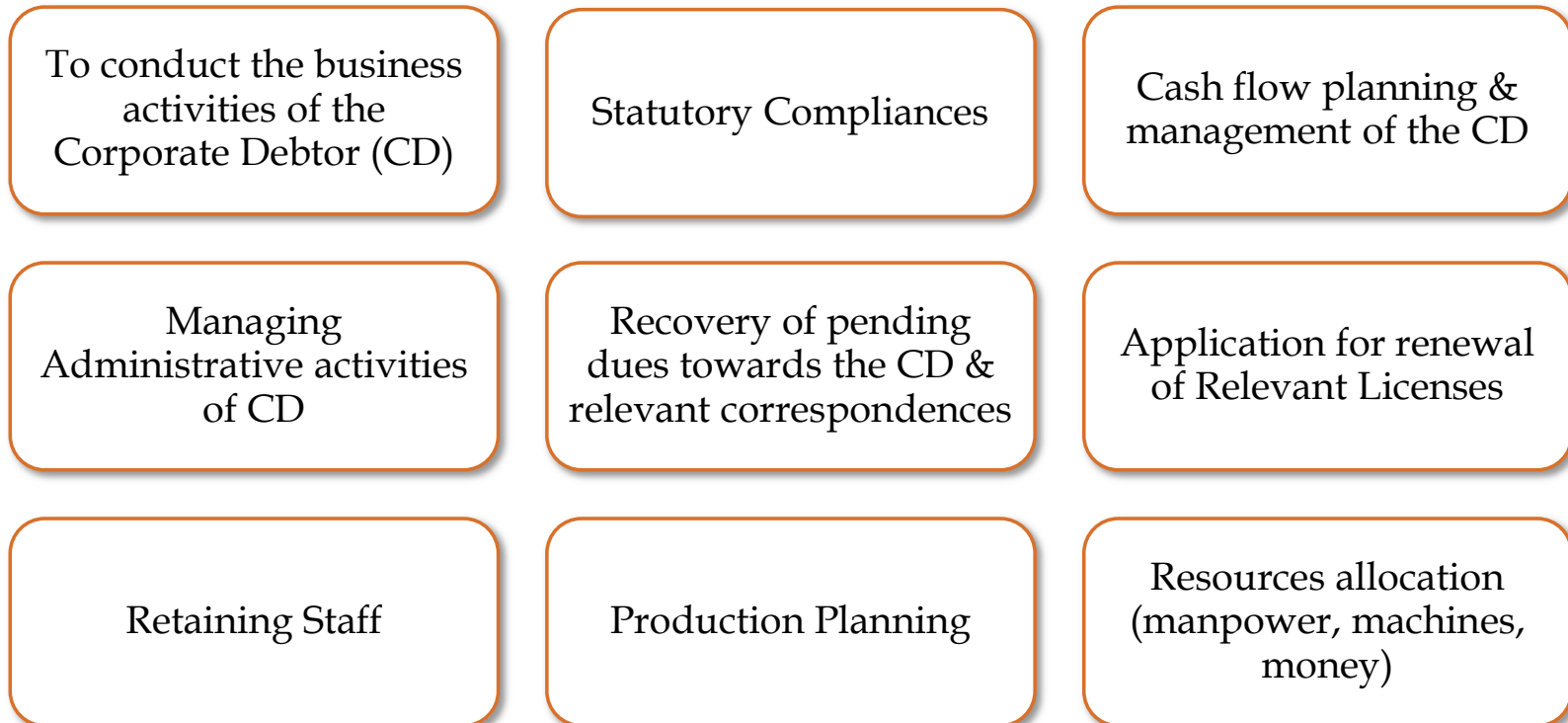
Status of Operations of Corporate Debtor on Liquidation Order – at the discretion of Liquidator



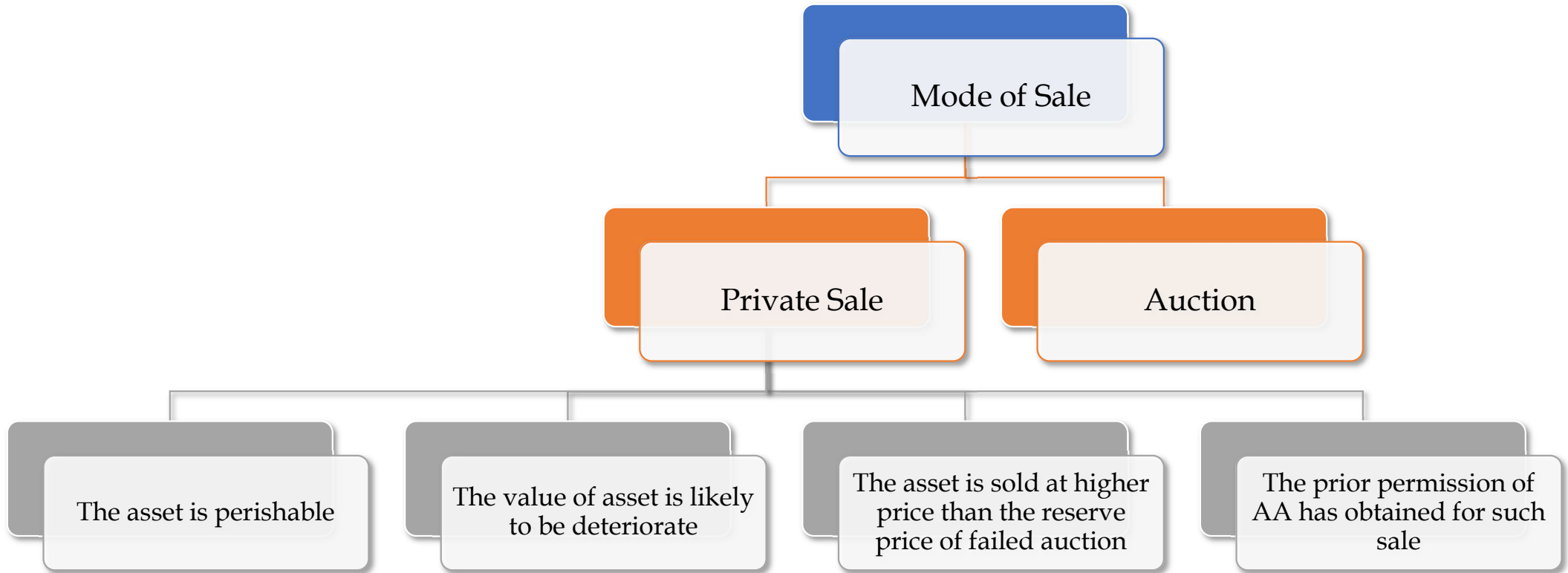
Subject to the directions of the Adjudicating Authority

As a good practice IP should take this decision in consultation with CoC during CIRP before filing of application for Liquidation

Day to Day activities performed by Liquidator when CD is Run as Going Concern

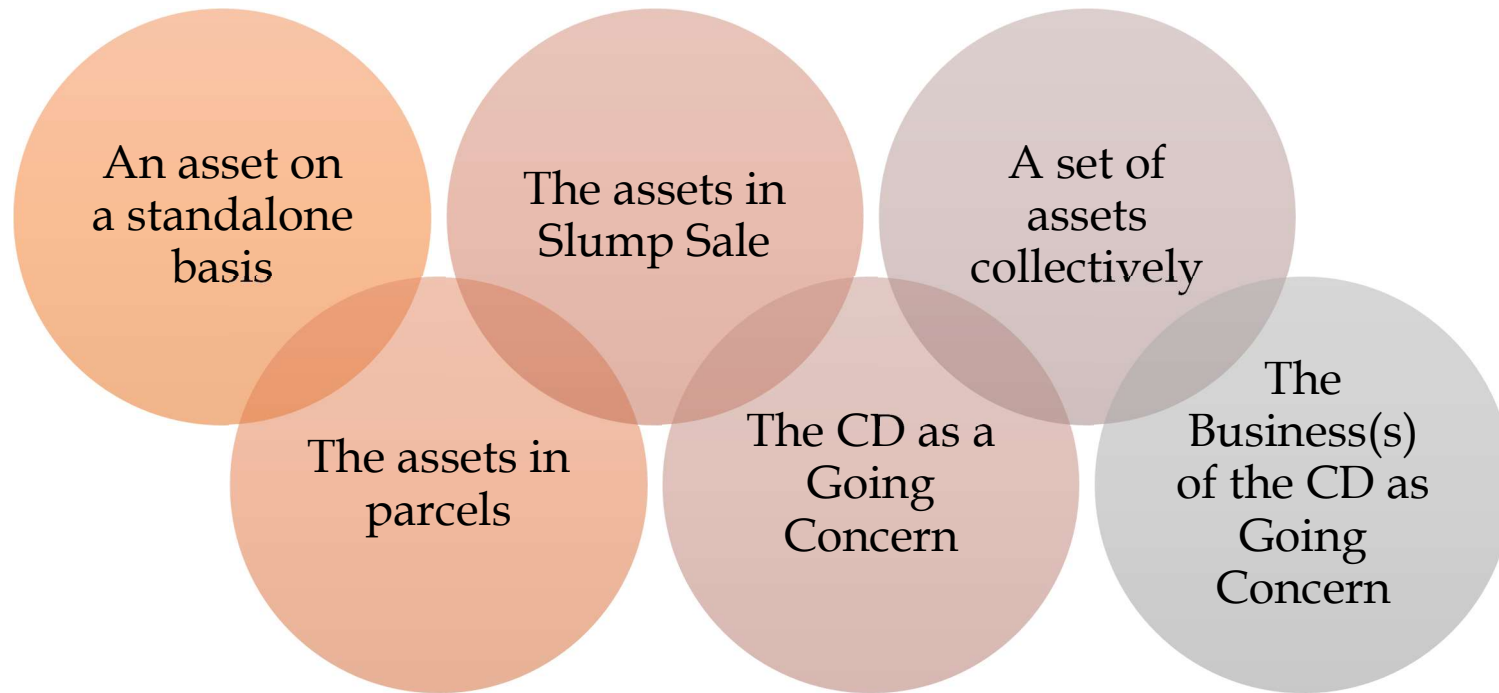


Mode of Sale of Corporate Debtor under regulation 33 of IBBI (Liquidation process) Regulations,2016

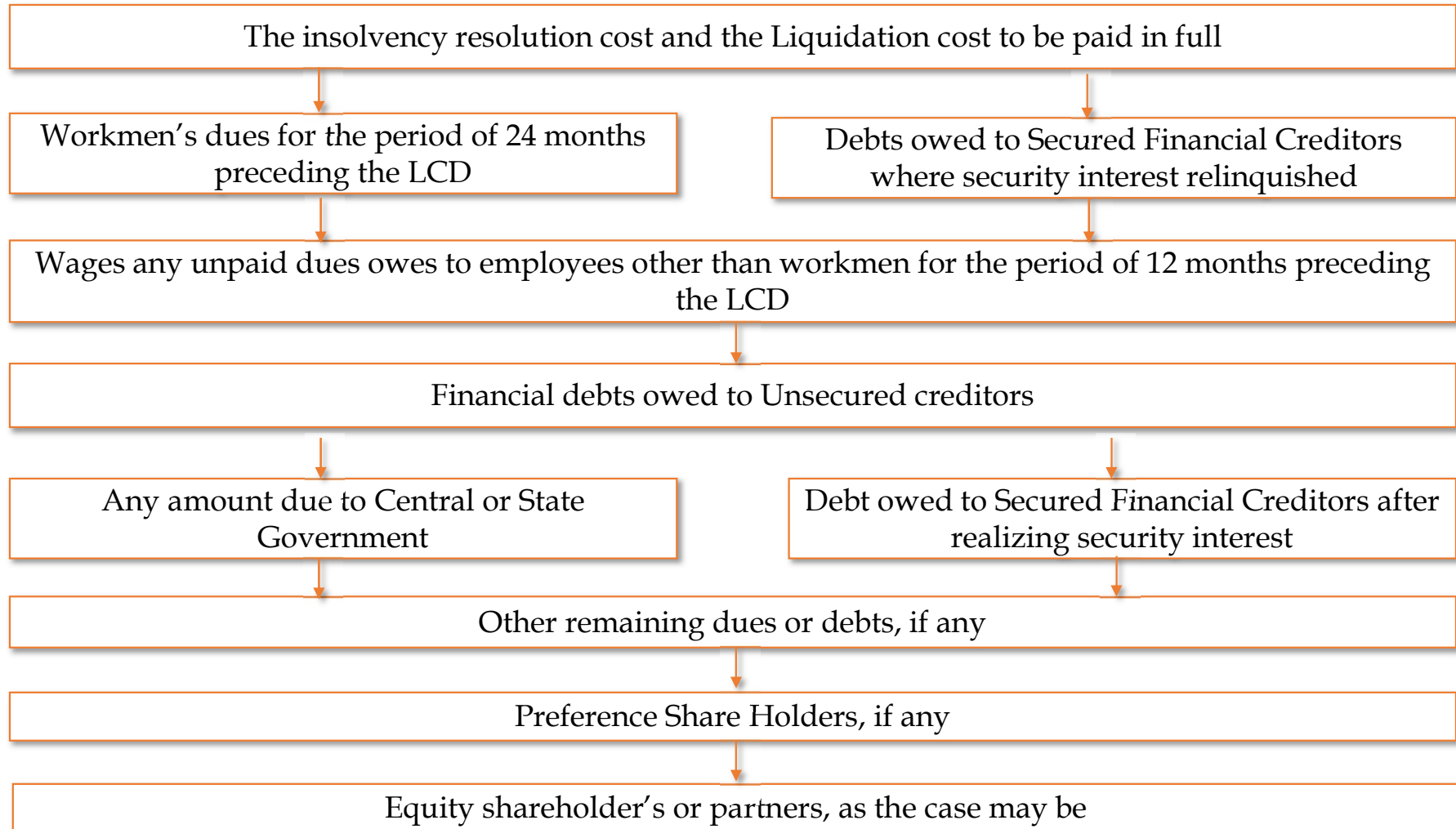


The Liquidator shall ordinarily sell the assets of CD in the manner specified in Schedule - I of IBBI regulation 33 of Liquidation process

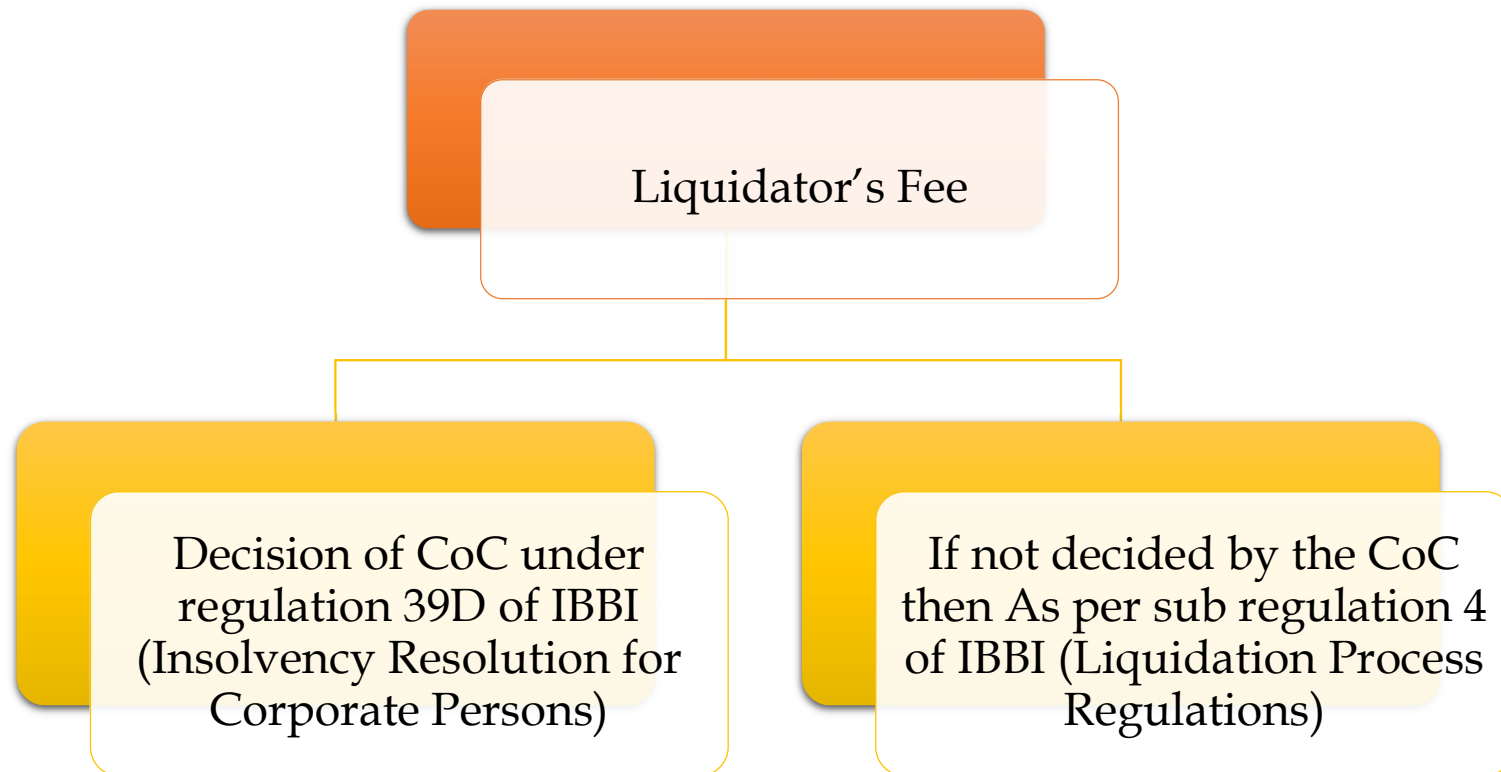
Options of Auction under Regulation 32 of IBBI (Liquidation Process) Regulations, 2016



Waterfall of Distribution of Realisation u/s 53 of IBC,2016



Liquidator' Fee as per Regulation 4 of IBBI (liquidation Process)Regulations,2016



Liquidator' Fee as per Regulation 4 sub-regulation (2) of IBBI (liquidation Process) Regulations,2016

Amount of Realization/ Distribution (In Rupees)	Percentage of fee on the amount realized/ Distributed		
	In the first six Months	in the next six months	thereafter
Amount of Realization (exclusive of liquidation costs)			
On the first 1 crore	5.00	3.75	1.88
On the next 9 crore	3.75	2.80	1.41
On the next 40 crore	2.50	1.88	0.94
On the next 50 crore	1.25	0.94	0.51
On further sums realized	0.25	0.19	0.10
Amount Distributed to Stakeholders			
On the first 1 crore	2.50	1.88	0.94
On the next 9 crore	1.88	1.40	0.71
On the next 40 crore	1.25	0.94	0.47
On the next 50 crore	0.63	0.48	0.25
On further sums distributed	0.13	0.10	0.05

Case Study - CD under Liquidation when the Operations are Shut

- Engineering Fabrication Company
- Operations are shut
- Previous workforce 150+ including labourers, workers, etc..
- Machines are lying idle
- Plant is not maintained
- Security persons not paid
- Staff not in place
- Records not updated

Facts and Hypothetical situations considered here

Case Study - CD under Liquidation when the Operations are Shut

Actions taken by or expected from Liquidator

- Take stock of assets
- Call for claims, update claims.
- Formulate Stakeholders Consultation Committee
- Ask Stakeholders to contribute towards Liquidation Cost
- Liquidation Cost would mainly involve Security Agencies, some manpower that may have to be hired, lease charges, if any & other incidental expenses for maintaining the value of assets.
- Update records with whatever help possible.
- Make immediate arrangements for sale of assets as per IBC
- Report Quarterly Progress Report to Adjudicating Authority

Facts and Hypothetical situations considered here

Liquidator will have to take requisite approvals wherever required

Case Study – CD under Liquidation as Going Concern

- Mall Developer Company under BOOT basis
- Land belonged to Government given on lease to CD
- Old lease dues pending
- Clause of termination of Lease Agreement if Company goes into Liquidation
- Numerous tenants
- Long lease agreements due for renewal
- Non payment of rentals
- Mall Shut Down due to Corona Lead Lock down
- Decision about rentals or discounts with tenants
- Tenants demanded zero rentals for lockdown

Facts and Hypothetical situations considered here

Case Study – CD under Liquidation as Going Concern

- Recurring costs were involved
- Post opening Tenants' business was suffering
- Rental reduction demands were made
- Different tenants different needs
- Tenants wanted to leave for better offers by other malls
- Government refused to reduce annual lease dues
- Cash flow had to be tackled
- Old GST defaults
- Rentals renegotiated with tenants with the approval of stakeholders (14 in number)
- Most of the Tenants were retained

Facts and Hypothetical situations considered here

Case Study – CD under Liquidation as Going Concern

Actions taken by or expected from Liquidator

- Take Control of assets
- Channelise Cash flows
- Communicate to Local Government Authorities who owned land to convince them not to take step for cancellation of lease
- Continuous dialogue with tenants for their retention
- During Covid Lockdown taking decisions on rental issues in consultation with stakeholders
- Post lockdown address tenants demands for rent renegotiations
- Advertisement for vacant spaces

Facts and Hypothetical situations considered here

Liquidator will have to take requisite approvals wherever required

Actions taken by or expected from Liquidator

- Undertake activities for marketing of mall activities to increase footfall. This helps in retention of tenants
- Old recoveries
- Initiate action in consultation with stakeholders against defaulters
- Simultaneous efforts for sell off of the asset(s)

Facts and Hypothetical situations considered here

Liquidator will have to take requisite approvals wherever required

Professional Opportunities for CAs under IBC



Opportunities In Enterprise Management

GST, Income
Tax, Other
Statutory
Compliance

Statutory
Audits

Systems
Management

Systems
Audit

Internal
Audit &
Controls

Book Keeping

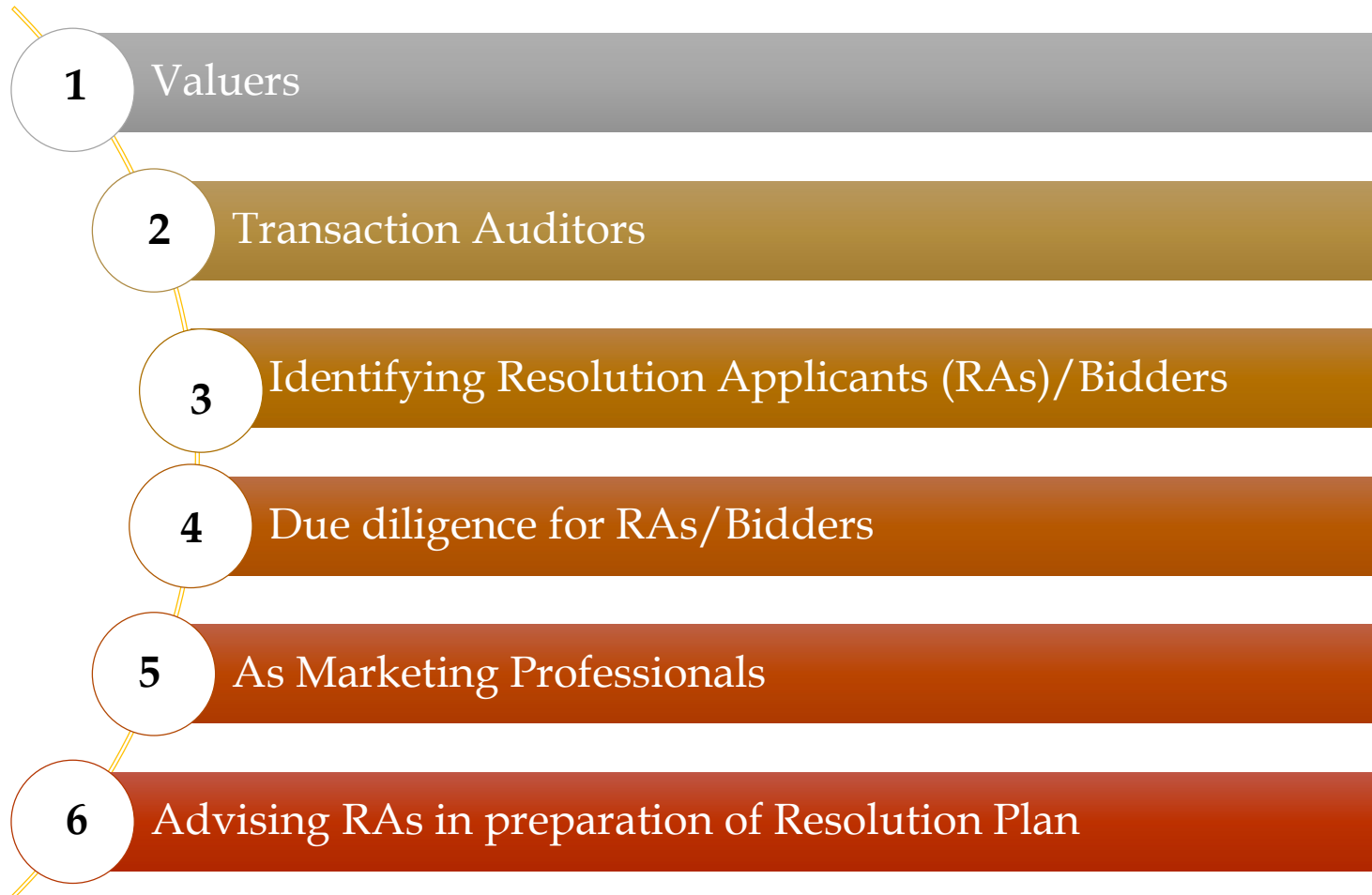
Business
development

Debtor
Recovery

Staff
outsourcing
some particular
division can be
outsourced

Suitable approval of CoC/Stakeholders will be required for any appointment of Professional as per the provisions of the Code.

Opportunities Under IBC Proceedings



Suitable approval of CoC/Stakeholders will be required for any appointment of Professional as per the provisions of the Code.

Thank You!!