

Members Voluntary Liquidation

What is company liquidation?

Liquidation of a company simply means turning its assets into cash and distributing the cash to its creditors. Liquidation is a legal process in which a liquidator is appointed to 'wind up' the affairs of a limited company and at the end of the process the company ceases to exist. Liquidation of a company does not mean that its creditors will necessarily get paid. The purpose of liquidation is to ensure that all the affairs of the company have been dealt with properly.

What company affairs are dealt with in its liquidation?

Company contracts including employee contracts must be completed, transferred or otherwise brought to an end; the business of the company must cease; legal disputes must be settled; company assets must be sold; monies owed to the company must be collected; any available funds must be distributed to creditors and any surplus available after repayment of all debts must be returned as share capital to shareholders. When these matters have been dealt with, the liquidator applies to have the company removed from the register at Companies House and dissolved, which means it ceases to exist.

What types of company liquidations are there?

There are three types of company liquidations:

Members' Voluntary Liquidation or MVL: This is sometimes called a solvent liquidation. The shareholders decide to put the company into liquidation and there are enough assets available for the company to pay all of its debts, including any applicable interest. The company is therefore stated to be solvent. This type of liquidation arises when the company has fulfilled its purpose, when shareholders wish to realise their investments or when a group (of companies) is being reorganised and companies that are surplus to requirements need to be tidied away.

Creditors' Voluntary Liquidation or CVL: This is sometimes called a creditors' voluntary winding up. The shareholders decide to put it into liquidation and there are not enough assets available for

the company to pay all of its debts, including any applicable interest. The company is therefore stated to be insolvent.

Compulsory Liquidation or CL: This is sometimes called a compulsory winding up. It occurs when the court makes an order for the company to be wound up – a 'winding-up order' – on the petition of an appropriate person. If there is more than one director, all the directors must jointly present the winding-up petition.

Where can I get advice about liquidation?

Sources of advice include your local Citizens Advice Bureau, a solicitor, a qualified accountant, a licensed and authorised insolvency practitioner, a reputable financial adviser or a debt advice centre. Before you take any action to place a company into liquidation, you should obtain your own legal and financial advice on the liquidation processes and on other options that may be open to you. See below for a summary of the options.

What are the necessary conditions for a Members' Voluntary Liquidation (MVL)?

A company can only be put into voluntary liquidation by its shareholders. The liquidator appointed must be an authorised insolvency practitioner. An MVL can only take place if the company is solvent. The liquidation begins from the time the resolution to wind up is passed.

What actions must directors take to initiate an MVL?

A majority of the directors must make a formal declaration of solvency no more than five weeks before the resolution for voluntary winding up of the company is passed. The declaration must be filed at Companies House and must state that the directors have made a full inquiry into the company's affairs and that they are of the opinion that the company can pay its debts and interest within a maximum of twelve months. It must include an up-to-date statement of the company's assets and liabilities. It is a criminal offence to make a

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What actions must shareholders take to wind up the company via an MVL?

Shareholders must hold a general meeting of the company that passes a resolution for voluntary winding up and appointing one or more liquidators of the company. The shareholders must pass a special resolution for winding up, unless the company resolves that it cannot continue its business because of its liabilities, when an extraordinary resolution is required or the articles of association of the company provide for it to be dissolved at a certain time, or following a certain event, when an ordinary resolution is required.

What happens if it later turns out that the company is not solvent?

In the event of the company being insolvent, the liquidator will call a meeting of creditors and the liquidation becomes a Creditors' Voluntary Liquidation (CVL). See our separate Creditors' Voluntary Liquidation Fact Sheet.

What are the alternatives to liquidation?

There are three main alternatives to liquidation:

Informal Arrangement: The company could consider writing to all of its creditors to see if a mutually acceptable arrangement can be reached, providing a timetable of when payments will be made.

Company Voluntary Arrangement (CVA): This is a formal version of the Informal Arrangement described above. The directors would need to apply to the court with the help of an authorised insolvency practitioner, who would supervise the CVA and pay the creditors in line with the accepted proposals.

Administration: This procedure gives the company some breathing space from any action by creditors and is managed by an administrator, who must be an authorised insolvency practitioner and whose appointment may be made by the court, by a floating charge holder, by the company or by its directors. The purpose of administration is to enable the company to survive as a going concern or to achieve a better result than in an immediate wind-up or to realise property for the benefit of secured or preferential creditors.

What happens when a company goes into an MVL?

The liquidator takes control of the company's affairs and almost all powers of the directors cease. The liquidator disposes of all of the assets of the company and with the proceeds pays the costs and expenses of the liquidation after which the remaining monies are distributed to the creditors, with surplus funds going to the shareholders. The liquidator of an MVL must hold a meeting of the company each year and provide details of his or her actions and dealings and of the conduct of the winding up in the preceding year. As soon as the affairs of the company are fully wound up, the liquidator holds final meetings of the company and of its creditors.

What are the duties of a director in an MVL?

Directors must provide information about the company's affairs to the liquidator and attend interviews with the liquidator as and when reasonably required. They must look after and hand over the company's assets to the liquidator together with all its books, records, bank statements, insurance policies and other papers relating to its assets and liabilities.

When will the MVL end?

The liquidation ends when the company is dissolved after the final meeting held by the liquidator. The duration of the MVL depends on the circumstances of the individual case e.g. the nature of the assets involved. Once the process is completed the company will be dissolved and cease to exist.

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