



Compliances with Companies Act, 2013 in relation to the Transfer of Winding up Proceedings – Part XV

Vide a [Commencement Notification](#) dated December 07, 2016, the Central Government has brought into effect certain Sections of the Companies act, 2013. The Notification has brought into effect almost all provisions pertaining to Winding Up of Companies under the Act. As a result, vide a [Notification](#) dated December 07, 2016, the Ministry of Corporate Affairs ("MCA") has also notified the Companies (Transfer of Pending Proceeding) Rules, 2016 ("Rule") specifying which, and the manner in which, winding up proceedings will be transferred to the National Company Law ("NCLT").

The Rule came into force on December 15, 2016, barring rule 4 (pertaining to proceedings relating to voluntary winding up), which is scheduled to be effective from April 01, 2017.

The following table provides a snapshot of the Rule.

SR. NO.	AFFECTED PROCEEDINGS	PARTICULARS
1.	Transfer of Pending Proceedings relating to cases other than Winding up.	All cases relating to arbitration, compromise, arrangements and reconstruction shall be transferred to the NCLT. However, the cases which are reserved by the High Court shall not be transferred.
2.	Pending Proceeding relating to Voluntary Winding up.	All the proceeding relating to voluntary winding up which is pending before the High Court shall be continue to be dealt by the High Court.
3.	Transfer of Pending Proceedings of winding up on the grounds of inability to pay debts	Petitions relating to winding up under clause (e) of Section 433 of the Act on the grounds of inability to pay debts, which are pending before the High Court and where the petition has not been served to the respondent, shall be transferred to the NCLT. Case where opinion for winding up has been forwarded by BIFR to the High Court and where no appeal is pending in such case the matter shall be dealt by the High Court where the matter is pending.
4.	Transfer of Pending Proceedings of winding up on the grounds other than of inability to pay debts	Petition filed under clause (a) and (b) of section 433 of the Companies Act, 1956 ("Previous Act") which is pending before the High court and the petition has not been served on the respondent, then the case shall be transferred to the NCLT and treated as a petition under the Act.



SR. NO.	AFFECTED PROCEEDINGS	PARTICULARS
5.	Transfer of Records	High court shall transfer all the records to the respective NCLT having jurisdiction over the transferred cases.
6.	Fees	No Fees shall be payable in respect of any proceeding transferred to the NCLT.

Full text of the notifications can be accessed [here](#) and [here](#).