

The Insolvency and Bankruptcy Code, 2016

PART III

Insolvency Resolution and Bankruptcy for Individuals and Partnership Firms

CHAPTER IV

Bankruptcy Order for Individuals and Partnership Firms

Section 128: Effect of bankruptcy order:

*128. (1) On the passing of the bankruptcy order under section 126,—

- (a) the estate of the bankrupt shall vest in the bankruptcy trustee as provided in section 154;
- (b) the estate of the bankrupt shall be divided among his creditors;
- (c) subject to provisions of sub-section (2), a creditor of the bankrupt indebted in respect of any debt claimed as a bankruptcy debt shall not—
 - (i) initiate any action against the property of the bankrupt in respect of such debt; or
 - (ii) commence any suit or other legal proceedings except with the leave of the Adjudicating Authority and on such terms as the Adjudicating Authority may impose.

(2) Subject to the provisions of section 123, the bankruptcy order shall not affect the right of any secured creditor to realise or otherwise deal with his security interest in the same manner as he would have been entitled if the bankruptcy order had not been passed:

Provided that no secured creditor shall be entitled to any interest in respect of his debt after the bankruptcy commencement date if he does not take any action to realise his security within thirty days from the said date.

(3) Where a bankruptcy order under section 126 has been passed against a firm, the order shall operate as if it were a bankruptcy order made against each of the individuals who, on the date of the order, is a partner in the firm.

(4) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

Notifications & Circulars

*Only in so far as they relate to personal guarantors to corporate debtors, shall [come into force](#) w.e.f. 01.12.2019.