

# Liquidating a limited liability company

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The liquidation of a limited liability company (LLC) is undoubtedly a complicated and lengthy process, but nonetheless includes many safeguards to guarantee the rights and obligations of the company with regard to third-party debtors and creditors. Below are the main steps required in the liquidation process for LLCs registered in Baghdad or the Kurdistan region.

## Overview

If the general assembly of the LLC (or the parent company, in the case of a branch or a subsidiary) decides to liquidate the company, the latter must:

- appoint at least one liquidator;
- specify the authorities and remuneration; and
- send the decision or recommendation to the registrar.

The liquidator will be considered the LLC's representative within the limits of his or her jurisdiction during the liquidation period.

The liquidation decision or recommendation must include reasons and be sent to the registrar within 14 days of its adoption. The registrar can request additional information or discuss matters with the LLC's general assembly to ascertain the reasons.

If the registrar has verified that the reasons for liquidation are not fraudulent or unlawful, it will issue the LLC's liquidation decision and appoint a liquidator within 10 days of verification.

The registrar will communicate this decision to the LLC, which must then publish the decision in the Bulletin of the Registrar of Companies and one daily newspaper.

Once notified of the liquidation decision, the LLC must stop making changes to its membership or assuming new obligations. However, it will continue to operate insofar as it will continue to fulfil its obligations under the liquidation process.

The LLC will retain its corporate status during the liquidation period, provided that it states that it is under liquidation whenever its name is mentioned.

Any interested party has the right to confirm before a competent court any financial obligation that the LLC has taken on in six months before the issuance of the liquidation decision.

As soon as he or she is appointed, the liquidator must:

- seize all of the LLC's assets, including its records, documents and papers;
- make an inventory;
- write a full report on the company's condition, including its debts and rights and the rights of other parties therein; and
- send a copy of the report to the registrar.

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Within 10 days of his or her appointment, the liquidator will put an ad in two local newspapers requesting the company's creditors and anyone that holds claims to meet at a fixed date and place in order to settle the debts and claims on the company, without impinging on the rights of any party to launch legal proceedings.

The liquidator must then submit a report to the registrar on the progress of the liquidation process. The registrar may call the liquidator for deliberations on any legal matter relating to the liquidation process.

The liquidator will settle the LLC's debts in the following order, after deducting the liquidation expenses:

- the sums that are due to the LLC's employees;
- the sum that is due to the state (clearances are needed from the social security department and tax department); and
- any other sums that are due under existing laws, in the order of priority.

As soon as the liquidation process is accomplished, the liquidator will prepare the final report and final accounts backed by the accounts controller's report. He or she will then call a general assembly meeting to discuss and approve them. Afterwards, the liquidator will send a copy of the meeting minutes and decisions, coupled with the final report, the final accounts and the accounts controller's report to the registrar.

The registrar must issue its decision whether to delete the LLC's name from its records and publish it in the bulletin and one daily newspaper within 10 days.

### **Comment**

LLCs should bear in mind that the process for liquidating a company can get complicated – for example, in relation to the need to obtain security clearance before liquidating some companies registered in Baghdad. This counterintuitive measure can also be lengthy and costly.

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