Insolvency Mechanisms and What to Do Once Your Company Has Been Taken Over

In today's fast-paced business environment, companies often face financial difficulties that can lead to insolvency. When a company is insolvent, it means that it is unable to pay its debts as they fall due. In such cases, there are several insolvency mechanisms that can be used to help the company recover or to wind it up in an orderly manner. These mechanisms include Receivership, Receiver Manager, Administrator, Company Voluntary Winding Up, and others[[1]](#footnote-0).

Receivership

Receivership is a process where a receiver is appointed to take control of a company's assets and to sell them to repay the company's creditors. The receiver is usually appointed by a secured creditor who has a charge over the company's assets. The receiver's duty is to realize the assets and pay the secured creditor.[[2]](#footnote-1)

Receiver Manager

A Receiver Manager is similar to a receiver but has a wider role. A Receiver Manager is appointed by a court or a secured creditor to take control of a company's assets and to manage the company's affairs. The Receiver Manager's duty is to try to rescue the company as a going concern or to sell the company's assets to repay the company's creditors.

Administrator

An Administrator is appointed by a court or by the company's directors to take control of the company's affairs. The Administrator's duty is to try to rescue the company as a going concern or to sell the company's assets to repay the company's creditors. The Administrator has the power to make decisions on behalf of the company and can negotiate with creditors to try to reach a compromise.[[3]](#footnote-2)

Company Voluntary Winding Up

Company Voluntary Winding Up is a process where the company's directors decide to wind up the company voluntarily. The directors appoint a liquidator to take control of the company's affairs and to sell the company's assets to repay the company's creditors. The liquidator's duty is to distribute the proceeds of the sale to the creditors and to wind up the company's affairs.

What to Do Once Your Company Has Been Taken Over

If your company has been taken over by a receiver, liquidator, or administrator, there are several things that you can do to protect your interests[[4]](#footnote-3):

1. Keep informed: Stay in contact with the receiver, liquidator, or administrator and keep informed about what is happening with your company.

2. Seek professional advice: Get advice from an insolvency practitioner or a lawyer to help you understand your rights and obligations.

3. Cooperate with the insolvency practitioner: Cooperate with the receiver, liquidator, or administrator and provide them with the information they need to carry out their duties.

4. Protect your assets: If you have assets that are not part of the company's assets, such as personal assets, try to protect them from being seized by the insolvency practitioner.

5. Attend creditors' meetings: Attend creditors' meetings to stay informed about what is happening with your company and to have a say in the decision-making process.

6. Consider your options: If you are a director of the company, consider your options carefully and seek professional advice before making any decisions.

In conclusion, insolvency can be a difficult and stressful time for any company. However, by understanding the different insolvency mechanisms and by taking the appropriate steps, you can protect your interests and minimize the impact of insolvency on your business.[[5]](#footnote-4)

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1. Companies and Allied Matters Act 2020 [↑](#footnote-ref-0)
2. E.O. Okolo, “Insolvency Law in Nigeria”, available at https://investadvocate.com.ng/2016/10/11/insolvency-law-nigeria/ (Accessed 10 May 2023). [↑](#footnote-ref-1)
3. A. Idigbe, “Nigeria: Overview of Insolvency and Restructuring in Nigeria”, available at https://www.mondaq.com/nigeria/insolvencybankruptcy/812246/overview-ofinsolvency-and-restructuring-in-nigeria (accessed on 10 May 2023). [↑](#footnote-ref-2)
4. 6 R. Goode, Principles of Corporate Insolvency Law, 4th ed. (Sweet & Maxwell: 2011), p. 90; J.H. Farrar, B. Hannigan, and N.E. Furey, Farrar's Company Law, 4th ed. (Butterworths: 1998), pp. 625-626 [↑](#footnote-ref-3)
5. V. Finch, Corporate Insolvency law, Perspectives and Principles (Cambridge, 2002), p. 64 [↑](#footnote-ref-4)