

**COMPANIES FRESH START SCHEME 2020 (CFSS-2020)  
&  
REVISIONS MADE TO THE LLP SETTLEMENT SCHEME 2020**

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## Introduction

- ❑ Companies fresh start scheme, 2020 (CFSS – 2020).
  - To implement such scheme, Ministry of Corporate Affairs (“MCA”) has issued circular No. 12/2020 dated 30<sup>th</sup> March,2020 to prescribe detailed procedure and conditions for such filing.
  - MCA launched a scheme known as “Companies Fresh Start Scheme, 2020” –
    - ✓ Condoning the delay in filing all pending documents with Registrar,
    - ✓ Waiver of additional fees and granting of immunity from launching of prosecution or proceedings for imposing penalty on account of delay associated with certain filings.
    - ✓ Considered as one of the major relief and also a onetime opportunity for defaulting companies to file their long pending documents. Such document filing otherwise could have attracted enormous amount of additional fee.

## Introduction

- ❑ Companies fresh start scheme, 2020 (CFSS – 2020).
  - Additional fee on delay filing of documents is condoned
  - Immunity is granted from initiating prosecution or proceedings for imposing of penalty in such cases
  - Inactive companies are given an opportunity to declare their companies as “Dormant Company” by filing a simple application form. Therefore, inactive companies may remain on register of ROC with least compliance requirement.
  - Company is required to make payment of only normal fee while filing belated documents.

## Applicability Of CFSS-2020

### ❑ Defaulting Companies

- Defaulting Company means a company which made default in filing of any of the documents, statements, returns etc. including annual statutory documents with MCA-21
- Defaulting company can file belated documents in accordance with this scheme
- The scheme will be applicable from 1<sup>st</sup> April 2020 to 30<sup>th</sup> September 2020

## Granting Immunity from Proceedings and prosecution

- Defaulting companies will be required to pay only normal fee at the time of filing of belated documents and no additional fee will be charged.
- Upon filing, immunity will be granted to such company that no prosecution or proceedings for imposing penalty will be initiated against such company related to such delay filing.
- However, please note that immunity will be granted only with respect to delay and not with respect to any other consequential proceedings including proceedings involving interest of any stakeholders or any other person qua the company or its directors or Key Managerial person would not be covered under the immunity.

## Withdraw of appeal before filing application under CFSS 2020

- If any notice is issued or complaint is filed or order is passed by a court or adjudicating authority against the defaulting company for violation of provisions of Companies Act, 2013 and defaulting company or its officer in default has filed appeal against it.
- Subsequently, such company intends to make an application under CFSS with respect to such matter. In such case, company shall be first required to withdraw such appeal before filing application for issue of immunity certificate. Proof of withdrawal to be furnished with application.

## Cases where appeal could not be filed

- No appeal filed by company against notice issued prior to commencement of this scheme and the last date of filing of appeal falls between 1<sup>st</sup> March, 2020 to 31<sup>st</sup> May, 2020 (both dates inclusive) then an additional period of 120 days will be allowed with effect from such last date to all the companies.
- During such additional period, prosecutions for non-compliance of order shall not be initiated as far as it is related to delay in filing of any document, statement or return.

## Application for issuance of immunity under CFSS

- After closure of such scheme, application will be filed for seeking immunity in respect of belated documents filed under the scheme provided such documents are taken on file, or on records or approved by designated authority.
- Such application can't be filed after expiry of 6 months from date of closure of scheme and it will be filed electronically in form CFSS-2020. No fee shall be payable for CFSS-2020 form.
- Based on declaration filed in form CFSS-2020, an immunity certificate will be issued by designated authority with respect to documents filed under the scheme.
- No immunity will be granted in following cases
  - Where matter of any appeal is pending before the court of law and in case of management dispute of the company, pending before any court of law or tribunal; or
  - Where court has ordered conviction in any matter; or
  - An order imposing penalty has been passed by adjudication authority but no appeal has been filed against such order before the scheme came in force



## Non applicability of Companies Fresh Start Scheme, 2020 (CFSS-2020)

- ❑ CFSS 2020 Scheme shall not apply in following cases:
  - Where companies against which action for final notice for striking off name u/s 248 has already been initiated by designated authority
  - Where company has already filed application for name strike off
  - Companies which have amalgamated under the scheme of arrangement or compromise
  - Where application has already been filed for obtaining status of “Dormant Company” under section 455 of companies act, 2013
  - Vanishing Companies (ROC filings pending beyond two years etc.,)
  - Increase in authorized share capital and Creation of charge

## Effect of Immunity

- Post immunity, designated authority shall withdraw the prosecution.

### □ CFSS Scheme for Inactive Companies

Inactive companies can complete their filing process under the scheme and opt for the status of either dormant or strike off company

## Revisions Made to the LLP Settlement Scheme 2020

- The LLP Settlement Scheme 2020 is applicable between the 1st of April, 2020 and the 30th of September, 2020.
- Applicable to the defaulting LLPs for the filing of belated documents that were due for filing till the 31st of August, 2020.
- No additional fees charged on the filing of the belated documents other than the normal application fees.
- No prosecution by the Registrar for those defaulting LLPs who complete the filing of all the belated documents and dues by the 30th of September, 2020.
- The scheme is not applicable to LLPs who have made the application for the striking off of the name of the LLP from the Registrar as per the LLP Rules, 2009.



THANK YOU