

Detox, now available for Corporates

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In brief

COMPANIES FRESH START SCHEME, 2020 (CFSS-2020)

The Ministry has received various representations from stakeholders requesting for grant of one-time opportunity, so as to enable them to compete their pending compliances by filing necessary forms without higher/additional fees.

In view of the same, the Ministry of Corporate Affairs (MCA) has come up with a new scheme **Companies Fresh Start Scheme, 2020 (CFSS-2020)** to enable companies make good of any default committed **irrespective of duration** of default and be a fresh compliant entity.

In detail

Through this scheme, the defaulting companies has an opportunity to file all the belated forms and documents without any additional fees and start afresh. This is the third time, when Government introduce such kind of scheme/opportunity on the request of various stakeholder, as in the year of 2014 and 2018, the Ministry had already introduced such kind scheme with different names like Company Law Settlement Scheme, 2014 and CODS Scheme 2018. The scheme provides **a one-time waiver of additional filing fees** for delayed filings by the companies with the Registrar of Companies during the time of the Schemes, i.e. during the period starting **from 1st April, 2020 and ending on 30th September, 2020.**

They also significantly reduce the related financial burden, especially for those with long standing defaults, thereby giving them an opportunity to make a "Fresh Start".

1. What is the objective of the scheme?

This Scheme will enable companies to make good of any filing-related defaults, irrespective of their duration of the default, and to make a fresh start as a fully compliant entity.

Consequently, the said Scheme provides the defaulting companies with an immunity from paying additional fees, and being liable to any prosecutions or proceedings for the penalty imposed/to be imposed on account of delay associated with certain filings. The immunity granted is to the extent of additional fees and not for any default or penalty levied. Accordingly, such companies will only have to pay normal fees.

2. Which e-Forms are covered under this scheme?

MCA has uploaded the list of 76 forms. This includes 50 forms under the Companies Act, 14 forms under erstwhile the Companies Act and remaining 12 forms are for LLP's for which the benefit of the scheme can be availed.

Link:

http://www.mca.gov.in/Ministry/pdf/CFSS2020_02042020.pdf

3. Which e-forms are not covered under this scheme?

- Increase in authorized share capital (SH-7) and charge related documents.
- To companies against which action for final notice for striking off the name u/s 248 of the act has been initiated.
- Where the application has been filed by the companies for action of striking off name of the company from ROC.
- To companies which have amalgamated under the scheme of arrangement or compromise under the act.
- Where application have already been filed for obtaining dormant status under section 455 of the Act.
- To vanishing companies.

4. Effect of immunity

After granting the immunity, the Designated Authority concerned shall withdraw the prosecution(s) pending, if any, before the concerned courts(s) and the proceedings of adjudication of penalties shall be deemed to be completed without any further action.

5. Is there any fees for filing e-Form CFSS 2020?

No fees shall be payable for e-Form CFSS 2020.

6. AGM has not been held in time. Can CFSS help?

This is violation of law. CFSS is only to provide immunity for delayed filing. Accordingly, once the AGM is duly conducted after necessary permission from the ROC, the filings related to the said AGM can be done during the tenure of CFSS. Accordingly, violation, if any, has to be cured first. CFSS is there to get the filings done uninterrupted.

Any consequential proceeding, other than fresh launching of prosecution or imposing of penalty with respect to filing of forms, including any proceedings involving interests of stakeholders or any other officer-in-default is not covered by this immunity.

Accordingly, if the provision of law mandates an action to be taken only post filing of a certain form, and such action has been done without filing of such form in such case, while the filing of the form will be immunized under CFSS, the action which was ought to be done consequently upon filing, cannot be immunized.

7. How can you avail the benefit of this scheme?

- **Step 1:** List all pending e-Forms
- **Step 2:** Complete pending filing by paying normal fees until September 30,2020
- **Step 3:** After all the filing is completed, you shall proceed with filing e-form CFSS-2020 within 6 months from the closure of the scheme i.e. March 30, 2021, for

grant of immunity certificate. You are required to mention respective SRN's against which immunity certificate is to be sought

- **Step 4:** Roc shall grant immunity certificate after processing the e-form CFSS, 2020

Conclusion

The scheme like CFSS-2020 is an excellent opportunity for a non-compliant company to be on the right track. It is the right time to clear all the pending compliances during this tight budget period under this scheme at a minimum cost. Time to detox corporates and get rid of high penalties, huge filing fees and late fees. Grab the opportunity and start fresh.



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