



**Frequently Asked Questions**  
**on**  
**Company Fresh Start Scheme, 2020**  
**issued by the**  
**Ministry of Corporate Affairs, Government of India**  
**on**  
**30<sup>th</sup> March, 2020**



**Corporate Laws & Corporate Governance Committee**  
**The Institute Of Chartered Accountants Of India**  
**(Set up under an Act of Parliament)**



## **Frequently Asked Questions on Company Fresh Start Scheme, 2020 issued by the Ministry of Corporate Affairs, Government of India on 30<sup>th</sup> March, 2020**

The Ministry of Corporate Affairs has issued a Circular 12/2020 dated 30<sup>th</sup> March, 2020, in order to facilitate the companies registered in India to make a fresh start on a clean slate, it has been decided to take certain alleviative measures for the benefit of all companies.

The Companies Act, 2013 requires all companies to make annual statutory compliance by filing the Annual Return and Financial Statements. Apart from this, various other statements, documents, returns, etc are required to be filed on the MCA21 electronic registry within prescribed time limits. Filing fees for filing such statements, documents, returns, etc is governed by section 403 of the Companies Act, 2013 read with Companies (Registration Offices and Fees) Rules 2014.

In order to give an opportunity to the defaulting companies and to enable them to file the belated documents in the MCA-21 registry, the Central Government in exercise of powers conferred under section 460 read with section 403 of the Companies Act, 2013 has decided to introduce a Scheme namely "Companies Fresh Start Scheme, 2020 (CFSS-2020)

### **Q. 1. What is Company Fresh Start Scheme, 2020?**

**A. 1.** "Company Fresh Start Scheme, 2020" is a scheme to give a Onetime opportunity to the companies to enable them to complete their pending compliances by filing necessary documents in the MCA-21 registry including annual filings without being subject to a higher additional fees on account of any delay. Refer General Circular No 12/2020 available at the link –

[http://www.mca.gov.in/Ministry/pdf/Circular12\\_30032020.pdf](http://www.mca.gov.in/Ministry/pdf/Circular12_30032020.pdf)



**Q. 2. What is the objective of this Scheme?**

**A. 2.** The Ministry of Corporate Affairs, in pursuance of the Government of India's efforts to provide relief to law abiding companies in the wake of COVID 19, has introduced the "**Companies Fresh Start Scheme, 2020**" (CFSS-2020) to provide a first of its kind opportunity to companies to make good any filing related defaults, irrespective of duration of default, and make a fresh start as a fully compliant entity. The Fresh Start scheme incentivizes compliance and reduce compliance burden during the unprecedented public health situation caused by COVID-19. The USP of the scheme is a one-time waiver of additional filing fees for delayed filings by the companies with the Registrar of Companies during the currency of the Schemes, i.e. during the period starting from 1<sup>st</sup> April, 2020 and ending on 30<sup>th</sup> September, 2020.

**Q. 3. Whether this Scheme is permanent?**

**A. 3.** No. It is one time opportunity for the defaulting companies for a limited period (please refer A. 4).

**Q. 4. What is the time period of the Scheme?**

**A. 4.** The Scheme shall come into force on the 1<sup>st</sup> April, 2020 and shall remain effective up to 30<sup>th</sup> September, 2020 (both days inclusive).

**Q. 5. For which Companies, the Scheme is applicable?**

**A. 5.** The Scheme shall be applicable on any 'defaulting company' which has not filed any document, statement, return etc. including annual statutory documents, which were due for filing on any given date in accordance with the provisions of this Scheme. Contextually, filing of such overdue document, statement, return etc. should be pending on the date of accessing the Scheme.



**Q. 6. Documents for which period in the past, a defaulting company is permitted to file?**

**A. 6.** A defaulting company is permitted to file any of the documents, statement, returns, etc., including annual statutory documents on the MCA-21 registry wherein the default was made in filing for any period in the past. Thus, document, statement, return etc. can be relating any period from past from incorporation of the company till the date.

**Q. 7. Whether this Scheme provides any opportunity to the inactive companies?**

**A. 7.** The scheme gives an opportunity to inactive companies to get such an inactive company declared as 'dormant company' under section 455 of the Act by filing a simple application at a normal fee. The said provision enables inactive companies to remain on the register of the companies with minimal compliance requirements.

**Q. 8. What is defaulting company as per the Scheme?**

**A. 8.** "defaulting company" means a company defined under the Companies Act, 2013, and which has made a default in filing of any of the documents, statement, returns, etc including annual statutory documents on the MCA-21 registry. Contextually, filing of such overdue document, statement, return etc. should be pending on the date of accessing the Scheme.

**Q. 9. What is Designated authority as per the Scheme?**

**A. 9.** "Designated authority" for a company as per the Scheme means the Registrar of Companies having jurisdiction over the registered office of the company.

**Q. 10. Whether any immunity Certificate is issued for granting immunity from penalty and prosecution?**



**A. 10.** Yes, based on the declaration made in the Form CFSS-2020, an immunity certificate in respect documents filed under this Scheme shall be issued by the designated authority.

**Q. 11. What shall be the manner of payment of fees on filing of belated document for seeking immunity under the Scheme?**

**A. 11.** Under the scheme, every defaulting company shall be required to pay normal fees as prescribed under the Companies (Registration Offices and Fees) Rules, 2014 on the date of filing of each belated document and no additional fee shall be payable.

**Q. 12. Whether there is any additional fee for filing forms under this Scheme?**

**A. 12.** No additional fee shall be payable for filing any belated document under the Scheme.

**Q. 13. What Immunity the Scheme shall grant from the launch of prosecution or proceedings?**

**A. 13.** Immunity from the launch of prosecution or proceedings for imposing penalty shall be provided only to the extent such prosecution or the proceedings for Imposing penalty under the Act pertain to any delay associated with the filings of belated documents.

**Q. 14. What defaults shall not be covered under Immunity under the Scheme?**

**A. 14.** Excepting proceedings following from delay in filings of documents, any other consequential proceedings, including any proceedings involving interests of any shareholder or any other person qua the company for its directors or key managerial personnel would not be covered by such Immunity.

For Example, under section 42(8), every company is required to file a return of allotment within the period provided therein. However, the proviso to section 42(4) also requires that the utilisation of money raised through private placement shall not be made unless the return of allotment has been filed in the registry. Now, the immunity



under the Scheme shall only be available in respect of the proceeding for imposing penalty on account of delay in filing the return of allotment, but not on account of utilization of the money raised through private placement prior to the filing of the return with the registry.

**Q. 15. Whether the defaulting company is required to withdraw the appeal against any prosecution launched or the proceedings for imposing penalties initiated?**

**A. 15.** Yes, in case if defaulting Company, with respect to any Statutory filing under the Act or its officer in default as the case may be, has filed any appeal against any notice issued or compliant filed or an order passed by a court or by an adjudicating authority under the Act, before any competent court or authority for any violation of the provisions under Companies Act 1956/2013 in respect of which an application is filed under this scheme, then it shall first withdraw such appeal and furnish proof of withdrawal for the filing the application for issue of immunity certificate under the scheme.

**Q. 16. Whether there are any Special measures for cases where the order of the adjudicating authority has been passed but the appeal could not be made?**

**A. 16.** Yes, in all the cases where due to delay associated in filing of any document, statement or return, etc., in the MCA-21 registry, penalties were imposed by an adjudicating officer under the Act, and no appeal has been preferred by the concerned company or its officer before the Regional Director under Section 454 (6) as on date of commencement of scheme, the following would apply:

- Where the last date for filing the appeal against the order of the adjudicating authority under Section 454(6) falls between the 1<sup>st</sup> March, 2020 to 31<sup>st</sup> May, 2020 (both days inclusive), a period of 120 additional days shall be allowed from the last date to all companies and their officers for filing the appeal before the Concerned Regional Directors.



**Q. 17. Whether there can be prosecution under Section 454(8) for non-compliance of the order of the adjudicating authority during additional period of 120 days?**

**A. 17.** No, during the additional period of 120 days, prosecution under Section 454(8) for non-compliance of the order of the adjudicating authority, in so far as it relates to delay associated in filing of any document, statement or return etc., in the MCA-21 registry shall not be initiated against such companies or their officers.

**Q. 18. Whether a company is required to file any application for seeking immunity in respect of documents filed under the Scheme?**

**A. 18.** Yes, the application for seeking immunity is required to be made by electronically filing Form CFSS-2020 and the same is annexed with Scheme. On filing Form- CFSS 2020, an immunity certificate is issued.

**Q. 19. What is the due date for electronically filing Form CFSS-2020?**

**A. 19.** Form – CFSS-2020 shall be filed within six months of the expiry of the Scheme. The Scheme expires on 30<sup>th</sup> September, 2020. Thus the Form can be filed within six months from 30<sup>th</sup> September, 2020.

**Q. 20. Whether there is any fees for electronically filing Form CFSS-2020?**

**A. 20.** No, there shall not be any fee payable on the Form- CFSS-2020.

**Q. 21. In which cases the immunity shall not be applicable?**

**A. 21.** Immunity shall not be applicable in the matter of any appeal pending before the court of law and in case of management disputes of the company pending before any court of law or tribunal.



Further, no immunity shall be provided in case any court has ordered conviction in any matter, or an order imposing penalty has been passed by an adjudicating authority under the Act, and no appeal has been preferred against such orders of the court or of the adjudicating authority, as the case may be, before this Scheme came into force.

**Q. 22. For which type of companies this Scheme is not applicable?**

**A. 22.** This Scheme shall not apply to the following companies:

- To companies against which action for final notice for striking off u/s 248 of the Act previously Section 560 of the Companies Act 1956) has already been initiated by the Designated Authority
- Where any application has already been filed by the companies for action of striking off the name of the company from the register of companies.
- To companies which have amalgamated under a scheme of arrangement or compromise under the Act;
- Where applications have already been filed for obtaining Dormant Status under Section 455 of the Act before his Scheme.
- Vanishing Companies
- Where an increase in the authorised capital is involved (Form SH-7) and also charge related documents (CHG-1, CHG-4, CHG-8 and CHG-9)

**Q. 23. What shall be the effect of immunity under this Scheme?**

**A. 23.** After granting the immunity, the Designated Authority concerned shall withdraw the prosecution(s) pending, if any, before the concerned Court(s) and the proceedings of adjudication of penalties under Section 454 of the Act, other than those referred in question above, in respect of defaults against which immunity has been so granted shall be deemed to have been completed without any further action on the part if the Designated Authority.





**Q. 24. What is the option available for inactive companies under this Scheme?**

**A. 24.** The defaulting inactive companies while filing due documents under CFSS-2020 can simultaneously, either:

- apply to get themselves declared as dormant company under Section 455 of the Companies Act, 2013 by filing e-form MSC-1 at a normal fee on said form; or
- apply for striking off the name of the company by filing e-Form STK-2 by paying the fee payable on form STK-2. Yes, the defaulting LLPs, which have filed their pending documents till 30 September, 2020 and made good the default, shall not be subjected to prosecution by Registrar for such defaults.

**Q. 25. What action can be taken on the defaulting companies at the conclusion of the Scheme?**

**A. 25.** At the conclusion of the Scheme, the Designated Authority shall take necessary action under the Act against the companies who have not availed this Scheme and are in default in filing of documents in a timely manner.