Companies Fresh Start Scheme, 2020 (CFSS-2020)

By addressing all the Regional Directors, Registrar of Companies and Stakeholders the MCA vide its General Circular No. 12/2020 dated 30th March, 2020 has notified the Companies Fresh Start Scheme, 2020.

In furtherance of the Ministry's Circular No. 11/2020, dated 24th March, 2020 and in order to facilitate the companies registered in India to make a fresh start on a clean slate, the Ministry has decided to take certain alleviative measures for the benefit of all the companies.

1. 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.

2. The Ministry has received representations from various stakeholders requesting for grant of one-time opportunity, so as 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.

3. In order to give such 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)** condoning the delay in filing the above mentioned documents with the Registrar, insofar as it relates to charging of additional fees, and granting of immunity from launching of prosecution or proceedings for imposing penalty on account of delay associated with certain filings. Only normal fees for filing of documents in the MCA-21 registry will be payable in such case during the currency of CFSS-2020 as per the provisions of section 403 read with Companies (Registration Offices and Fees) Rules, 2014 and section 460 of the Act.

4. In addition, the scheme gives an opportunity to inactive companies to get their companies 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.

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5. The details of the Scheme are as under**:**

SR. NO.	PROVISION	COMMENTS/ REMARKS
1	The scheme shall come into force on the 01.04.2020 and shall remain in force till 30.09.2020.	The scheme shall be applicable for a period of 6 months.
2	**Definitions -** In this Scheme, unless the context otherwise requires, a. "Act" means the Companies Act, 2013 and Companies Act, 1956 (where ever applicable); b. "Company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013; c. "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; d. "Designated authority" means the Registrar of Companies having jurisdiction over the registered office of the company; e. "Immunity certificate" means the certificate referred to in subparagraph [viii] of paragraph 6 (point 8 below) of the Scheme; f. "Inactive Company" means a company as defined in Explanation (i) to sub-section (1) of section 455(1) of the Companies Act, 2013;	The important and relevant terms which will be used throughout the scheme are defined.
3	**Applicability-** Any "defaulting company" is permitted to file belated documents which were due for filing on any given date in accordance with the provisions of this Scheme.	The Companies which fall within the definition of defaulting company as defined in point 2 above are allowed to file belated returns.
4	**Manner of payment of normal fee for filing of belated documents and seeking immunity under the Scheme -** Every defaulting company shall be required to pay normal fees as prescribed under the Companies (Registration Offices and Fee) Rules, 2014 on the date of filing of each belated document and no additional fee shall be payable. 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. Any other consequential proceedings, including any proceedings involving interests of any shareholder or any other person qua the company or its directors or key managerial personnel would not be covered by such immunity.	No additional fees shall be payable by the defaulting company for filing belated returns. Further the immunity from prosecution and proceedings is in reference to the penalty which is prescribed in the Act and in no case the immunity can extend for any other purpose other than the penalty matters. **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 utilization 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 proceedings 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.
5	**Withdrawal of appeal against any prosecution launched or the proceedings for imposing penalties initiated-** If the defaulting company, with respect to any statutory filing under the Act or its officer in default, as the as may be, has filed any appeal against any notice issued or complaint filed or an order passed by a court or by an adjudicating authority under the Act, before a competent court or authority for violation of the provisions under the Companies Act, 1956 and/ or Companies Act, 2013, in respect of which the application is made under this scheme, the applicant shall before filing an application for issue of immunity certificate, withdraw the appeal and furnish proof of such withdrawal along with the application.	If any appeal is filed against any notice, complaint or order before any competent authority by the defaulting company or its officer in default, then such appeals is to be withdrawn by the applicant before filing any application for immunity certificate and furnish the proof of such withdrawal along with the application.
6	**Special measures for cases where the order of the adjudicating authority was passed but the appeal could not be filed-** In all 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 the date of commencement of the Scheme, the following would apply:- (A). Where the last date for filing the appeal against the order of the adjudicating authority under section 454(6) falls between the 1st March, 2020 to 31st May 2020 (both days included), a period of 120 additional days shall be allowed with effect from such last date to all companies and their officers for filing the appeal before the concerned Regional Directors; (B). During such additional period as stated in (A) above, prosecution under section 454(8) for non-compliance of the order of the adjudicating authority, insofar 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.	If as on the date of coming into effect of this scheme no appeal against the order of the AO is filed then, if the last date of filing an appeal falls between the period of 1st March, 2020 to 31st May 2020 (both days included), a period of 120 additional days shall be allowed with effect from such last date to all companies and their officers. Further during such additional period no order of the AO shall be initiated against the concerned company or its officers.
7	**Application for issue of immunity in respect of**	The application for issue of

	document(s) filed under the Scheme- The application for seeking immunity in respect of belated documents filed under the Scheme may be made electronically in the **Form CFSS-2020**, after closure of the Scheme and after the document(s) arc taken on file, or on record or approved by the Designated authority as the case may be but not after the expiry of six months from the date of closure of the Scheme. There shall not be any fee payable on this Form. Provided that this 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: Provided also that 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 has come into force.	immunity is to be filed in **Form CFSS-2020** after closure of the Scheme but not after the expiry of six months from the date of closure of the Scheme. Further there's no fee applicable for filing this form. Further the immunity is not applicable in the following cases: a. In the matter of any appeal pending before the court of law. b. In case of management disputes of the company pending before any court of law or tribunal. c. In case any court has ordered conviction in any matter and no appeal has been preferred before the coming of this Scheme into effect. d. An order imposing penalty has been passed by an adjudicating authority and no appeal has been preferred before the coming of this Scheme into effect.
8	**Order by designated authority granting immunity from penalty and prosecution -** Based on the declaration made in the **Form CFSS-2020**, an immunity certificate in respect of documents filed under this Scheme shall be issued by the designated authority.	The immunity certificate shall be issued by the DA after taking into consideration the declaration made in the **Form CFSS-2020.**
9	**Scheme not to apply in certain cases-** This scheme shall not apply :- a. to companies against which action for final notice for striking off the name u/s 248 of the Act (previously section 560 of Companies Act, 1956) has already been initiated by the Designated authority; b. 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; c. to companies which have amalgamated under a scheme of arrangement or compromise under the Act; d. where applications have already been filed for obtaining Dormant Status under section 455 of the Act before this Scheme; e. to vanishing companies; f. Where any increase in authorized capital is involved (Form SH-7) and also charge related documents (CHG-1, CHG-4, CHG-8 and CHG-9);	Non applicability of the Scheme in certain cases: a. Action for final notice for striking off the name has already been initiated by the Designated authority. b. Application for striking off the name has already been filed by the companies. c. Companies which have amalgamated. d. Application for obtaining Dormant Status is already filed. e. Vanishing Companies. f. Where any increase in authorized capital is involved (Form SH-7) and also charge related documents (CHG-1, CHG-4, CHG-8 and CHG-9).
10	**Effect of immunity-** After granting the immunity, the Designated authority concerned shall withdraw the	After granting the immunity, the DA 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 the second proviso to sub-paragraph (vii) of paragraph 6 of this Scheme (point 7 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 or the Designated authority.	prosecution(s) pending, before the concerned Court(s) and the proceedings of adjudication of penalties. Further defaults against which immunity has been so granted shall be deemed to have been completed.
11	**Scheme for Inactive Companies-** The defaulting inactive companies, while filing due documents under **CFSS-2020** can, simultaneously, either: a. 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 b. apply for striking off the name of the company by filing **e-Form STK-2** by paying the fee payable.	The defaulting inactive company while filing due documents under **CFSS-2020** may apply for either of the following: a. Getting the Dormant status. b. Strike off.

Please provide your valuable feedback at:

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