



Corpedia

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Company and LLP – Amnesty Schemes

4th April 2020

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Introduction and Background:

Ministry of Corporate Affairs (MCA), in order to encourage Companies and Limited Liability Partnerships (LLPs) to come clean on all the non-compliances that they may have mounted over the years, has come out with 2 amnesty schemes:

- ▶ LLP Settlement Scheme, 2020 - General Circular No. 6/2020 dated 4th March, 2020

- ▶ Companies Fresh Start Scheme, 2020 – General Circular No. 12/2020 dated 30th March 2020

These schemes, as referred in the preamble of the schemes have been brought out to provide one-time opportunity for all the LLPs and Companies in India to clean up their non-compliances and begin afresh.

In this edition of Corpedia, we have captured the highlights of both the above schemes.

LLP Settlement Scheme, 2020

The scheme was partially modified vide General Circular no. 13/2020 dated 30th March, 2020. The below table captures the details as per the modified scheme.

Sl. No.	Particulars	Particulars
1	What is the objective of the scheme?	The scheme is to give One-time condonation of delay in filing statutorily required documents with the Registrar
2	Applicability dates	Originally from 16 th March, 2020 and shall remain in force up to 13 th June, 2020 Currently, the date of applicability of scheme modified to commence from 1st April, 2020 and shall remain in force upto 30th September, 2020
3	Applicable to whom	Any LLP registered under the LLP Act, 2008, which has defaulted in filing in any document with Registrar as was required under LLP Act and LLP Rules
4	What documents can be filed	All documents and forms that are required to be filed in MCA-21 registry which were due for filing till 31st August, 2020
5	Fees payable	Defaulting LLPs to file the form voluntarily under this scheme by payment of fees which are applicable for that form. No Additional fee is payable on filing under this scheme
6	Consequences of going under this scheme	- All non-compliances can be made good - Immunity from prosecution in respect of the documents filed under this scheme till 30 th September, 2020

Sl. No.	Particulars	Particulars
7	Consequence of not going under the scheme	<ul style="list-style-type: none"> - Non-compliances will continue - On conclusion of the scheme, the Registrar shall take necessary action under the LLP law for continuing with the default
8	Scheme not Applicable to whom	Such LLPs which have filed application for strike off of name from register, this scheme shall not apply for them

Companies Fresh Start Scheme, 2020

Sl. No.	Particulars	Particulars
1	What is the objective of the scheme?	The scheme is to give condonation of delay opportunity in filing statutorily required documents with the Registrar or for inactive companies to declare themselves as dormant companies or to apply for strike off with minimal compliances
2	Applicability dates	Scheme shall be applicable from 1st April, 2020 and shall remain in force till 30th September, 2020
3	Applicable to whom	Any company registered in India which was required to file documents and forms to Registrar and has defaulted on filing the same.
4	What documents can be filed	Any form that the company had to file with Registrar and has defaulted in filing it, except the following: <ul style="list-style-type: none"> - Form SH4 – Increase in authorized capital - CHG1, CHG4, CHG8 & CHG9 – Charge related documents
5	Fees payable	Normal filing fees as applicable for each form. No additional filing fees is payable
6	Manner of going under the scheme	Application seeking immunity for the belated filings to be filed in a Form called 'CFSS 2020' without payment of any fees
7	Consequences of opting for the scheme	<ul style="list-style-type: none"> - Non-compliances will be made good - Filing can be done without payment of additional filing fees, which will save considerable amount of money for elongated delays - Immunity from launch of prosecution or proceedings for levying penalty for the documents filed. Such immunity is only for the delay in filing the documents. Any consequential proceedings on Directors or Shareholders for a particular delay will not get any immunity - Any appeal filed by the defaulting company against a penalty or prosecution proceedings needs to be withdrawn - Designated authority will issue a Immunity Certificate

Sl. No.	Particulars	Particulars
		<ul style="list-style-type: none"> - Defaulting Inactive companies can do either of the following: <ul style="list-style-type: none"> (i) Apply for declare themselves as Dormant Company by filing form MSC-1 and paying normal fees (ii) apply for striking off the name of the company by filing STK-2 and paying the normal fees
8	Consequence of not going under the scheme	<ul style="list-style-type: none"> - Non-compliances will continue - On conclusion of the scheme, the Registrar shall take necessary action under the Company Law for continuing with the default
9	Scheme not Applicable to whom	<ul style="list-style-type: none"> - Companies against which notice for striking off of name has been given by the concerned authority - Application for strike off of name has already been filed by the company - Already amalgamated company - Company which has already furnished an application for designating as Dormant company - Vanishing companies

Advith Comments

This is a wonderful opportunity that has been granted by the Ministry of Corporate Affairs to allow Companies and LLPs to come clean on their past non-compliances, that too without any additional filing fees, requirement to go for compounding of offence or fear of getting under penalty or prosecution proceedings. Companies and their consultants should make use of this scheme to clean-up their compliances by making the best use of this.

Henceforth, it is also important for Management of Companies & LLPs and their Corporate Law consultants to consider the compliances seriously by installing a strict Corporate Governance and Compliance SOP in place.

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