



KAY LEGAL & ASSOCIATES LLP

COMPANIES FRESH START SCHEME 2020

A QUICK REVIEW- COMPANIES FRESH START SCHEME 2020 (CFSS-2020)

The Ministry of Corporate Affairs (“MCA”) vide its circular dated 30th March, 2020 has issued “Companies Fresh Start Scheme, 2020” (“CFSS 2020”) and revised the “LLP Settlement Scheme, 2020” (“LLP Scheme 2020”) to promote defaulting companies/LLPs to make a fresh start on a clean slate and waive the additional fees for delayed filings by the companies/LLPs with the Registrar of Companies (“ROC”) during the currency of the Schemes i.e. from 1st April 2020 to 30th September 2020. Both the schemes incentivize compliance and reduce compliance burden during the unprecedented public health situation caused by the outbreak of COVID-19.

ENFORCEMENT

THE CFSS 2020 IS EFFECTIVE 1ST APRIL, 2020 TILL 30TH SEPTEMBER, 2020

APPLICABILITY

ALL DEFAULTING COMPANIES SHALL BE REQUIRED TO PAY ONLY NORMAL FEES AS PER REGISTRATION OFFICES AND FEES RULES, 2014 AND NO ADDITIONAL FEE WILL BE PAYABLE FOR THE FILING OF ALL DELAYED COMPLIANCES

FEES

THE DEFAULTING COMPANY SHALL PAY THE REGULAR FEES AS PRESCRIBED UNDER THE RULES AND THERE WOULD BE NO PENALTIES.

CERTIFICATE

UPON FILING AND POST APPROVAL OF DOCUMENTS, THE DESIGNATED AUTHORITY SHALL ISSUE AN IMMUNITY CERTIFICATE

NON APPLICABILITY OF THE SCHEME

This Scheme will not apply in following cases

- a. Company against which final notice for strike off has already been initiated u/s 248 of the Act;
- b. Where strike off application has already been made by the company;
- c. Companies which have been amalgamated under a scheme of amalgamation or compromise under the Act;
- d. Where company has filed application for obtaining Dormant status for the company under section 455 of the Act;

EFFECTS OF IMMUNITY:

- All pending prosecutions by designated authorities against the company shall be withdrawn, including if any pending before the concerned courts.
- All proceedings of adjudication of penalty under section 454, except for any prosecution for non-compliance of the order of the adjudicating authority (which relates to delay associated with the filing of any documents, statement of return etc. with MCA-21), shall be withdrawn.
- The Scheme does not absolve the Company or its Officers in Default from any substantial violation of law. The immunity is only with respect to the filing of the belated documents under the Scheme.

SCHEME FOR INACTIVE COMPANY:

Defaulting inactive companies have been given an option to file due documents under the scheme CFSS-2020 and they can simultaneously, either:

- Apply for status of dormant company by filing e-Form MSC-1 at a normal fee of the said form.
Or
- Apply for striking-off of the company in e- Form STK-2 by paying the normal fee.
- Applicable fees: Only normal fees and no additional fees are be charged.

This Scheme is launched to provide a chance to the defaulting companies to be compliant and file all the compliances without being penalized. This will also give an opportunity to MCA to remove Inactive Company and update its records to monitor and govern few compliant companies.

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