

**COMPANIES FRESH START SCHEME, 2020 (CFSS) AND  
LLP SETTLEMENT SCHEME, 2020**

Vide General Circular No.6 of 2020, Dt: 04.03.2020, the Ministry of Corporate Affairs, had introduced the LLP Settlement Scheme, to be effective from 16.03.2020, wherein, it was provided for Limited Liability Partnerships (LLP) to file the pending returns to be filed by the LLPs, without any additional fees.

Amidst the outbreak of COVID-19, the Ministry of Corporate Affairs has come up with major reliefs to the Companies and LLPs.

Vide General Circular No.12 of 2020, Dt:30.03.2020, has introduced the Companies Fresh Start Scheme, 2020, to give such an opportunity to the defaulting companies and to enable them to file the belated documents, with normal fees, and make a fresh start on a clean slate. In addition the scheme gives an opportunity to the inactive companies to get their companies declared as “Dormant Company”, under Section 455 of the Companies Act, 2013, by filing a simple application at a normal fee, and continue in the Register of Companies, with minimum compliance requirements.

vide General Circular No. 13/2020, Dt:30.03.2020, the Ministry has amended the LLP Settlement Scheme, introduced vide General Circular No. 6 of 2020, Dated: 30.03.2020 to provide for the defaulting LLPs a one-time chance to file all the pending returns, with only normal fees, avail condonation of such default, immunity against prosecution with respect to such default.

The salient features of the Companies Fresh Start Scheme, 2020 and the LLP Settlement Scheme, 2020, are as follows:

**A. The Companies Fresh Start Scheme, 2020 for Active Companies:**

<b>Sl. No.</b>	<b>Details</b>	<b>Information</b>
1.	<b>Scheme Tenure from/to</b>	The scheme shall commence from 01.04.2020 till 30.09.2020.
2.	<b>Scheme Applicable to</b>	<p>The Scheme is applicable to a Defaulting Company, which has made default in filing of the following documents ( only indicative and not exhaustive), statements, returns etc., including Annual statutory documents on the MCA Portal.</p> <ul style="list-style-type: none"> <li>➔ AOC-4 – Financial Statements</li> <li>➔ MGT-7 – Annual Return</li> <li>➔ ADT-1 – Auditor appointment form</li> <li>➔ ADT-3 – Resignation of Auditors</li> <li>➔ INC-22 – Shifting of Registered office</li> <li>➔ MGT-14 – Filing of resolutions</li> <li>➔ PAS-3 – Allotment of Shares</li> </ul>

		→ Other forms
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3.	<b>Scheme not applicable to the following Companies/Forms</b>	<p>The Scheme is not applicable to :</p> <ul style="list-style-type: none"> <li>→ The Companies against which action for final notice of strike-off has already been initiated by the ROC.</li> <li>→ The Company which has filed STK-2 i.e., application for striking-off.</li> <li>→ The Companies which have amalgamated under a Scheme of arrangement or compromise under the Companies Act.</li> <li>→ The Companies which have filed forms for obtaining Dormant Status under the Companies Act.</li> <li>→ Vanishing Companies;</li> <li>→ SH-7 – Increase of Authorised Share Capital.</li> <li>→ Charge related documents i.e., CHG-1, CHG-4, CHG-8 and CHG-9.</li> </ul>
4.	<b>Fees to be paid</b>	<p>The Company is required to pay only the normal fees, and no additional fees shall be charged.</p> <p>A huge economic benefit is provided by this scheme, enabling the Companies to file belated returns with only normal fees.</p>

5.	<b>Application for seeking Immunity from prosecution</b>	<p>Application for Immunity to be filed in <b>Form CFSS-2020</b>, after the closure of the scheme and filing of all the belated returns with MCA. There is no fees for the Form CFSS-2020.</p> <p><b><u>Immunity covered:</u></b> Immunity under the scheme is only to the extent of such prosecution or the proceeding for imposing penalty under the Act pertaining to the delay associated with the filing of the delayed returns.</p> <p><b><u>Immunity not covered:</u></b> Any other consequential proceedings, including any proceedings involving interest of any shareholder or any other person qua the company or its directors or KMP would not be covered by the immunity.</p> <p>Based on the declarations made by the CFSS-2020 form, an immunity certificate will be issued by the designated authority i.e., the ROC concerned.</p>
6.	<b>Immunity when court cases and Management Disputes exist</b>	<p>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.</p> <p>Immunity shall not be provided where any court has ordered conviction in any matter, or an order 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, before the scheme has come in to force.</p>
7.	<b>Measures/treatment where penalties imposed by the Designated Authority against the Company, and Appeal not filed</b>	<p>Matters where penalties were imposed by the Designated Authority against the defaulting Company in relation to the non-filing of the statutory returns, and Appeal is not filed by the Company:</p> <ul style="list-style-type: none"> <li>➔ Where the last date for filing appeal against the order of the designated authority falls between 01.03.2020 to 31.05.2020, an additional 120 days shall be allowed to the company to file appeal.</li> <li>➔ During such additional period above, prosecution for non-compliance of the order of the authority, in relation to the delay associated in filing of the returns with MCA, shall not be</li> </ul>

		initiated against such companies or their officers.
8.	<b>Withdrawal of appeals any prosecutions</b>	If the defaulting Company has filed an appeal with regard to the notice received from the ROC in respect of any statutory filings, then before filing of the Form for grant of Immunity Certificate, then the defaulting company shall withdraw the appeal first, furnish proof of the withdrawal to the ROC.
9.	<b>Effect of Immunity</b>	After grant of immunity, the Designated authority shall withdraw the prosecution pending, relating to only the non-filing of the returns. Please see Sl.No.5 above.
10.	<b>Penalties</b>	On the conclusion of the due date of the scheme, necessary action will be initiated by the concerned authority, against the Companies, which has not availed the scheme, and filed the pending returns.

#### **B. Scheme for Inactive Companies:**

The Inactive Companies, after filing all the belated returns, while filing the Form CFSS-2020 form, can opt for either of the following:

- ➔ Apply to get the Company declared as a Dormant Company under Section 455 of the Companies Act, by filing Form MSC-1;
- ➔ Apply for striking-off the name of the Company by filing STK-2.

#### **C. LLP Settlement Scheme, 2020** (as amended vide General Circular No.13/2020):

<b>Sl. No.</b>	<b>Details</b>	<b>Information</b>
1.	<b>Scheme Tenure from/to</b>	The scheme shall commence from 01.04.2020 till 30.09.2020.
2.	<b>Scheme Applicable to</b>	<p>The Scheme is applicable to a Defaulting LLP, in respect of the belated documents, which are required to be filed with MCA, under the provisions of the LLP Act, 2008 and rules framed thereunder, which are due for filing till 31.08.2020.</p> <ul style="list-style-type: none"> <li>➔ LLP-3 – LLP Agreement</li> <li>➔ LLP-4 – Change of Partners</li> <li>➔ LLP-11 – Annual Return</li> <li>➔ LLP-8 – Statement of Solvency</li> <li>➔ Other forms</li> </ul>

3.	<b>Scheme not applicable to the following LLPs</b>	<p>The Scheme is not applicable to :</p> <p>→ The LLPs which have made applications in Form 24 to the Registrar for striking-off their name from the Register of LLPs, as per provisions of Rule 37 (1) of the LLP Rules, 2009.</p>
4.	<b>Fees to be paid</b>	<p>The LLP is required to pay only the normal fees, and no additional fees shall be charged.</p> <p>A huge economic benefit is provided by this scheme, enabling the LLPs to file belated returns with only normal fees.</p>
5.	<b>Immunity</b>	<p>The defaulting LLPs which have filed the belated documents till 30.09.2020, and made good the default, shall not be subjected to prosecution by the ROC.</p>
6.	<b>Penalties</b>	<p>After 30.09.2020, necessary action will be initiated by the ROC, against the LLPs, which has not availed the scheme, and filed the pending returns.</p>

In view of the above, the Scheme is very much beneficial for the Companies/LLPs, which have pending returns, and intend to file the same and make a fresh start.

On a lighter note, we prefer to call the CFSS, as **“CORONA FRESH START SCHEME”**.