

COMPANIES FRESH START SCHEME, 2020 (CFSS-2020)

S.N.	PARTICULAR	PROVISION
1.	Introduction	The Ministry of Corporate Affairs in exercise of powers as conferred under section 460 read with section 403 of the CA, 2013, introduced a scheme known as Companies fresh start Scheme 2020 (CFSS-2020) vide General Circular No. 12/2020 dated 30.03.2020. The Ministry has decided to provide an opportunity to all the Companies registered in India to make a fresh start on a clean slate.
2.	Term of the Scheme	The CFSS 2020 scheme remains to enforce from 1st April 2020 to 30th September 2020.
3.	Active Companies	<p>The Ministry through this Scheme is giving one-time opportunity to file all the pending documents including the annual filing of the Company without charging higher additional fees on any delay.</p> <p>The defaulting Company shall require to file the belated documents including annual filing by paying normal fees (without including Additional Fees) as prescribed in the Companies (Registration Offices and Fee Rules) 2014.</p>
4.	Inactive Companies	<ul style="list-style-type: none"> • The Scheme also provides an opportunity to the inactive Companies to declare themselves as Dormant Companies under section 455 of Companies act, 2013 by filing form MSC-1 with normal fees. It will enable the inactive companies to remain on ROCs register with minimum compliance requirement. • Inactive Companies may also apply for striking off the name of the company from ROC register by filing form STK-2 along with the prescribed fees. <p>(subject to filing of all due documents under the CFSS-2020)</p>
5.	Meaning of Immunity	<p>This Scheme provides immunity to Companies in relation to prosecution or proceeding for imposing an additional penalty for not filing of belated documents.</p> <p>Scheme doesn't provide immunity on any other consequential proceedings including proceeding involving the interest of its directors or key managerial personnel etc.</p>

6.	Withdrawal of Appeal filed before any court or adjudicating authority	If the company has filed an appeal against any order of prosecution for penalty passed by the competent court or adjudicating authority then the company first need to withdraw his application of appeal and furnish the proof of withdrawal to avail immunity in this CFSS 2020 scheme.
7.	Special measures for cases where the order of the Adjudicating Authority was passed but the appeal could not be filed.	<p>The Competent Court or Adjudicating Authority passed an order to prosecute and Company or officer didn't file the appeal before the Appellate Authority or Regional Director under section 454(6) of the Companies Act, 2013 as on commencement of this Scheme then the following things would apply:-</p> <ol style="list-style-type: none"> 1. The Company or officers are allowed an additional period of 120 days to file an appeal before the Regional Director if the last date of filing appeal falls between 1st March 2020 to 31st May 2020 from such last date. 2. No prosecution initiated against the Company or officers for non-compliance of adjudicating authority order under section 454(8) of the companies act, 2013.
8.	Application for issues of Immunity in respect of the documents filed under the scheme	<p>The company or officer need to file electronically E-form "CFSS-2020" without any fees with ROCs through MCA portal to availed immunity under this scheme & ROCs approved or taken on file all documents within 6 months from the closure of this scheme EXCEPT</p> <ol style="list-style-type: none"> 1. No immunity for any appeal pending in the court against the company and in case of any management disputes pending in the court; 2. No immunity for any case of conviction already ordered passed by a court or adjudicating authority & no appeal has been preferred by the company or officers before the scheme came in enforce.
9.	Order by Designated Authority granting immunity from penalty and prosecution	Based on the declaration made in form CFSS-2020, an immunity certificate in respect of the documents filed under this Scheme shall be issued by the Designated Authority.
10.	<u>Non – Applicability of Companies Fresh Start Scheme, 2020 (CFSS-2020)</u>	<p>This scheme shall not apply in the following cases are:-</p> <ul style="list-style-type: none"> • Final notice for striking off the name of the Company under section 248 of the Companies Act, 2013, already initiated by the ROCs; • The company already made an application for striking off the name of the Company from ROC register;

		<ul style="list-style-type: none"> • Companies amalgamated under the scheme of compromise & arrangement under the Act; • The company already applied for dormant status under section 455 of the Companies Act, 2013 before the scheme introduction • Vanishing Companies; • Documents related to Increase in authorised share capital (Form SH-7) and Charge related documents (CHG-1, CHG-4, CHG-8 & CHG-9);
11.	E-form CFSS-2020 required following attachments:-	<ol style="list-style-type: none"> 1. Proof of withdrawal of any appeal(s) against any notice issued or compliant filed or an order passed by a court or by an adjudicating authority under the Act. 2. Details in respect of prosecution pending against the company and its officers in respect of belated documents filed under the scheme which requires withdrawal by the registrar. 3. Optional attachments – if any.
12.	Effect of Immunity	After granting the immunity, the Designated Authority, (Registrar of Companies having jurisdiction over the registered office of the Company) shall withdraw the prosecution(s) pending, if any, before the concerned courts(s) and the proceedings of adjudication of penalties shall be deemed to be completed without any further action.

Thanks & Regards
Team KKSA