



**COVID 19 OUTBREAK: COMPANY FRESH  
START SCHEME 2020 (CFSS, 2020) &  
LLP SETTLEMENT SCHEME (MODIFIED)**



**AAUM & CO.**

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**CHARTERED ACCOUNTANTS**

# GENERAL FEATURES OF CFSS, 2020

Particulars	Details
Period of Scheme	April 1, 2020 to September 30, 2020
Applicability	Company incorporated under Companies Act, 2013 or any previous law & have made default in filing of any documents, statements, returns, etc. including annual statutory documents on the MCA-21 registry ( <b>defaulting Company</b> )
Fees	Only Normal Fees payable ( <b><i>Additional Fees waived off</i></b> )
Forms covered	64 Forms covered incl. DIR-3 KYC / DIR-3 KYC- web / Form INC-22A (without paying additional fees of Rs. 5,000 / 10,000 as applicable)
Immunity	To the extent of <b>prosecution / proceedings for imposing penalty pertaining to delay associated with late filings</b> . <i>Other consequential proceedings, incl. proceedings involving interests of any shareholder or any other person qua the company or its directors/KMP would not be covered by such immunity.</i>

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Rather become a man of value.” – Albert Einstein

# WHO CANNOT APPLY SEEKING IMMUNITY?

- Companies against which action for **final notice u/s 248** of the Co.'s Act has been **initiated**
- Companies which have already **filed application for striking off** name from the Register of Companies
- Companies which have **amalgamated** under a scheme of arrangement or compromise under Co.'s Act
- Companies which have already **filed application for obtaining dormant status** u/s 455 of Co.'s Act, 2013 before this scheme
- **Vanishing Companies**
- **Forms related Increase in Authorized Capital (Form SH-7)**
- **Charge Related Documents (CHG-1, CHG-4, CHG-8 and CHG-9)**

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# MGT-14 FORMS WITH DUE DATE > 300 DAYS

- Earlier filing of MGT-14 form was restricted where being filed beyond 300 days from the date of event. These forms could be filed only after seeking approval for condonation of delay from the Central Govt. *The e-form MGT 14 could be filed only after entering the challan number of e-form INC-28 where in the said approval was filed.*
- Subsequently, amended Sec. 403 of Companies Act, 2013 allowed filing of MGT-14 even in cases having event date beyond 300 days. However, due to no changes made in MGT-14 form technically, companies cannot file MGT-14 forms, having event date beyond 300 days, even though legally allowed to file these delayed forms.
- Now, under the CFSS 2020 also, due to the above-mentioned technical reason, MGT-14 form, having event date beyond 300 days, cannot be filed without undergoing the process of Condonation of Delay.

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# CASES : PROSECUTION IS ALREADY DONE

1. Defaulting company / its officer in default filed appeal against notice / complaint or order passed by court or adjudicating authority
  - Before filing an application the **appeal should be withdrawn & proof of such withdrawal be furnished** along with application for issue of immunity certificate
  - In case of any **appeal pending before any Court** of law or in case of any **management disputes of the Company** pending before any Court of law or Tribunal, the **Immunity under this CFSS, 2020 shall not apply.**

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2. Cases where Order of Adjudicating authority was passed but appeal could not filed
  - If any Court has **ordered conviction** in any matter / an **order imposing penalty has been passed** by any Adjudicating Authority, and **no appeal has been preferred** against the order of the Court of Adjudicating Authority, as the case may be, **before CFSS, 2020 came into force, i.e., before 1st April 2020**, then the Immunity under this CFSS, 2020 shall not apply.
  - If **Last date** of filing appeal against the order of adjudicating authority u/s 454(6) **falls between March 1 to May 31, 2020** - Period of **additional 120 days** shall be allowed w.e.f. **such last date for filing the appeal** before the concerned Regional Directors.
  - In this additional period allowed, **prosecution for non-compliance** of the order of the adjudicating authority which **relates to delay associated in filings shall not be initiated against such companies or their officers.**

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# IMMUNITY CERTIFICATE UNDER CFSS 2020

## 1. Electronic Application for Immunity Certificate (No Filing Fees):

- After the closure of the Scheme and documents filed taken on record / approved by MCA, but **within 6 months from scheme closure date, i.e., October 1, 2020 to March 31, 2021**

## 2. Effect of Immunity Granted:

Based on declaration made in the e-form CFSS 2020, an immunity certificate shall be issued by ROC and ROC concerned shall:

- **withdraw** the **prosecution(s)** pending, if any before the concerned courts
- **withdraw proceedings of adjudication of penalties** u/s 454 of Companies Act, 2013

The default against which immunity has been so granted shall be **deemed to have been completed** without any further action on the part of the ROC.

# INACTIVE COMPANIES

**Defaulting inactive Companies** while filing due documents under CFSS, 2020 can simultaneously, either:

- File **e-form MSC-1 at a normal fee** to get themselves **declared as dormant company** u/s 455 of Companies Act, 2013
- File **e-form STK-2 for striking off name of the company** u/s 248 of Companies Act, 2013

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# LLP SETTLEMENT SCHEME (MODIFIED)

Particulars	Details
Period	April 1, 2020 to <b>September 30, 2020</b>
Applicability	Defaulting LLP permitted to file belated documents, due for filing till <b>31st August, 2020</b>
Fees	Only Normal Fees payable ( <i>Additional Fees waived off – Earlier Rs. 10 / day not exceed Rs. 5,000</i> )
Forms covered	12 kinds of Forms can be filed by LLPs ( <i>earlier restricted to Form 3, 4, 8 &amp; 11</i> )
Immunity	Not be subjected to prosecution by Registrar for such default
Not applicable to	LLP which has made application in Form 24 for striking off name from register

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# Thank You



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