

## Companies Fresh Start Scheme, 2020 & LLP Settlement Scheme, 2020

**Note to reader:** As part of ongoing efforts to provide relief to companies and Limited Liability Partnerships (LLPs) in the wake of the COVID 19 crisis, the Ministry of Corporate Affairs (MCA) has introduced certain schemes to provide a one-time opportunity, to both companies and LLPs in India, to make good any filing related defaults and complete pending filings under Companies Act, 2013 and LLP Act, 2008 in order to make a fresh start as fully compliant entities. The Companies Fresh Start Scheme, 2020 can be accessed [here](#) and the revised LLP Settlement Scheme, 2020 can be accessed [here](#) and [here](#).

### **KEY FEATURES**

1. **Moratorium Period:** The Companies Fresh Start Scheme, 2020 (“CFSS”) and revised LLP Settlement Scheme, 2020 (“LLPS”) (collectively, the “Schemes”) are applicable to all companies and LLPs, respectively, between April 1, 2020 and September 30, 2020 (“Moratorium Period”).
2. **No late filing fees:** During the Moratorium Period, no additional fees for late submission of any pending forms will be levied on the companies/LLPs or their respective officers/ partners/directors. Only regular filing fees is payable.
3. **Immunity against Prosecution:** The companies/LLPs and its officers/partners/directors will be protected against penal proceedings in regard to delayed filings during the Moratorium Period.
4. **Immunity Certificate (Only for companies):** Additionally, if the benefits of CFSS have been availed by any company, it may apply for an immunity certificate in eForm CFSS-2020, which can be filed between October 1, 2020 and March 31, 2021, without payment of any fees.
5. **Penal Actions:** At conclusion of the Schemes, the MCA may take penal actions against the companies/LLPs who have not availed these Schemes and continue to default with filing requirements under the respective Acts.

### **QUALIFICATION CRITERIA**

1. The Schemes are applicable to all companies/LLPs, except in the following cases:

Type	CFSS	LLPS
By companies/LLPs which have applied for ‘strike off ‘or companies against which final notice of ‘striking off’ is initiated by the relevant authority	X	X
By companies which have undergone amalgamation pursuant to a court-approved scheme/arrangement/compromise	X	NA
By companies which have applied for ‘Dormant’ status	X	NA
By vanishing companies	X	NA
In connection with filings related to increase in authorized share capital i.e Form SH-7	X	NA
In connection with filings related to charges i.e Form CHG-1/4/8/9	X	NA

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2. Immunity to companies under CFSS shall not be provided in the following cases:
  - a. **Orders passed by Court, and no appeal has been filed:** In case, a conviction/order for levy of penalties has been ordered by a court, and no appeals have been made on or before March 31, 2020.
    - except in cases where appeals were due and unable to be filed between March 1, 2020 and May 31, 2020, and the appeal was then filed in the additional 120 days granted from the due date of appeal.
  - b. **Filed appeals not withdrawn:** Any filed appeals not withdrawn by company prior to applying for immunity certificate.
  - c. **Pending Management Disputes:** A management dispute is pending before a court or tribunal.

### **KEY STEPS**

1. Companies/LLPs are encouraged to assess their pending filings at the earliest.
2. During the Moratorium Period, pending forms may be filed, irrespective of duration of pendency.
3. Companies that have availed the CFSS and subsequently, cleaned-up any pending filings may apply for the immunity certificate in eForm CFSS-2020 between October 1, 2020 and March 31, 2021.

### **STATUS QUO**

1. Immunity is only limited to delayed filings, and not against any substantive violation of law.
2. For example, in case of private placements, companies are required to file eForm PAS-3 (Return of Allotment) within 15 days from the date of allotment and may only utilize the funds raised after filing of this form. While immunity will be granted for delay in filing beyond 15 days, however, no immunity will be provided if the money is utilized prior to filing of eForm PAS-3 in violation of the Companies Act, 2013.