

Companies FRESH START SCHEME and LLP SETTLEMENT SCHEME 2020

The Ministry of Corporate Affairs has introduced a FRESH START SCHEME 2020 for Companies and SETTLEMENT SCHEME 2020 for LLPs. Through the introduction of this scheme the defaulting Companies and LLP can make its default good and can start a fresh with a fully compliant Company and LLP with no payment of any additional fees or late filing fees.

FRESH START Scheme Benefits for Companies

CFSS, 2020 benefits the defaulting companies by enabling them to file all the pending documents with the Ministry by condoning the delay in filing the same with the Registrar. Consequently, the said Scheme provides the defaulting companies with an immunity and relief from paying additional fees, and being liable to any prosecutions or proceedings for the penalty imposed/to be imposed on account of delay associated with certain filings. Accordingly, such companies will only have to pay normal fees.

Imp Note: The Companies defaulted in filing Form SH:7 i.e. Alteration in Capital structure of Company and Charge creation, modification and Satisfaction forms i.e. Form CHG-1, CHG-8, CHG-4 cannot avail the benefit of this scheme.

The Companies who have done any non-compliance or contravened the provisions as per Companies Act or any other statutes cannot be made good through this scheme. The Scheme will only allow the companies to waive the additional fees and file the returns /forms within Normal fees.

Benefit of Scheme for Directors:

The Directors whose DIN are deactivated due to non-filing of KYC can make the DIN active without payment of any additional fees by filing the Form DIR-3 KYC.

Imp Note: The Disqualification of Directors on non-compliance of provisions of Companies Act cannot be made good and the benefit of this scheme shall NOT be availed by such Directors.

The Scheme shall remain in force from 01-04-2020 till 30-09-2020. All pending filings/returns/forms have to be filed within the currency of the Scheme.

Further after filing and availing the benefit of FRESH START SCHEME 2020 the Ministry of Corporate Affairs shall grant immunity certificate to such companies who have availed the benefit of scheme and filed all forms and belated returns and made the default good. The immunity certificate shall act as a Compliance Certificate stating that the Company has made all its default good and is a Compliant Company. No Prosecution, Compounding shall be levied on the Companies who have filed and taken the benefit of this scheme.

Fresh Start Scheme Benefits for LLP

The defaulting LLPs can also take the benefit of the Fresh Start Scheme 2020 and can file the belated returns forms and make the default good and start fresh as a fully compliant LLP.

The LLP can file Form 3 (i.e. filing of LLP Agreement with ROC), Form 8 and Form 11 (Annual Return and statement of Insolvency with ROC).

Imp Note: The defaulting LLP who has made the default in filing any belated return or form can only take the benefit of this Scheme. No LLP who has made any contravention or non-compliances as per the LLPs act or any other statute can be made good with this Scheme. Under the FRESH START SCHEME the Company can only waive the additional and late filing fees and complete the pending filings with ROC during the currency of scheme.

The Designated partners of the LLP whose DIN is deactivated due to non-filing of KYC can make the default good and activate the status of its DIN

The Scheme for LLP shall remain in force from 01-04-2020 till 30-09-2020. All pending filings have to be done within the currency of the Scheme.