

ACTIONS TO BE TAKEN BY CORPORATES PURSUANT TO CORPORATE SOCIAL RESPONSIBILITY (CSR) AMENDMENTS EFFECTIVE FROM 22ND JANUARY, 2021

Impact of the recent amendments on Companies/ Actions to be taken by Corporates pursuant to recent **CSR amendments applicable w.e.f. 22nd January, 2021:**

1. Mandatory Registration of Section-8 Companies/ Registered Public Trusts/ Registered Societies undertaking CSR Activities on behalf of the Company

- **Registration** of such entity shall be **mandatory** w.e.f. **1st April, 2021** by filing **form CSR 1** and a unique CRN shall be generated for each such entity.
- **Only registered public trust now allowed** as against any registered trust, except in case established by CG/SG.
- In addition to registration under respective act, **registration** under the provisions of **section 12A & 80 G** of the Income Tax has been made **mandatory**.
- These **provisions shall not affect** the CSR projects or programmes approved **prior to the 1st April 2021**.

2. CSR Policy of the Company

- The existing CSR Policy of the Company shall be amended to align it with recent amendments dated 22-Jan-2021. The same shall be done on the **recommendation of the CSR Committee** and **with the approval of the Board**.

3. Transfer/ Spend CSR Funds:

Spend the CSR Funds for identified CSR Activities/ Project in pursuance of its CSR Policy and in accordance with **Schedule VII**. The CSR activities can be undertaken by the company itself or through an implementing agency.

- **If not spent, and the unspent amount does not relate to any ongoing project:**

Transfer such unspent amount related to the previous financial year to a Fund specified in Schedule VII, **by 30th September every year;**

PMNRF, PM CARES, Swach Bharat Kosh, Clean Ganga Fund are the funds specified under Schedule VII.

- In case, the unspent amount relates to any ongoing project:

Transfer such unspent amount by **30th April**, every year in a special account to be opened by the company in any scheduled bank to be called the “*Unspent Corporate Social Responsibility Account*”. *Such amount* shall be *spent* by the company for its obligation *towards CSR within three (3) financial years*.

However, in case the Company fails to spend such amount as mentioned above, then such amount shall be transferred to a Fund specified in Schedule VII, **within (30) thirty days from the date of completion of the (3rd) third financial year**.

Further, the reasons for not spending the CSR amount during the financial year need to be disclosed in the Board’s Report.

4. Treatment of unspent CSR amount:

- The applicability of the amendments dated 22-Jan-2021 are **prospective** and therefore the **unspent CSR** amount for the financial year 2020-21 onwards shall be **transferred to the fund specified in Schedule VII** by **30th September**, unless the same pertains to any ongoing project.
- The Institute of Company Secretaries of India (ICSI) in its FAQs on CSR dated 29th April, 2021 has provided the following in respect of spending or transfer of unspent CSR amount related to previous financial years:

Extract of the FAQ issued by ICSI is reproduced below:

“If the Company has created a provision for unspent CSR obligation for the financial years 2014-15, 2015-16, 2016- 17, 2017-18, 2018-19 and 2019-20, and if such provision remains outstanding as on 31st March, 2021, such amount should be transferred to separate bank account or Fund specified in Schedule VII, as the case may be.”

- However, the Ministry of Corporate Affairs (MCA) has not specifically provided any clarification on transfer of unspent CSR amount for previous financial years till date.
- Further, the CSR obligation related to a financial year should be spent in that financial year only i.e. before 31st Mar. The Companies cannot spend the unspent CSR amount after the end of the Financial Year and if the CSR obligation which remains unspent, shall be transferred to a Fund specified in Schedule VII, unless the same pertains to any ongoing project.

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5. Any amount spent in excess of the requirements may be set off against the CSR spending requirement for succeeding financial years.

6. No requirement of constituting CSR Committee for certain companies:

- In case **Company is having CSR Expenditure less than fifty (50) lakh rupees**, the provisions related to CSR Committee shall not be applicable and the functions of such Committee shall be discharged by the Board of Directors of the company.

7. Restriction on Administrative overheads:

- Only the expenses incurred by the company for general management and administration' of CSR functions classified as Administrative overheads. The expenses directly incurred for the designing, implementation, monitoring, and evaluation of a particular Corporate Social Responsibility project or programme are specifically excluded.
- The administrative overheads **not to exceed five (5%) percent** of total CSR expenditure of the company for the financial year.

8. Identify Ongoing Projects:

- **"Ongoing Project" means a multi--year project having timelines not exceeding 3 years excluding the financial year in which it was commenced.**
- Project that was initially not approved as a multi-- year project can be made ongoing by extending the duration beyond one year by the board based on reasonable justification.

9. Prepare an Annual Action Plan

- The CSR Committee shall formulate and recommend to the Board, an annual action plan in pursuance of its CSR policy.
- Annual Action Plan to include:
 - ✓ List of CSR Projects approved
 - ✓ Manner of execution
 - ✓ Modalities of utilisation of funds and implementation schedules
 - ✓ Monitoring and reporting mechanism
- On recommendation of CSR Committee, Annual Action Plan may be altered by the Board.

10. Comply with CSR Reporting

- From financial year 1st April, 2020 onwards CSR report shall be in **Annexure- II** (newly introduced).

11. Undertake Impact Assessment

- A company having the **average CSR obligation of Rs. Ten (10) Crore or more in the three immediately preceding financial years** shall undertake impact assessment.
- Impact assessment to be **done by an independent agency** in respect of CSR projects having outlays of **one (1) crore rupees or more**, and which have been completed not less than one year before undertaking the impact study.
- The impact assessment reports shall be placed before the Board and shall be annexed to the annual report on CSR.
- Impact assessment expenditure** for a financial year shall **not exceed five percent** of the total CSR expenditure for that financial year or **fifty lakh rupees, whichever is less**.

12. Display of CSR activities on its website

- The Company shall **mandatorily** disclose the composition of the CSR Committee, CSR Policy and Projects approved by the Board on their website, if any, for public access.

13. Stringent Penal Provisions:

Now, the CSR expenditure has been made Mandatory. Any non-compliances of the CSR provisions result in the following penalties:

Company	Two (2) times the amount required to be transferred or one (1) crore rupees , whichever is less
Every Officer	Ten (10%) percent of the amount required to be transferred or Two (2) Lakh rupees , whichever is less

Disclaimer: The entire contents of this document have been prepared on the basis of relevant provisions and as per the information (FAQs/Guidelines and Circulars etc. issued by MCA/ICSI/ ICAI) existing at the time of the preparation as on 09-09-2021.

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