

MCA introduces Companies Fresh Start Scheme, modifies LLP Settlement Scheme

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Under the Companies Act 2013, every company is required to file various forms, statements, returns, etc., with the Registrar of Companies (RoC). Failure in filing these documents by the due date attracts an additional fee of upto 12 times the normal fee. In addition, the directors are also liable to prosecution in such circumstances.

In order to ease the financial burden and promoting ease of doing business, the Ministry of Corporate Affairs (MCA) has introduced a new scheme, **Companies Fresh Start Scheme, 2020**, allowing for a one-time condonation of delay in filing statutorily required documents with the RoC with the payment of any additional fees. Additionally, inactive companies can also declare themselves as 'dormant company' or apply for 'strike off'.

Salient features of the scheme

Applicability: The scheme is available from 1 April 2020 to 30 September 2020. Under the scheme, any defaulting company is permitted to file delayed forms (i.e. annual return, financial statements and various other forms) without payment of any additional fee for the delay.

The scheme is not applicable in the following circumstances:

- To companies against which action for final notice of striking off has already been initiated
- When the companies have applied for striking off
- To amalgamated companies
- When the companies have already applied for dormant status
- To vanishing companies
- When Form SH-7 (increase in authorised share capital) or CHG-1, CHG-4, CHG-8 and CHG-9 (charge related forms) is to be filed.

Immunity against prosecution/penalty for delay in filings: The defaulting company/directors will not be liable to any prosecution/ penalty for delay in filing of such forms. For getting immunity, the company is required to file Form CFSS-2020 within 6 months of closure of the scheme.

Immunity will not be applicable in any of the following cases:

- If any appeal or management disputes are pending before any court.
- If any court has ordered conviction in any matter or If adjudicating authority has imposed penalty and no appeal has been preferred against such order, before this scheme has come into force.

Withdrawal of appeal against any prosecution/penalties for delay in filings: The companies that have filed appeals against prosecution/penalties initiated by any authority for delay in filings have to withdraw such appeals and submit a proof of such withdrawal to the ROC, while applying for immunity certificate under this scheme.

Additional time of 120 days for filing appeal against orders of adjudicating authorities imposing penalties for delay in filings: An additional time of 120 days from the last date of filing appeal against the order of adjudicating authorities (If the last date falls between 1 March 2020 to 31 May 2020) for filing appeal has been granted. During this additional period, the adjudication authorities cannot raise any prosecution proceedings.

Scheme for inactive companies: Defaulting inactive companies can also:

- Apply to get themselves declared as dormant company
- Apply for strike off of name

Extension of LLP Settlement Scheme, 2020

The MCA has also extended the LLP Settlement Scheme and consequently the last date for filing related forms till 30 September 2020.

Any defaulting LLP is permitted to file delayed forms with nominal late fee, if they were due for filing till 31 August 2020.

Contact us

To know more, please visit www.grantthornton.in or contact any of our offices as mentioned below:

NEW DELHI National Office Outer Circle L 41 Connaught Circus, New Delhi 110 001 T +91 11 4278 7070	NEW DELHI 6th floor, Worldmark 2, Aerocity, New Delhi – 110 037 T +91 11 4952 7400	AHMEDABAD 7th Floor, Heritage Chambers, Nr. Azad Society, Nehru Nagar, Ahmedabad – 380 015	BENGALURU 5th Floor, 65/2, Block A, Bagmane Tridib, Bagmane Tech Park, C V Raman Nagar, Bengaluru – 560 093 T+91 80 4243 0700	CHANDIGARH B-406A, 4th Floor, L&T Elante office Building Industrial area, Phase-I, Chandigarh 160 002 T +91 172 4338 000
CHENNAI 7th Floor, Prestige Polygon 471, Anna Salai, Teynampet Chennai - 600 018 T +91 44 4294 0000	DEHRADUN Suite No 2211, 2nd Floor Building 2000 Michigan Avenue, Doon Express Business Park, Subhash Nagar, Dehradun 248 002 T +91 135 264 6500	GURGAON 21st Floor DLF Square Jacaranda Marg, DLF Phase II, Gurgaon 122 002 T +91 124 462 8000	HYDERABAD 7th Floor, Block III White House Kundan Bagh, Begumpet Hyderabad 500 016 T +91 40 6630 8200	KOCHI 7th Floor, Modayil Centre Point, Warriam Road Junction, MG Road, Kochi 682 016 T +91 484 406 4541
KOLKATA 10C Hungerford Street 5th Floor, Kolkata 700 017 T +91 33 4050 8000	MUMBAI 16th Floor, Tower II Indiabulls Finance Centre SB Marg, Prabhadevi (W) Mumbai 400 013 T +91 22 6626 2600	MUMBAI Kaledonia, 1st Floor, C Wing (Opposite J&J office) Sahar Road, Andheri East, Mumbai - 400 069 T +91 22 6176 7800	NOIDA Plot No. 19A, 7th Floor Sector – 16A, Noida 201 301 T +91 120 4855 900	PUNE 3rd Floor, Unit No 309 to 312, West Wing, Nyati Unitree Nagar Road, Yerwada Pune- 411 006 T +91 20 6744 8800

For more information or for any queries, write to us at contact@in.gt.com



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