

MYTHS & MYSTERIES OF DRAFT CSR RULES' 2020



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INTRODUCTION

- 1.1.1** The Ministry of Corporate Affairs, Government of India has issued draft of “The Companies (Corporate Social Responsibility Policy) Amendment Rules, 2020”. The Government has invited comments and feedbacks to these rules. These Rules have proposed considerable and far reaching changes in the existing Companies (CSR) Rules 2014. Some of the major issues and recommendations thereof are discussed here. The proposed rules are provided in **Annexure 1**.

INTERNATIONAL ORGANIZATION AND ITS ROLE UNDER CSR

- 1.2.1** The sub clause 3 of Rule 4 of the proposed Rules provide that under CSR a company may engage international organizations for designing, monitoring and evaluation of the CSR projects or programmes as per its CSR policy as well as for capacity building of their own personnel for CSR.
- 1.2.2** The company may also engage an international organization for implementation of a CSR project subject to prior approval of the central government.
- 1.2.3** In other words, international organisations can participate both as consultant and also as implementing partner. The implementation work by international organisation can only be done with prior approval of Government but there is no such requirement for international entity working as consultants.
- 1.2.4** **Definition of International Organisation :** The proposed amendment has defined under Rule 2(f) as “*International Organization*” means an organization notified by the Central Government as an international organization under section 3 of the United Nations (Privileges and immunities) Act, 1947 (46 of 1947), to which the provisions of the Schedule to the said Act apply.”
- 1.2.5** *With the above, the CSR space shall be open to international consultants and implementors. However, in India international organisations can engage in*

charitable activities subject to the provisions of Income Tax Act, FCRA and FEMA. It is not clear how these laws will apply to such institutions.

ADMINISTRATIVE EXPENSES & IMPACT ASSESSMENT

1.3.1 The existing Rule 4(6) provides that the expenditures on capacity building and expenditure on administrative overhead shall not exceed 5% of total CSR expenditure of the company in one financial year. The existing rule further provides that the Companies may build CSR capacities of their own personnel as well as of their Implementing agencies through Institutions with established track records of at least three financial years. This Rule 4(6) has been deleted.

1.3.2 The above situation is covered under proposed rule 7(1) which provides:

“CSR Expenditure: (1) The board shall ensure that the administrative overheads incurred in pursuance of sub-section (4) (b) of section 135 of the Act shall not exceed five percent of total CSR expenditure of the company for the financial year.

Provided that a company undertaking impact assessment, in pursuance of sub-rule (3) of Rule 8, may incur administrative overheads not exceeding ten percent of total CSR expenditure for that financial year.”

1.3.3 Implication of proposed change :

- (i) **5% cap on administrative expenses** : The proposed rule 7(1) provides that the board shall ensure that the administrative overheads incurred in pursuance of section 135(4)(b) of the Act shall not exceed five percent of total CSR expenditure of the company for the financial year.
- (ii) **10% cap on administrative expenses plus impact assessment** : In addition to the above, a company undertaking impact assessment, in pursuance of sub-rule (3) of Rule 8, may incur administrative overheads not exceeding ten percent of total CSR expenditure for that financial year.

A company having the obligation of spending average CSR amount of Rs 5 Crore or more in the three immediately preceding financial years in pursuance of sub section 5 of Section 135 of the Act, shall undertake impact assessment for their CSR projects or programmes, and shall disclose details of the same in its Annual Report on CSR.

- (iii) The exclusion of the words '*expenditure on capacity building including expenditure on administrative head*' in the proposed rules implies that the expenditure on capacity building of employees will no longer be covered under the cap of administrative expenditure. However clarity is needed in this whether capacity building of employees can be treated as CSR expenditure and if so to what extent.
- iv) Moreover, the requirement of having established track record of at least three Financial Years for any implementing agency to act as a consultant to build CSR capacities is also done away with. This change will result in dilution of the importance of reputed charitable organisation and companies will be free to work with anybody including a new and inexperienced organisation.

1.3.4 The cap on administrative expenditure is only 5% and it will result in implementation challenges. It seems that the administrative expenses cap shall not apply to salaries of personnel engaged in implementation. However, such clarity has to be provided in the rules. For instance, the Rule 5 of FCR Rules 2011 provides a 50% cap on administrative expenditure, it further provides that administrative expenditure shall not include expenses on direct implementation such as salary of doctor, teacher etc.

1.3.5 **Recommendation :** *The 5% cap should be reconsidered as administrative expenditure including those on programme administration may not be feasible within 5%. Further, a proviso should be added similar to Rule 5 of FCR Rules 2011 clarifying that administrative expenditure shall not include expenses on direct implementation.*

Clarity is needed in this whether capacity building of employees can be treated as CSR expenditure and if so to what extent.

There should be some minimum criteria regarding experience and expertise of implementing organisations.

CONFUSION ON WHETHER SOCIETY/ TRUST CAN IMPLEMENT CSR ACTIVITIES

1.4.1 *CSR Implementation* - The proposed Rule 4(1) states as under :

“The Board shall ensure that the CSR activities are undertaken by the company itself or through:

- (a) a company established under section 8 of the Act, or*
- (b) any entity established under an Act of Parliament or a State legislature.*

Provided that such company/entity, covered under clause (a) or (b), shall register itself with the central government for undertaking any CSR activity by filing the e-form CSR-1 with the Registrar along with prescribed fee.”

1.4.2 **As per the present Rule 4 (2) provides that :**

The Board of a company may decide to undertake its CSR activities approved by the CSR Committee, through

- (a) a company established under section 8 of the Act or a registered trust or a registered society, established by the company, either singly or alongwith any other company, or**
- (b) a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government or any entity established under an Act of Parliament or a State legislature :**

Provided that if, the Board of a company decides to undertake its CSR activities through a company established under section 8 of the Act or a registered trust or a registered society, other than those specified in this sub-rule, such company or trust or society shall have an established track record of three years in undertaking similar programs or projects; and the

company has specified the projects or programs to be undertaken, the modalities of utilisation of funds of such projects and programs and the monitoring and reporting mechanism.

1.4.3 Trust and Societies barred under Rule 7(3) and not clearly included under Rule 4(1) : When we compare the proposed rules with the present rule, we find all words in bold letters out of the present rule has been deleted and therefore, it can be interpreted as under.

1.4.4 The present rule covers :

- (a) a registered trust, society or section 8 company established by the corporate implementing CSR.
- (b) an entity established by the central government state and
- (c) and the Proviso cover other entities in the form of registered trust, registered society or a Sec. 8 company, provided they have 3 years track records.

The new rules have deleted the proviso which implies that only a Sec. 8 Company or an entity established by the state are eligible to implement the CSR activities. The Trust and Society have not been specifically mentioned.

Further, when we read the proposed modification as per Rule 7(3) which provides that CSR assets can only be held by the company established under Sec. 8 of the companies act or by a public authority and all assets created prior to the commencement of proposed rule shall comply with this requirement within the indicated time frame. **In other words, Rule 7(3), at least, clearly excludes trust and societies from holding CSR assets, which would technically make trust and societies ineligible even if, they are covered under Rule 4(1).**

1.4.5 There is also a new requirement of registration by CSR-1 form for the entities which are eligible to implement the CSR activities and this form needs to be certified by a practicing chartered accountant. A certification by chartered accountants would also required clarification whether Rule 4(1) would cover Trust and Societies also.

1.4.6 Can the rules be interpreted to include almost any entity : The above rule has not clearly stated that an NGO registered as a trust or society shall be

eligible to implement CSR programme or not. It is a subject matter of interpretation whether the clause “any entity established under an Act of Parliament or a State legislature” shall include a trust or a society or not. Even if the above clause includes a trust or a society, it lacks clarity and it will be difficult for a corporate to work with a trust or society unless the Rules are amended or a clarificatory circular is released.

- 1.4.7** For technical analysis it may be noted that with regard to a registered trust, MCA had clarified that if a trust is unregistered (in India oral and unregistered trust are also valid), then the registration under Income Tax shall be considered as the document of registration. The MCA vide general circular 21 /2014 had issued this clarification with respect to a registered trust. As per the clarification, the registered trusts would include trusts registered under income Tax Act, 1961 for those states where registration of trust is not mandatory.
- 1.4.8** The proposed Rule 4(b) clearly states that any entity established under any act of parliament or state legislature can undertake the CSR activity. There is a distinction between an entity established **under** any act of parliament or state legislature and established **by** any act of parliament or state legislature. For instance, an university or a national level institution like IIM, Ahmedabad is established **by** an act of parliament. In other words, a particular institution is created by the parliament or state legislature. But the word used in the proposed Rule 4(b) is **under** and not **by**, therefore, any entity established under any act of parliament or state legislature should qualify under this rule.
- 1.4.9** The language of Rule creates doubt and confusion. On one hand it seems only section 8 company and certain privileged institutions are eligible for CSR while on the other hand it may be interpreted to allow all kind of institutions to conduct CSR. This is in consonance with the other amendment regarding allowing international institutions to implement CSR. All entities are registered under some law enacted by the parliament or the state legislature. A society is established under Societies registration Act which is a state legislature. A public charitable trust is established under the state legislature in few states like Maharashtra and Gujarat. In states where there is no specific legislation for registration of public charitable trusts, to establish a trust only a trust deed is registered under the Indian Registration Act, 1908 (an act of parliament).

1.4.10 Implications if Trust or Societies are barred from CSR : If Trusts or Societies are barred from CSR, there will be lot of chaos and harassment without any real threat to existing trust and societies engaged in CSR. The Board of such organisations will start registering section 8 company and obtain provisional registration under section 12AB of the Income Tax Act. It may be noted that the amended income tax law allows provisional registration under section 12AB without any verification. The proposed rules for CSR have not prescribed any minimum experience (years of existence) for implementing institutions.

1.4.11 Recommendation : *The Rule 4(1) should clearly state that all the three i.e. Section 8 company, trust and society shall be eligible for implementation of CSR programme. The rules should not allow other non charitable or commercial entities to implement CSR programme. A charitable entity implements the activity as a trustee and a consultant implements them as a contractor. The distinction between the two needs to be maintained.*

The Rule 7(3) should not be restricted only to section 8 company, there is no intelligible differentia between section 8 company and a trust or society, therefore, such provision would be violative of article 14 of the Constitution of India.

Lastly, the Rule 4(1) should not be broad and vague to allow any kind of entity whether commercial or charitable, whether inexperienced or experienced. Such provisions will only encourage misuse of CSR provisions.

UNSPENT BALANCE TOWARDS

FULFILMENT OF CSR OBLIGATION

1.5.1 National Unspent Corporate Social Responsibility Fund : The Proposed Rule 10 provides that

“(1) The Central Government shall establish a fund called the “National Unspent Corporate Social Responsibility Fund” (herein after referred as “the Fund”) for the purposes of sub-section (5) and (6) of section 135 of the Act. The Fund shall be utilized for the purposes of undertaking CSR projects in the in areas or subjects specified in schedule VII of the Act. Provided that

until such fund is created the unspent CSR amount in terms of provisions of sub-section (5) and (6) of section 135 of the Act shall be transferred by the company to any fund as specified in schedule VII of the Act.

- (2) *The manner of administration, authority for administration of the Fund shall be in accordance with such guidelines as may be prescribed by the Central Government from time to time."*

1.5.2 Transfer of Unspent Balance to Special Account "Unspent Balance Social Responsibility Account" : The Proposed rule 7(4) provides that :

"Unspent balance, if any, towards fulfilment of CSR obligation at the time of commencement of these Rules shall be transferred within a period of thirty days from the end of Financial Year 2020-21 to special account viz., 'Unspent Corporate Social Responsibility Account' opened by the company and such amount shall be spent by the company in pursuance of its obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer, failing which, the company shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year."

1.5.3 Penalty for Unspent Balance and Transfer to Special Account "Unspent Balance Social Responsibility Account" : The Proposed section 135(7) of the companies act provides that :

- "(7) If a company is in default in complying with the provisions of sub-section (5) or sub-section (6), the company shall be liable to a penalty of twice the amount required to be transferred by the company to the Fund specified in Schedule VII or the Unspent Corporate Social Responsibility Account, as the case may be, or one crore rupees, whichever is less, and every officer of the company who is in default shall be liable to a penalty of one-tenth of the amount required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be, or two lakh rupees, whichever is less.";*

1.5.4 In the light of the above amendments any Unspent balance towards fulfilment of CSR obligation shall be required to be transfer to a special account called “*Unspent Corporate Social Responsibility Account*” and this amount shall have to be spent within a period of three financial years. Any unspent balance after the indicated time frame shall have to be transferred to “*National Unspent Corporate Social Responsibility Fund*” to be constituted by the government.

The under spending in CSR amount shall also result in penalties to be paid both by the Company and by every officer of the company who is in default and amount of penalty needs to transferred to unspent Corporate Social Responsibility Fund/unspent Corporate Social Responsibility Account.

1.5.5 Recommendation : *The Rule regarding transfer of fund to “National Unspent Corporate Social Responsibility Fund” and penalties for under spending in CSR amount should be revisited for following reasons :*

- (i) Any under spending will be hastily transferred to other organisation under Rule 4(1). Under the current law the grant itself will be treated as utilisation in the books of the company.
- (ii) Under spending sometimes is unavoidable and such circumstances needs ot be factored in.

EXCESS SPENDING OVER THE CSR OBLIGATION AND CARRY FORWARD

1.6.1 Proposed proviso to section 135(5) provides that :

"Provided also that if the company spends an amount in excess of the requirements provided under this sub-section, such company may set off such excess amount against the requirement to spend under this sub-section for such number of succeeding financial years and in such manner, as may be prescribed."

Hence the proposed amendment allows the excess expenditure incurred during any year to be set off out of their obligation in the succeeding Financial Years in such manner as may be provided by the rules.

NO REQUIREMENT OF CSR COMMITTEE IN CERTAIN CASES

1.7.1 Proposed new sub-section 9 to section 135 provides that :

“Where the amount to be spent by a company under sub-section (5) does not exceed fifty lakh rupees, the requirement under sub-section (1) for constitution of the Corporate Social Responsibility Committee shall not be applicable and the functions of such Committee provided under this section shall, in such cases, be discharged by the Board of Directors of such company.”

Hence as per the proposed modification, constitution of CSR committee is not required in case where the amount to be spent by a company under sub-section (5) does not exceed fifty lakh rupees and under such cases functions of such Committee be discharged by the Board of Directors of such company.

USE OF CSR FUND TOWARDS CORPUS AND FOR CREATION OR ACQUISITION OF ASSETS

1.8.1 Existing Rule 7 allowing CSR expenses to include contribution towards corpus has been deleted. The Proposed Rule 7(3) provides that :

“The CSR amount may be spent by a company for creation or acquisition of assets which shall only be held by a company established under section 8 of the Act having charitable objects or a public authority.”

Provided that any asset created by a company prior to the commencement of Companies (CSR Policy) Amendment Rules, 2020, shall within a period

of One hundred and eighty days from such commencement comply with the requirement of this rule, which may be extended by a further period of not more than ninety days with the approval of the board based on reasonable justification.”

1.8.2 CSR amount may be spent on creation or acquisition of assets but shall be held only by section 8 company having charitable objectives or a public authority. Existing assets created out of CSR shall comply with the requirement of above rule meaning all the existing assets need to be transferred to section 8 company within the indicated time line in the proposed rule.

1.8.3 Recommendation : *This Rule 7(3) is arbitrary needs to be revisited for the following reasons :*

- (i) *It does not distinguish between a project asset and a corpus assets. Even a bank term deposit is a corpus assets. Further, project assets such as hospital building cannot be considered as an asset in the sense of investment. This Rule will create confusion regarding assets particularly required for programme.*
- (ii) *If the reference is to project asset then only section 8 company cannot be empowered to hold such assets. On the contrary if the reference is to asset in the nature of investment then there is no reason to allow companies to park such funds in a section 8 company.*

CSR ACTIVITIES AND EMPLOYEES AS BENEFICIARY

1.9.1 Rule 2 to proposed CSR Rules provides that the following activities shall not be included in CSR:

“iv) activities that significantly benefit the employees of the company and their families –

Provided that in case of any activity having less than twenty five percent employees as its beneficiary, then such activity shall be deemed to be CSR activity under these rules.”

1.9.2 Hence as per proposed amendment if any activity that significantly benefits the employee of the company or their families, shall not come under the coverage of CSR activities. However, the Proviso provides an exception allowing activity towards less than 25% of employees as its beneficiary, then such activity shall be deemed to be CSR activity under these rules.

1.9.3 The above proposed amendment can be subject to subjectivity and interpretations on the following situations :

- a) The first condition that the activities that significantly benefit the employees and their company or families shall not be included as a CSR activity. The phrase “significantly benefit” is a subjective issue and shall always be under debate as to what shall constitute significantly benefit.
- b) There may be of situation where the CSR activity covers only 10% of the employees i.e. less than 25% as provided for but it represents more than 25% of the CSR expenses or say 70%, then whether such activity shall qualify CSR or not?
- c) If some activity is towards the benefits of a select group of privileged employees, even then such expenses will be treated as valid CSR expenses.

1.9.4 Recommendation : *The Rule 2(iv) should be modified suitably as the current provisions are vague and prone to misuse.*

- *Firstly, there should be a financial limit for providing benefits to employees,*
- *Secondly such benefit should be generic or kind of common facilities with the onus on the company to justify why it should not be considered as business expenditure which otherwise should have been incurred by the company,*
- *Lastly it should be ensure that the benefits reaches the poorest and deserving employees*

DRAFT OF COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY) RULES, 2014

[To be published in the Gazette of India, Extraordinary, part II, section 3, subsection (i)]

GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION

New Delhi, the March, 2020

G.S.R...(E).- In exercise of the powers conferred by section 135 and subsections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Corporate Social Responsibility Policy) Rules, 2014, namely:-

1. Short title and commencement. - (1) These rules may be called the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2020.
 - (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Corporate Social Responsibility Policy) Rules, 2014, in rule 2, in sub-rule (1) -
 - (i) for clause (c), the following clause shall be substituted, namely :-

“(c) Corporate Social Responsibility (CSR)” means the activities undertaken by a Company in pursuance of its statutory obligation laid down in section 135 of the Act in accordance with the provisions contained in these Rules, but shall not include the following, namely

 - i) Activities undertaken in pursuance of normal course of business of the company.
 - ii) Any activity undertaken by the company outside India.
 - iii) Contribution of any amount directly or indirectly to any political party under section 182 of the Act.
 - iv) activities that significantly benefit the employees of the company and their families.

Provided that in case of any activity having less than twenty five percent employees as its beneficiary, then such activity shall be deemed to be CSR activity under these rules.”;

- (ii) for clause (e), the following clause shall be substituted, namely :-
- “(e) "CSR Policy" means a statement containing the approach and direction given by the board of a company, as per recommendations of its CSR Committee, for selection, implementation and monitoring of activities to be undertaken in areas or subjects specified in Schedule VII of the Act.”
- (iii) for clause (f), the following clause shall be substituted, namely :-
- “(f) "International Organization" means an organization notified by the Central Government as an international organization under section 3 of the United Nations (Privileges and immunities) Act, 1947 (46 of 1947), to which the provisions of the Schedule to the said Act apply.”
- (iv) after clause (f) , following sub-clauses shall be inserted, namely:-
- “(g) "Net profit" means the net profit of a company as per its financial statement prepared in accordance with the applicable provisions of the Act, but shall not include the following, namely: -
- (i) any profit arising from any overseas branch or branches of the company, whether operated as a separate company or otherwise; and
 - (ii) any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Act:

Provided that net profit in respect of a financial year for which the relevant financial statements were prepared in accordance with the provisions of the Companies Act, 1956, (1 of 1956) shall not be required to be re-calculated in accordance with the provisions of the Act:

Provided further that in case of a foreign company covered under these rules, net profit means the net profit of such company as per profit and loss account prepared in terms of clause (a) of sub-section (1) of section 381 read with section 198 of the Act.

- (h) "Ongoing Projects" means a multi-year project undertaken by a Company in fulfillment of its CSR obligation having timelines not exceeding three years excluding the financial year in which it was commenced, and shall also include such projects that were initially not approved as a multi-year project but whose duration has been extended beyond a year by the Board based on reasonable justification.
- (i) "Public Authority" means 'Public Authority' as defined in subclause (h) of section (2) of Right to Information Act, 2005."
3. In the said Rules, in Rule 3, in sub-rule (2), in clause (b) for the words, brackets and figure 'sub-section (2) to (5)', the words, brackets and figure 'subsection (2) to (8)' shall be substituted;
4. In the said Rules, for rule 4, the following rules shall be substituted, namely:-
- "CSR Implementation - (1)** The Board shall ensure that the CSR activities are undertaken by the company itself or through:
- (a) a company established under section 8 of the Act, or
- (b) any entity established under an Act of Parliament or a State legislature.
- Provided that such company/entity, covered under clause (a) or (b), shall register itself with the central government for undertaking any CSR activity by filing the e-form CSR-1 with the Registrar along with prescribed fee.
- Provided further that the provisions of this sub-rule shall not affect the CSR projects or programmes that were approved prior to the commencement of the Companies (CSR Policy) Amendment Rules, 2020.
- (2) A company may also collaborate with other companies for undertaking projects or programmes or CSR activities in such a manner that the CSR committees of respective companies are in a position to report separately on such projects or programmes in accordance with these rules.
- (3) A company may engage international organizations for designing, monitoring and evaluation of the CSR projects or programmes as per its CSR policy as well as for capacity building of their own personnel for CSR.
- Provided that a company may also engage an international organization for implementation of a CSR project subject to prior approval of the central government.

- (4) Board of a company shall satisfy itself that the funds so disbursed have been utilized for the purpose and in the manner as approved by it and Chief financial Officer or the person responsible for financial management shall certify to the effect.
- (5) In case of ongoing projects, the Board of a company shall monitor the implementation of the project with reference to the approved timelines and year wise allocation and shall be competent to make modifications, if any, for smooth implementation of the project within the overall permissible time period.”
5. In the said Rules, in rule 5, for sub-rule (2), the following sub-rule shall be substituted, namely:-
- “(2) The CSR Committee shall formulate and recommend to the Board, an annual action plan in pursuance of its CSR policy, which shall include the following:
- (a) the list of CSR projects or programmes that are approved to be undertaken in areas or subjects specified in Schedule VII of the Act;
 - (b) the manner of execution of such projects or programmes as specified in sub-rule (1) of Rule 4;
 - (c) the modalities of utilization of funds and implementation schedules for the projects or programmes; and
 - (d) monitoring and reporting mechanism for the projects or programmes.
 - (e) Details of need and impact assessment, if any, undertaken by the company.”
6. In the said Rules, Rule 6 shall be omitted.
7. In the said Rules, for rule 7, the following rules shall be substituted, namely:-
- “CSR Expenditure :** (1) The board shall ensure that the administrative overheads incurred in pursuance of sub-section (4) (b) of section 135 of the Act shall not exceed five percent of total CSR expenditure of the company for the financial year.
- Provided that a company undertaking impact assessment, in pursuance of sub-rule (3) of Rule 8, may incur administrative overheads not exceeding ten percent of total CSR expenditure for that financial year.
- (2) Any surplus arising out of the CSR projects or programmes or activities

shall not form part of the business profit of a company and shall be ploughed back into the same project or shall be transferred to the Unspent CSR Account and spent in pursuance of CSR policy and action plan of the company.

- (3) The CSR amount may be spent by a company for creation or acquisition of assets which shall only be held by a company established under section 8 of the Act having charitable objects or a public authority.

Provided that any asset created by a company prior to the commencement of Companies (CSR Policy) Amendment Rules, 2020, shall within a period of One hundred and eighty days from such commencement comply with the requirement of this rule, which may be extended by a further period of not more than ninety days with the approval of the board based on reasonable justification.

- (4) Unspent balance, if any, towards fulfilment of CSR obligation at the time of commencement of these Rules shall be transferred within a period of thirty days from the end of Financial Year 2020-21 to special account viz., 'Unspent Corporate Social Responsibility Account' opened by the company and such amount shall be spent by the company in pursuance of its obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer, failing which, the company shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year."

8. In the said Rules, in rule 8, after sub-rule (2), following sub-rule shall be inserted, namely:-

"(3) A company having the obligation of spending average CSR amount of Rs 5 Crore or more in the three immediately preceding financial years in pursuance of sub section 5 of Section 135 of the Act, shall undertake impact assessment for their CSR projects or programmes, and shall disclose details of the same in its Annual Report on CSR."

9. In the said Rules, for rule 9, the following rules shall be substituted, namely:-

"Display of CSR activities on its website: The Board of Directors of the company shall mandatorily disclose the composition of the CSR Committee, and CSR Policy and Projects approved by the Board on their website for public viewing, as per the particulars specified in the Annexure."

10. In the said Rules, after rule 9, following rule shall be inserted, namely:-

“ Rule 10 :National Unspent Corporate Social Responsibility Fund :

(1) The Central Government shall establish a fund called the “National Unspent Corporate Social Responsibility Fund” (herein after referred as “the Fund”) for the purposes of sub-section (5) and (6) of section 135 of the Act. The Fund shall be utilized for the purposes of undertaking CSR projects in the in areas or subjects specified in schedule VII of the Act.

Provided that until such fund is created the unspent CSR amount in terms of provisions of sub-section (5) and (6) of section 135 of the Act shall be transferred by the company to any fund as specified in schedule VII of the Act.

(2) The manner of administration, authority for administration of the Fund shall be in accordance with such guidelines as may be prescribed by the Central Government from time to time.”

11. In the said rules, in the annexure,-

(i) The e-form CSR-1 shall be inserted, namely:

CSR-1 (Pursuant to section 135 of the Companies
Act, 2013 And Rule 4(1) of Companies (CSR Policy) Rules,2014)

Registration of Entities for undertaking CSR Activities

[All fields are mandatory]

(All figures are in INR)

Form language

English Hindi

1. Name of Entity
2. Nature of the Entity Company established under section 8 of the Companies Act, 2013
 Entity established under an act of Parliament or State Legislature
3. CIN of the Entity, if applicable
4. Registered Address of the Entity
(Auto fill in case of Company established under section 8 of the Companies Act, 2013)
5. E-Mail
6. Enter OTP for email ID
7. PAN No. of the Organization
(Auto fill in case of Company established under section 8 of the Companies Act, 2013)
8. GSTIN of the organization
(Auto fill in case of Company established under section 8 of the Companies Act, 2013)
9. **Details of Chairman/ President/Secretary, in case of entity established under an act of Parliament or State Legislature:**

S.No.	Name	Designation	E-mail ID

10. Attachments:

a. Optional attachment(s), if any

List of Attachments:
Remove attachment

Declaration

I am authorized by the Board of Directors of the Company vide *resolution number _____ dated ____ to sign this form and declare that all the requirements of Companies Act, 2013 and the rules made thereunder in respect of the subject matter of this form and matters incidental thereto have been complied with. I further declare that:

1. Whatever is stated in this form and in the attachments thereto is true, correct and complete and no information material to the subject matter of this form has been suppressed or concealed and is as per the original records maintained by the company.
2. All the required attachments have been completely and legibly attached.

To be Digitally signed by

Designation

DIN/PAN/Membership number

Certificate by Practicing professional

I declare that I have been duly engaged for the purpose of certification of this form. It is hereby certified that I have gone through the provisions of the Companies Act, 2013 and Rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachment(s)) from the original/certified records maintained by the Company/applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed. I further certify that:

1. The said records have been properly prepared, signed by the required officers of the Company and maintained as per the relevant provisions of the Companies Act, 2013 and were found to be in order;
2. All the required attachments have been completely and legibly attached to this form;
3. It is understood that I shall be liable for action under Section 448 of the Companies Act, 2013 for wrong certification, if any found at any stage

* Chartered Accountant (in whole time practice)

* Company Secretary (in whole time practice)

* Cost Accountant (in whole time practice)

(Whether fellow or associate)

Note: Attention is drawn to provisions of Section 448 and 449 which provide for punishment for false statement/certificate and punishment for false evidence respectively.

This e-Form has been taken on file maintained by the register of companies through electronic mode on the basis of statement of correctness given by the Director and professional.

Note:- All drop down to be radio buttons.

(ii) For "format for the annual report on CSR activities to be included in the Board's Report ", the following format shall be substituted, namely:-

ANNEXURE

FORMAT FOR THE ANNUAL REPORT ON CSR ACTIVITIES TO BE INCLUDED IN THE BOARD'S REPORT

1. CSR Policy of the Company
2. Composition of CSR Committee:

S. No.	Name of Director	DIN	Designation / Nature of Directorship	No. of meetings of CSR Committee held during the year	No. of meetings of CSR Committee during the year

3. Provide the web-link where Composition of CSR committee, CSR Policy and CSR projects approved by the board is disclosed on the website of the company
4. Provide the details of Impact assessment of CSR projects carried out in pursuance of sub-rule (3) of Rule 8 of Companies (CSR Policy) Rules, 2014, if applicable (attach the report)

5. Average net profit of the company as per section 135(5)
6. (a) Two percent of Average net profit of the company as per section 135(5)
 (b) Surplus arising out of the CSR projects/ programmes or activities for the financial year
 (c) Total CSR obligation for the financial year (6a+6b)
7. (a). CSR amount spent / unspent for the financial year:

Total Amount Spent for the Financial Year	Amount Unspent			
	Total Amount transferred to Unspent CSR Account as per Section 135(6)		Amount transferred to National Unspent CSR Fund as per second proviso to Section 135(5)	
	Amount	Date of transfer	Amount	Date of Transfer

(b) . Details of CSR amount spent against ongoing projects for the financial year:

1	2	3	4	5	6		7	8	9	10	11	12	
S. No.	Name of the Project	Project ID (if available)	Item from the list of activities in schedule VII	Local Area (Yes/No)	Location of the Project		Project duration	Amount allocated for the project (in Rs.)	Amount spent in the Current Financial Year (in Rs.)	Amount transferred to Unspent CSR Account for the project as per Section 135(6) (in Rs.)	Mode of Implementation - Direct (Yes/No)	Mode of Implementation - Through Implementing Agency	
					State	District						Name	CIN
1													
2													
3													
4													
							Total						

(c). Details of CSR amount spent against other than ongoing projects for the financial year:

1	2	3	4	5	6		7	8	9	
S. No.	Name of the Project	Project ID(if available)	Item from the list of activities in schedule VII	Local Area (Yes/No)	Location of the Project		Amount Spent for the project (in Rs.)	Mode of Implementation - Direct (Yes/No)	Mode of Implementation - Through Implementing Agency	
					State	District			Name	CIN
1										
2										
3										
4										
							Total			

(d). Amount spent in Administrative Overheads

(e). Total Amount Spent for the Financial Year (7b+7c+7d)

8. (a) Details of CSR amount spent/ unspent for the preceding three financial years:

1	2	3	4		5
Preceding Financial Year	Amount transferred to Unspent CSR Account under section 135 (6)	Amount Spent in the Current Financial Year(in Rs)	Amount transferred to National Unspent CSR Fund as per second proviso to Section 135(5), if any		Amount remaining to be spent in succeeding financial years
			Amount (in Rs)	Date of Transfer	

(b) Details of CSR amount spent for ongoing projects of the preceding financial year(s):

1	2	3	4	5	6		7	8	9	10	11	12	13	
S. No.	Project ID	Name of the Project	Item from the list of activities in schedule VII	Local Area (Yes/No)	Location of the Project		Financial Year in which the project was commenced	Project duration	Total amount allocated for the project (in Rs.)	Amount Spent in the Current Financial Year(in Rs)	Cumulative Amount Spent till Current Financial Year	Mode of Implementation - Direct (Yes/No)	Mode of Implementation - Through Implementing Agency	
					State	District							N a m e	C I N
1														
2														
3														
4														

9. Amount transferred to 'Unspent CSR Account' pursuant to sub-rule (4) of Rule 7 of Companies (CSR Policy) Rules, 2014 for the financial year 2014-15 to 2019-20

S. No.	Preceding Financial Year	Amount transferred to Unspent CSR Account under section 135 (6)
1		
2		
3		
4		
5		
6		
Total		

10. In case of creation or acquisition of asset, furnish the details relating to the asset so created or acquired through CSR spent in the financial year.
- Date of creation/acquisition of the asset(s)
 - Amount of CSR spent for creation/acquisition of asset
 - Details of the entity/public authority under whose name such asset is registered, address etc.
 - Provide details of the property or asset(s) created/acquired (including complete address and location of the property)
11. Specify the reason(s) if the company has failed to spend two per cent of the average net profit as per section 135(5):

Sd- (Chief Executive Officer or Managing director or Director)	Sd- (Director or Chief Financial Officer)	Sd- (Person specified under clause (d) of sub-section (1) of Section 380 of the Act) (wherever applicable)
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[File No. 05/05/2015-CSR]

(Gyaneshwar Kumar Singh)

Joint Secretary to the Government of India

Note.— The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 129(E), dated the 27th February, 2014 and were subsequently amended by notification number G.S.R. 644(E), dated the 12th September, 2014, notification number G.S.R. 43(E), dated the 19th January, 2015 and notification number G.S.R. 540 (E) dated 23rd May, 2016, notification number G.S.R. 895(E) dated 19th September, 2018.

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