

CORPORATE SOCIAL RESPONSIBILITY

What is Corporate Social Responsibility?

Corporate Social Responsibility means social responsibility of a corporate. A company is an artificial person (Corporate Person). The survival of its business depends on long term prosperity of the society. It takes resources from the society and creates profit by providing goods and services to the society. Therefore, the net effect of its operations shall be positive on the society.

Just like a natural person, every company shall fulfil its responsibilities towards the society. Every company shall contribute to the nation's sustainable development goals.

Thus CSR is about how business takes into account the economic, social and environmental impact of the way in which it operates.

According to Michel Hopkins, Corporate Social Responsibility is concerned with treating the stakeholders of a company ethically or in a responsible manner.

Provisions Companies Act, 2013 with respect to CSR (Section 135)

Applicability [Subsection 1]

Every company having

- net worth of Rs. 500 crore or more, or
- turnover of Rs. 1000 crore or more or
- a net profit of Rs. 5 crore or more

during the immediately preceding financial year shall constitute a CSR Committee of the Board of Directors.

Minimum number of directors in CSR Committee and requirement of 1 Independent Director

Such committee shall consist of 3 or more directors, out of which at least one director shall be an independent director.

Where a company is not required to appoint an independent director, it shall have in its CSR Committee 2 or more directors.

Rule 3 of Corporate Social Responsibility Rules 2014

Every company including its holding or subsidiary, and a foreign company having its branch office or project office in India, which fulfills the criteria specified in Section 135(1) shall comply with the provisions of section 135 of the Act and these rules.

Every company which ceases to be a company covered under Section 135(1) for 3 consecutive financial years shall not be required to -

- (a) constitute a CSR Committee; and
- (b) comply with the provisions contained in sub-section 2 to 6 of Section 135,

till such time it meets the criteria specified in sub-section (1) of section 135.

Section 135(9)

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.

Disclosure in BOD's Report [Subsection 2]

The Board's report under [Section 134](#) shall disclose the composition of the CSR Committee.

Functions of CSR Committee [Subsection 3]

The Corporate Social Responsibility Committee shall,—

- (a) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company in areas or subject, specified in [Schedule VII](#);
- (b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and
- (c) monitor the Corporate Social Responsibility Policy of the company from time to time.

Rule 5 of Corporate Social Responsibility Rules 2014

The companies mentioned in the rule 3 shall constitute CSR Committee as under.-

- (i) a **company** which is not required to appoint an independent director shall have its CSR Committee without such director;
- (ii) a private company having only 2 directors on its Board shall constitute its CSR Committee with two such directors;
- (iii) with respect to a foreign company covered under these rules, the CSR Committee shall comprise of at least two persons of which one person shall be as specified under clause (d) of sub-section (1) of section 380 (person resident in India) of the Act and another person shall be nominated by the foreign company.

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, namely:-

- (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;**
- (c) the modalities of utilisation of funds and implementation schedules for the projects or programmes;**
- (d) monitoring and reporting mechanism for the projects or programmes; and**
- (e) details of need and impact assessment, if any, for the projects undertaken by the company;**

Provided that Board may alter such plan at any time during the financial year, as per the recommendation of its CSR Committee, based on the reasonable justification to that effect.

Activities which may be included by companies in their Corporate Social Responsibility Policies according to Schedule VII

Activities relating to:—

- (i) Eradicating hunger, poverty and malnutrition, promoting health care including preventive health care and sanitation including contribution to the Swach Bharat Kosh set-up by the Central Government for the promotion of sanitation and making available safe drinking water.
- (ii) promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly and the differently abled and livelihood enhancement projects.
- (iii) promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups.
- (iv) ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga.

- (v) protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional art and handicrafts;
- (vi) measures for the benefit of armed forces veterans, war widows and their dependents, Central Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) veterans, and their dependents including widows;
- (vii) training to promote rural sports, nationally recognised sports, paralympic sports and olympic sports
- (viii) contribution to the prime minister's national relief fund or Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) or any other fund set up by the central govt. for socio economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities and women;
- (ix) Contribution to incubators funded by Central Government or State Government or any agency or Public Sector Undertaking of Central Government or State Government, and contributions to public funded Universities, Indian Institute of Technology (IITs), National Laboratories and Autonomous Bodies (established under the auspices of Indian Council of Agricultural Research (ICAR), Indian Council of Medical Research (ICMR), Council of Scientific and Industrial Research (CSIR), Department of Atomic Energy (DAE), Defence Research and Development Organisation (DRDO), **Department of Biotechnology (DBT)**, Department of Science and Technology (DST), Ministry of Electronics and Information Technology) engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).
- (x) rural development projects
- (xi) slum area development.
- (xii) **disaster management, including relief, rehabilitation and reconstruction activities.**

Explanation.- For the purposes of this item, the term 'slum area' shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force.

Note:

- Spending of CSR Funds for COVID 19 activities is eligible CSR Activity. Funds may be utilised for various activities related to COVID 19 under item (i) and (xii) relating to promotion of health care.

Rule 4 of Corporate Social Responsibility Rules 2014
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 a registered public trust or a registered society, registered under section 12A and 80 G of the Income Tax Act, 1961, established by the company, either singly or along with 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
 - (c) any entity established under an Act of Parliament or a State legislature; or
 - (d) a company established under section 8 of the Act, or a registered public trust or a registered society, registered under section 12A and 80G of the Income Tax Act, 1961, and having an established track record of at least 3 years in undertaking similar activities.
- (2) (a) Every entity, covered under sub-rule (1), who intends to undertake any CSR activity, shall register itself with the Central Government by filing the form CSR-1 electronically with the Registrar, with effect from the 01st day of April 2021:
 - (b) Form CSR-1 shall be signed and submitted electronically by the entity and shall be verified digitally by a Chartered Accountant in practice or a Company Secretary in practice or a Cost Accountant in practice.

(c) On the submission of the Form CSR-1 on the portal, a unique CSR Registration Number shall be generated by the system automatically.

(3) A company may engage international organisations 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.

(4) 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.

(5) The Board of a company shall satisfy itself that the funds so disbursed have been utilised for the purposes and in the manner as approved by it and the Chief Financial Officer or the person responsible for financial management shall certify to the effect.

(6) In case of ongoing project, 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.

Duties of Board of Directors [Subsection 4]

The Board of every company referred to in sub-section (1) shall,—

(a) after taking into account the recommendations made by the CSR Committee,

- approve the Corporate Social Responsibility Policy for the company and
- disclose contents of such Policy in its report and also place it on the company's website, if any; and

(b) ensure that the [activities](#) as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.

Amount to be spent in CSR Activities [Subsection 5]

The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least 2% of the average net profits of the company made during the 3 immediately preceding financial years **or where the company has not completed the period of three financial years since its incorporation, during such immediately preceding financial years**, in pursuance of its Corporate Social Responsibility Policy.

Preference shall be given to the local area and areas

Company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities.

What if company fails to spend stated amount in pursuance of its CSR Policy

If the company fails to spend such amount, the Board shall, in its BOD's report made under [Section 134](#), specify the reasons for not spending the amount **and, unless the unspent amount relates to any ongoing project referred to in sub-section (6), transfer such unspent amount to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial year.**

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Set off of amount spent in excess of requirement

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

Amount remaining unspent to be deposited in special account [Section 135(6)]

Any amount remaining unspent under sub-section (5), pursuant to any ongoing project, fulfilling such conditions as may be prescribed, undertaken by a company in pursuance of its Corporate Social Responsibility Policy, shall

- be transferred by the company within a period of 30 days from the end of the financial year to a special account to be opened by the company in that behalf for that financial year in any scheduled bank to be called the Unspent Corporate Social Responsibility Account,

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 30 days from the date of completion of the third financial year.

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

Rule 7 of Corporate Social Responsibility Rules 2014
CSR Expenditure

- (1) The board shall ensure that the administrative overheads shall not exceed 5% of total CSR expenditure of the company for the financial year.
- (2) Any surplus arising out of the CSR 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 annual action plan of the company or transfer such surplus amount to a Fund specified in Schedule VII, within a period of 6 months of the expiry of the financial year.
- (3) Where a company spends an amount in excess of requirement provided under section 135(5), such excess amount may be set off against the requirement to spend under section 135(5) up to immediate succeeding 3 financial years subject to the conditions that –
 - i. the excess amount available for set off shall not include the surplus arising out of the CSR activities, if any, in pursuance of sub-rule (2) of this rule.
 - ii. the Board of the company shall pass a resolution to that effect.
- (4) The CSR amount may be spent by a company for creation or acquisition of a capital asset, which shall be held by –
 - (a) a company established under section 8 of the Act, or a Registered Public Trust or Registered Society, having charitable objects and CSR Registration Number under sub-rule (2) of rule 4; or
 - (b) beneficiaries of the said CSR project, in the form of self-help groups, collectives, entities; or

(c) a public authority

Provided that any capital asset created by a company prior to the commencement of the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021, shall within a period of 180 days from such commencement comply with the requirement of this rule, which may be extended by a further period of not more than 90 days with the approval of the Board based on reasonable justification.

Rule 8 of Corporate Social Responsibility Rules 2014
CSR Reporting

- (1) The Board's Report of a company covered under these rules pertaining to any financial year shall include an annual report on CSR containing particulars specified in Annexure I or Annexure II, as applicable.
- (2) In case of a foreign company, the balance sheet filed under clause (b) of sub-section (1) of section 381 of the Act, shall contain an annual report on CSR containing particulars specified in Annexure I or Annexure II, as applicable.
- (3) Every company having average CSR obligation of 10 crore rupees or more in pursuance of subsection (5) of section 135 of the Act, in the three immediately preceding financial years, shall undertake impact assessment, through an independent agency, of their CSR projects having outlays of one 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.

A Company undertaking impact assessment may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed

- 5% of the total CSR expenditure for that financial year or
 - 50 lakh rupees,
- whichever is less.

Display of CSR activities on its website [Rule 9]

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, if any, for public access.

Transfer of unspent CSR amount [Rule 10]

Until a fund is specified in Schedule VII for the purposes of subsection (5) and (6) of section 135 of the Act, the unspent CSR amount, if any, shall be transferred by the company to any fund included in schedule VII of the Act.



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