

**AMENDMENT IN PROVISIONS RELATING TO CORPORATE SOCIAL RESPONSIBILITY  
UNDER COMPANIES ACT, 2013**

Ministry of Corporate Affairs (MCA) has issued notification S.O. 324(E) dated 22<sup>nd</sup> January, 2021 to notify the Section 21 of the Companies (Amendment) Act, 2019 whereby amending Section 135 of the Companies Act, 2013.

MCA has also issued notification S.O. 325(E) dated 22<sup>nd</sup> January, 2021 to notify the Section 27 of the Companies (Amendment) Act, 2020 whereby amending Section 135 of the Companies Act, 2013.

Further, MCA has issued notification dated 22<sup>nd</sup> January, 2021 to further amend the Companies (Corporate Social Responsibility Policy) Rules, 2014.

These amendment rules may be called the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021. These rules shall come into force from the date of publication in the Official Gazette. Further, these rules published in Official Gazette on 22<sup>nd</sup> January, 2021.

**Necessary links are given below:**

1. Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 - <http://egazette.nic.in/WriteReadData/2021/224640.pdf>
2. MCA notification S.O. 324(E) dated 22<sup>nd</sup> January, 2021-[http://www.mca.gov.in/Ministry/pdf/CommencementNotificationCAA\\_23012021.pdf](http://www.mca.gov.in/Ministry/pdf/CommencementNotificationCAA_23012021.pdf)
3. Companies (Amendment) Act, 2019- [http://www.mca.gov.in/Ministry/pdf/AMENDMENTACT\\_01082019.pdf](http://www.mca.gov.in/Ministry/pdf/AMENDMENTACT_01082019.pdf)
4. MCA notification S.O. 325(E) dated 22<sup>nd</sup> January, 2021- [http://www.mca.gov.in/Ministry/pdf/CommencementNotification\\_23012021.pdf](http://www.mca.gov.in/Ministry/pdf/CommencementNotification_23012021.pdf)
5. Companies (Amendment) Act, 2020 - [http://www.mca.gov.in/Ministry/pdf/AmendmentAct\\_29092020.pdf](http://www.mca.gov.in/Ministry/pdf/AmendmentAct_29092020.pdf)

**Highlights and detailed analysis of amended provisions of Corporate Social Responsibility (CSR) is below:**

**CONSIDERING THE AMENDMENTS IN SECTION 135 AND CSR RULES, RESPONSIBILITIES OF BOARD OF DIRECTORS HAVE BEEN ENHANCED WHICH SHALL INCLUDE THE FOLLOWING, INTER-ALIA:**

1. The Board shall ensure that the CSR activities shall be undertaken by the company itself or through implementing agencies (Company established under section 8 of the Act or a registered public trust or registered society under section 12A and 80G of the Income Tax Act, 1961 as specified in rules 4);
2. The Board shall ensure that the utilization of funds must be in the manner and for the purposes approved by them;
3. Board shall monitor the implementation of the projects which are ongoing, its timelines and allocation;
4. Board shall have power to make modifications in such ongoing projects for smooth implementation of the project;
5. The Board shall formulate and approve the annual action plan and if required, may alter such plan at any time during the financial year and board shall have the reasonable justification for such alteration;
6. The Board shall ensure to open a special account in any scheduled bank to be called the Unspent Corporate Social Responsibility Account and transfer unspent CSR amount into such account within 30 days from the end of the financial year;
7. The board shall ensure that the administrative overheads shall not exceed five percent of total CSR expenditure of the company for the financial year;
8. The Board may give approval to set off the excess amount spent by the company out of the obligation up to immediate succeeding three financial years;
9. The Board shall ensure that if there is any capital asset created by the company prior to the commencement of CSR Amendment Rules, 2021, the same shall be registered under section 12A and 80G of the Income Tax Act, within a period of 180 days from 22 January 2021, which may further be extended for not more than 90 days with board approval and reasonable justification;
10. The Board shall annex with Board report, an annual report on CSR;
11. The Board shall ensure to undertake impact assessment of their CSR projects through an independent agency, if the CSR obligation under section 135(5) is more than 10 core rupees;
12. The board shall approve the impact assessment reports and shall annex that report to the annual report on CSR.

**COMPARATIVE VIEW OF AMENDMENTS IN COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY) RULES, 2014**

<b><u>COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY) RULES, 2014</u></b> (as amended from time to time)	<b><u>COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY) AMENDMENT RULES, 2021</u></b>	<b>AMENDMENT</b>	<b>ACTIONABLES</b>
<b><u>Rule 2 (1)(a)</u></b> Act" means the Companies Act, 2013;	<b><u>Rule 2 (1)(a)</u></b> "Act" means the Companies Act, 2013 (18 of 2013);	Elaborated the number of Act as (18 of 2013)	NIL
<u>Not prescribed</u>	<b><u>Rule 2 (1)(b)</u></b> "Administrative overheads" means the expenses incurred by the company for 'general management and administration' of Corporate Social Responsibility functions in the company but shall not include the expenses directly incurred for the designing, implementation, monitoring, and evaluation of a particular Corporate Social Responsibility project or programme;	Newly inserted definition	As per the newly inserted definition, Companies are required to reconsider the administrative overhead / expenses on CSR in line with the prescribed definition.
<b><u>Rule 2 (1)(b)</u></b> "Annexure" means the Annexure appended to these rules;	<b><u>Rule 2 (1)(c)</u></b> "Annexure" means the Annexure appended to these rules;	No change in definition. Only sub-rule number has been changed from (b) to (c) due to insertion of definition of "Administrative Overheads" at Rule 2(1)(b).	NIL

<p><b><u>Rule 2 (1)(c)</u></b> “Corporate Social Responsibility (CSR)” means and includes but is not limited to :-</p> <p>(i) Projects or programs relating to activities areas or subjects specified in Schedule VII to the Act; or</p> <p>(ii) Projects or programs relating to activities undertaken by the board of directors of a company (Board) in pursuance of recommendations of the CSR Committee of the Board as per declared CSR Policy of the company subject to the condition that such policy will include activities, areas or subjects specified in Schedule VII of the Act.</p>	<p><b><u>Rule 2 (1)(d)</u></b> “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:-</p> <p>(i) activities undertaken in pursuance of normal course of business of the company:</p> <p>Provided that any company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for financial years 2020-21, 2021-22, 2022-23 subject to the conditions that-</p> <p>(a) such research and development activities shall be carried out in collaboration with any of the institutes or organisations mentioned in item (ix) of Schedule VII to the Act;</p> <p>(b) details of such activity shall be</p>	<p>Definition of CSR is amended to exclude activities undertaken</p> <p>(i) in normal course of business;</p> <p>(ii) Contributions made to any political party ;</p> <p>(iii) money spent for the benefit of the company's own employees (and their families);</p> <p>(iv) any activity undertaken outside India except for training of Indian sports personnel at national level or international level;</p> <p>(v) activities supported by the companies on sponsorship basis for deriving marketing benefits for its products or services;</p> <p>(vi) activities for fulfilment of any other statutory obligations under any law in force in India;</p>	<p>Now, the definition of CSR has been given more clarity as to what would not be covered under CSR, thereby setting aside ambiguity on CSR.</p> <p>Earlier definition was inclusive in nature and now it's exclusive in nature.</p> <p>Although, the exclusions from CSR was also there through rules, circulars, FAQs etc. which now have been brought in one definition.</p>
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	<p>disclosed separately in the Annual report on CSR included in the Board's Report;</p> <p>(ii) any activity undertaken by the company outside India except for training of Indian sports personnel representing any State or Union territory at national level or India at international level;</p> <p>(iii) contribution of any amount directly or indirectly to any political party under section 182 of the Act;</p> <p>(iv) activities benefitting employees of the company as defined in clause (k) of section 2 of the Code on Wages, 2019 (29 of 2019);</p> <p>(v) activities supported by the companies on sponsorship basis for deriving marketing benefits for its products or services;</p> <p>(vi) activities carried out for fulfilment of any other statutory obligations under any law in force in India;</p>		
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<p><b><u>Rule 2 (1)(d)</u></b> “CSR Committee” means the Corporate Social Responsibility Committee of the Board referred to in section 135 of the Act.</p>	<p><b><u>Rule 2 (1)(e)</u></b> "CSR Committee" means the Corporate Social Responsibility Committee of the Board referred to in section 135 of the Act;</p>	<p>No change in definition. Only sub-rule number has been changed from (d) to (e) due to insertion of definition of “Administrative Overheads” at Rule 2(1)(b)</p>	<p>NIL</p>
<p><b><u>Rule 2 (1)(e)</u></b> “CSR Policy” relates to the activities to be undertaken by the company in areas or subjects specified in Schedule VII to the Act and the expenditure thereon, excluding activities undertaken in pursuance of normal course of business of a company;</p> <p>Provided that any company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for financial years 2020-21, 2021-22 and 2022-23 subject to the conditions that-</p> <p>(i) such research and development activities shall be carried out in</p>	<p><b><u>Rule 2 (1)(f)</u></b> "CSR Policy" means a statement containing the approach and direction given by the board of a company, taking into account the recommendations of its CSR Committee, and includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan;</p>	<p>Definition of CSR policy has been substantially amended.</p>	<p>a. The Board of directors are require to amend and approve the CSR Policy and terms of reference of CSR committee for enhancing the scope of committee w.r.t. recommending statement containing the approach and direction of CSR and include guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan in line with Rule 5(2) of amended CSR rules, inter-alia;</p> <p>b. Based on the recommendation of CSR committee, the Board of Directors are required to approve the revised CSR policy and update the same on website of the Company, if any.</p>



collaboration with any of the institutes or organisations mentioned in item (ix) of Schedule VII to the Act.			
(ii) details of such activity shall be disclosed separately in the Annual Report on CSR included in the Board's Report.			
<b><u>Not prescribed</u></b>	<b><u>Rule 2 (1)(g)</u></b> "International Organisation" means an organisation notified by the Central Government as an international organisation 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;	Newly inserted definition	NIL
<b><u>Rule 2 (1)(f)</u></b>  "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	<b><u>Rule 2 (1)(h)</u></b>  "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	First proviso regarding the calculation of net profit for which the financial statement has been prepared in accordance with the provisions of the Companies Act, 1956 is now deleted.  Rest of the provisions for calculation of net profit is remains same.	NIL

<p>as a separate company or otherwise; and</p> <p>(ii) any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Act:</p> <p>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 to 1956) shall not be required to be re-calculated in accordance with the provisions of the Act:</p> <p>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.</p>	<p>(ii) any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Act:</p> <p>Provided 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;</p>		
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<p><u>Not prescribed</u></p>	<p><b><u>Rule 2 (1)(i)</u></b></p> <p>“Ongoing Project” means a multi-year project undertaken by a Company in fulfilment of its CSR obligation having timelines not exceeding three years excluding the financial year in which it was commenced, and shall include such project that was initially not approved as a multi-year project but whose duration has been extended beyond one year by the board based on reasonable justification;</p>	<p>Newly inserted definition</p>	<p>For any existing CSR activity which was initially not approved as a multi-year project, now, is to be tagged as “Ongoing project” with the approval of board of directors.</p> <p>Further, such ongoing project have timelines not exceeding three years excluding the financial year in which it was commenced.</p> <p>For ex. Developing a Diagnostic facility in hospital may be termed as ongoing project, however, running expenditure of hospital shall not be termed as ongoing project.</p>
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<b><u>Not prescribed</u></b>	<b><u>Rule 2 (1)(j)</u></b> “Public Authority” means ‘Public Authority’ as defined in clause (h) of section 2 of the Right to Information Act, 2005 (22 of 2005);	Newly inserted definition	NIL
<b><u>Not prescribed</u></b>	<b><u>Rule 2 (1)(k)</u></b> “section” means a section of the Act.	Newly inserted definition	NIL
<b><u>Rule 2 (2)</u></b> Words and expressions used and not defined in these rules but defined in the Act shall have the same meanings respectively assigned to them in the Act.	<b><u>Rule 2 (2)</u></b> Words and expressions used and not defined in these rules but defined in the Act shall have the same meanings respectively assigned to them in the Act.”	No change	NIL
<b><u>Rule 3 (2) (b)</u></b>  (2) Every company which ceases to be a company covered under subsection (1) of section 135 of the Act for three consecutive financial years shall not be required to -  (a) constitute a CSR Committee; and  (b) comply with the provisions contained in <b>sub-section (2) to (5) of the said section</b> , till such time it meets the criteria	<b><u>Rule 3 (2) (b)</u></b>  (2) Every company which ceases to be a company covered under subsection (1) of section 135 of the Act for three consecutive financial years shall not be required to -  (a) constitute a CSR Committee; and  (b) comply with the provisions contained in <b>sub-section (2) to (6) of the said section</b> , till such time it meets the criteria specified in sub-section (1) of section 135.	As sub-section (6) (inserted by Companies Amendment Act, 2019) is now effective vide notification S.O. 324(E). dated 22 <sup>nd</sup> January 2021, now in sub-rule 2(b), sub-section (6) is also included along with sub-section (2) to (5) of the Act	NIL

specified in sub-section (1) of section 135.			
<p><b><u>Rule 4</u></b> <b><u>CSR Activities</u></b></p> <p>(1) The CSR activities shall be undertaken by the company, as per its stated CSR Policy, as projects or programs or activities (either new or ongoing).</p> <p>(2) The Board of a company may decide to undertake its CSR activities approved by the CSR Committee, through</p> <p>(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</p> <p>(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</p>	<p><b><u>Rule 4</u></b> <b><u>CSR Implementation</u></b></p> <p>(1) The Board shall ensure that the CSR activities are undertaken by the company itself or through -</p> <p>(a) a company established under section 8 of the Act, or a <b>registered public trust</b> or a registered society, <b>registered under section 12A and 80 G of the Income Tax Act, 1961 (43 of 1961)</b>, established by the company, either singly or along with any other company, or</p> <p>(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</p> <p>(c) any entity established under an Act of Parliament or a State legislature; or</p> <p>(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 three years in undertaking similar activities.</p>	<p>The name of the Rule 4 has been changed from CSR Activities to CSR Implementation which says:-</p> <ul style="list-style-type: none"> <li>• Every eligible entity shall register itself with Central Government by filing the form CSR-1 electronically with the Registrar, with effect from the 01<sup>st</sup> day of April 2021</li> <li>• Form CSR-1 shall be verified digitally by a Chartered Accountant in practice or a Company Secretary in practice or a Cost Accountant in practice.</li> <li>• A company may engage international organisations for designing, monitoring and evaluation of the CSR projects or programmes.</li> <li>• The Board shall monitor that the disbursed funds are utilised in approved manner and Chief Financial Officer or the person responsible for financial</li> </ul>	<p>(i) Earlier, type of trust established by the Company for carrying CSR activity was not specifically defined, however, now as per Rule 4(1)(a), such trust have to be registered as public trust, which means it should be formed for benefiting the larger section of society;</p> <p>(ii) Section 8 Company, trust or society either established by Company itself or having track record of at least 3 years in undertaking similar CSR activities, should be registered under relevant Act as well as under section 12A and 80G of Income Tax Act, 1961;</p> <p>(iii) Before undertaking CSR expenses through Section 8 Company, registered trust, registered society or entity established under an Act of Parliament or State</p>

<p>legislature :</p> <p>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”.</p> <p>(3) A company may also collaborate with other companies for undertaking projects or programs 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 programs in accordance with these rules.</p> <p>(4) Subject to provisions of sub-</p>	<p>(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 01<sup>st</sup> day of April 2021:</p> <p>Provided that the provisions of this sub-rule shall not affect the CSR projects or programmes approved prior to the 01<sup>st</sup> day of April 2021.</p> <p>(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.</p> <p>(c) On the submission of the Form CSR-1 on the portal, a unique CSR Registration Number shall be generated by the system automatically.</p> <p>(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.</p>	<p>management shall certify the same.</p> <ul style="list-style-type: none"> <li>• The Board is responsible to monitor the implementation of the project and can make modifications, if required, for smooth implementation of the project within the overall permissible time period.</li> </ul>	<p>Legislature (collectively referred as “entity”) after 31.03.2021, the Company should ensure that such entity have filed Form CSR-1 with Registrar of Companies and have been allotted unique CSR Registration number;</p> <p>(iv) Earlier, expenditure done by Companies for building CSR capacities of their own personnel as well as those of their Implementing agencies through Institutions with established track records of at least three financial years were allowed to be counted under expenditure on administrative overheads, however, now as per amended rule 4(3), such expenditure cannot be claimed as expenditure on administrative overheads under CSR.</p> <p>(v) Chief Financial Officer or the person responsible for financial management shall give certificate to the Board</p>
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<p>section (5) of section 135 of the Act, the CSR projects or programs or activities undertaken in India only shall amount to CSR Expenditure.</p> <p>(5) The CSR projects or programs or activities that benefit only the employees of the company and their families shall not be considered as CSR activities in accordance with section 135 of the Act.</p> <p>(6) Companies may build CSR capacities of their own personnel as well as those of their Implementing agencies through Institutions with established track records of at least three financial years but such expenditure including expenditure on administrative overheads, shall not exceed five percent of total CSR expenditure of the company in one financial year.</p> <p>(7) Contribution of any amount directly or indirectly to any political party under section 182 of the Act, shall not be considered as CSR activity.</p>	<p>(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.</p> <p>(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.</p> <p>(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. ”.</p>		<p>that the funds so disbursed have been utilised for the purpose of approved CSR project/activity/program only and the same is to taken note by the Board.</p> <p>(vi) While approving the CSR project/activity/program, the board has to specifically define the following</p> <ol style="list-style-type: none"> <li>Timeline for completion of such CSR project/activity/program;</li> <li>Year wise allocation on such CSR project / activity / program;</li> </ol>
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<p><b><u>Rule 5 (2)</u></b> <b><u>CSR Committees</u></b></p> <p>The CSR Committee shall institute a transparent monitoring mechanism for implementation of the CSR projects or programs or activities undertaken by the company.</p>	<p><b><u>Rule 5 (2)</u></b> <b><u>CSR Committees</u></b></p> <p>(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, namely:-</p> <p>(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;</p> <p>(b) the manner of execution of such projects or programmes as specified in sub-rule (1) of rule 4;</p> <p>(c) the modalities of utilisation of funds and implementation schedules for the projects or programmes;</p> <p>(d) monitoring and reporting mechanism for the projects or programmes; and</p> <p>(e) details of need and impact assessment, if any, for the projects undertaken by the company:</p> <p>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. ”.</p>	<p>The scope of CSR committee is wider now. The CSR Committee is required to formulate an annual action plan and to recommend the same to the Board.</p> <p>Board may alter such plan as per the recommendation of its CSR Committee, based on the reasonable justification to that effect.</p>	<p>(i) In CSR policy, following should be specifically included:</p> <p>a. Area in which company is doing CSR should be covered under CSR policy;</p> <p>b. Manner of execution of projects or programmes i.e. through itself or through section 8 Company, registered public trust, registered society etc.</p> <p>c. Mechanism of monitoring and reporting of CSR project;</p> <p>d. Modalities of utilization</p> <p>e. Need and Impact assessment for the project.</p> <p>Further, board is required to approve the CSR projects in line with above scope of annual action plan and the board may also alter the annual action plan based on reasonable justification and same should be recorded in minutes.</p>
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<p><b><u>Rule 6</u></b> <b><u>CSR Policy</u></b></p> <p>(1) The CSR Policy of the company shall, inter-alia, include the following namely :-</p> <p>(a) a list of CSR projects or programs which a company plans to undertake 1[areas or subjects specified in] of the Schedule VII of the Act, specifying modalities of execution of such project or programs and implementation schedules for the same; and</p> <p>(b) monitoring process of such projects or programs:</p> <p>Provided that the Board of Directors shall ensure that activities included by a company in its Corporate Social Responsibility Policy are related to the 2[areas or subjects specified in Schedule VII] of the Act.</p> <p>(2) The CSR Policy of the company shall specify that the surplus arising out of the CSR projects or programs or</p>	<p><b><u>Rule 6</u></b> <b><u>CSR Policy</u></b></p> <p>Rule 6 shall be omitted.</p>	<p>Rule 6 is now omitted</p>	<p>The CSR policy is to be restated and approved by the Board of Directors in line with amended definition of CSR Policy as given under Rule 2(1)(f) and Rule 5(2) of amended CSR policy.</p>
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activities shall not form part of the business profit of a company.			
<p><b><u>Rule 7</u></b> <b><u>CSR Expenditure</u></b></p> <p>CSR expenditure shall include all expenditure including contribution to corpus, or on projects or programs relating to CSR activities approved by the Board on the recommendation of its CSR Committee, but does not include any expenditure on an item not in conformity or not in line with activities which fall within the areas or subjects, specified in Schedule VII of the Act.</p>	<p><b><u>Rule 7</u></b> <b><u>CSR Expenditure</u></b></p> <p>(1) The board shall ensure that the administrative overheads shall not exceed five percent of total CSR expenditure of the company for the financial year.</p> <p>(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 six months of the expiry of the financial year.</p> <p>(3) Where a company spends an amount in excess of requirement provided under sub-section (5) of section 135, such excess amount may be set off against the requirement to spend under sub-section (5) of section 135 up to immediate succeeding three financial years subject to the conditions that –</p>	<p>Earlier, contribution to corpus was expressly allowed, however, not as per amended rule 7, the same have been done away with.</p> <p>Further, manner of treatment of surplus fund generated out of CSR activity have also been prescribed.</p> <p>Further, the Capital asset shall not be held in the name of Company acquired or to be acquired for CSR expenditure.</p>	<p>(i) Board of Directors are required to ensure that administrative overheads shall not exceed 5% of total CSR expenditure of the Company for financial year in line with amended definition of Administrative overhead.</p> <p>(ii) Treatment of surplus arising out of CSR activities shall be done within 6 months of the expiry of the financial year in either of following manner:</p> <p>a. Surplus from CSR to be ploughed back into the same CSR project; OR</p> <p>b. Shall be transferred to unspent CSR account and spent in pursuance to CSR policy and annual action plan. <b>(Here it should be noted that</b></p>

	<p>(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.</p> <p>(ii) the Board of the company shall pass a resolution to that effect.</p> <p>(4) The CSR amount may be spent by a company for creation or acquisition of a capital asset, which shall be held by -</p> <p>(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</p> <p>(b) beneficiaries of the said CSR project, in the form of self-help groups, collectives, entities; or</p> <p>(c) a public authority:</p> <p>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 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</p>		<p><b>this surplus expenditure shall be over and above the obligation of 2% CSR expenditure and shall not be set off against future CSR liability); OR</b></p> <p>c. Surplus shall be transferred to a fund specified in Schedule VII;</p> <p>(iii) If the Company does the CSR expenditure over and above the minimum obligation of 2% of average net profit of CSR (<i>except CSR expenditure done out of surplus arising out of CSR activity</i>), then such excess CSR expenditure may be set off against the future CSR liability upto a period of 3 years with the approval of board of directors.</p> <p>(iv) Any capital asset created or acquired as a part of CSR expenditure, shall be held by a company established</p>
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	Board based on reasonable justification”.		<p>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</p> <p>beneficiaries of the said CSR project, in the form of self-help groups, collectives, entities; or</p> <p>public authority:</p> <p>For existing capital assets, above condition has to be complied within 180 days i.e by 21<sup>st</sup> July, 2020 or additional period of 90 days with the approval of Board with reasonable justification thereof.</p>
<p><b><u>Rule 8</u></b> <b><u>CSR Reporting</u></b></p> <p>(1) The Board’s Report of a company covered under these rules pertaining to a financial year commencing on or after the 1st day of April, 2014 shall include an annual report on CSR containing particulars specified in Annexure.</p>	<p><b><u>Rule 8</u></b> <b><u>CSR Reporting</u></b></p> <p>(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.</p>	<p>➤ The Rule 8 has been amended to provide the new format (Annexure I or Annexure II) for disclosure of Annual report on CSR to be included in Board Report.</p> <p>➤ The companies having average CSR obligation of ten crore rupees or more in the three immediately</p>	<p>(i) Board of directors are required to give annual report on CSR for FY 2020-21 in the revised format as given under amended rule, which is more extensive in nature, therefore, the Company’s should consider the reporting parameters of</p>

<p>(2) In case of a foreign company, the balance sheet filed under sub-clause (b) of sub-section (1) of section 381 shall contain an Annexure regarding report on CSR.</p>	<p>(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.</p> <p>(3) (a) Every company having average CSR obligation of ten 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.</p> <p>(b) The impact assessment reports shall be placed before the Board and shall be annexed to the annual report on CSR.</p> <p>(c) A Company undertaking impact assessment may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed five percent of the total CSR expenditure for that financial year or fifty lakh rupees, whichever is less. ”.</p>	<p>preceding financial years, shall undertake impact assessment, through an independent agency, of their CSR projects of one crore rupees or more, and which have been completed not less than one year before undertaking the impact study.</p> <p>➤ The impact assessment reports to be placed before the Board and shall be annexed to the annual report on CSR.</p> <p>➤ The Company may book the expenditure incurred while undertaking impact assessment and the expenditure shall not exceed five percent of the total CSR expenditure for that financial year or fifty lakh rupees, whichever is less.</p>	<p>CSR annual report and align their actions on CSR for rest of the time of FY 2020-21.</p> <p>(ii) Foreign Company would be required to file annual report on CSR along with balance sheet.</p> <p>(iii) Company having average CSR obligation of Rs. 10 crore or more shall annexed to annual report, a report on impact assessment, carried out by an independent agency of CSR projects having outlays of Rs. 1 Crore or more and have completed not less than 1 year.</p> <p>Here, it is notable that the impact assessment study is to be done after completion of 1 year of project which means that this would be applicable for ongoing projects as approved by the board.</p> <p>(iv) Such expenditure done by Company for impact</p>
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<p><b><u>Rule 9</u></b> <b><u>Display of CSR Activities on its Website</u></b></p> <p>The Board of Directors of the company shall, after taking into account the recommendations of CSR Committee, approve the CSR Policy for the company and disclose contents of such policy in its report and the same shall be displayed on the company's website, if any, as per the particulars specified in the Annexure.</p>	<p><b><u>Rule 9</u></b> <b><u>Display of CSR activities on its website.</u></b></p> <p>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.</p>	<p>Website disclosure requirement of CSR have been enhanced.</p>	<p>Following shall be placed on website, if any, of the Company:</p> <ol style="list-style-type: none"> <li>Composition of CSR committee;</li> <li>CSR policy;</li> <li>CSR Projects approved by the Board.</li> </ol>



Not prescribed	<b><u>Rule 10 - Transfer of unspent CSR amount</u></b>  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.”.	Newly inserted provision	Unspent CSR amount which is required to be transferred to scheduled fund which is yet to be prescribed, shall be transferred to any fund as included under schedule VII of the Act until such special fund is specified.
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**AMENDMENT IN SECTION 135 OF COMPANIES ACT, 2013**

COMPANIES ACT, 2013	COMPANIES (AMENDMENT) ACT, 2019 AND COMPANIES (AMENDMENT) ACT, 2020	AMENDMENTS	ACTIONABLES
<b>Section 135</b>  (1) Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during the immediately preceding financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.	<b>Section 135</b> (1) Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during the immediately preceding financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.  Provided that where a company is not required to appoint an independent director under sub-section (4) of section 149, it shall	Earlier, there was only requirement of disclosing the reason of unspent CSR amount in annual report, however, with the amendments, the unspent amount is required to be transferred in fund or separate account and is required to be spent over a period of time in case of ongoing project.  Further, for ease of compliance, Companies with small amount of CSR obligation have been given exemption from framing the CSR committee and the board is entrusted with such responsibility.	a. The Board shall ensure to open a special account in any scheduled bank to be called the Unspent Corporate Social Responsibility Account and transfer unspent CSR amount relating to ongoing projects within 30 days from the end of the financial year.  b. If the unspent CSR amount is not relating to any ongoing project, then such amount shall be transferred to a fund specified in Schedule VII of

<p>Provided that where a company is not required to appoint an independent director under sub-section (4) of section 149, it shall have in its Corporate Social Responsibility Committee two or more directors.</p> <p>(2) The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.</p> <p>(3) The Corporate Social Responsibility Committee shall, –</p> <p>(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;</p> <p>(b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a);</p>	<p>have in its Corporate Social Responsibility Committee two or more directors.</p> <p>(2) The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.</p> <p>(3) The Corporate Social Responsibility Committee shall, –</p> <p>(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;</p> <p>(b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and</p> <p>(c) monitor the Corporate Social Responsibility Policy of the company from time to time.</p> <p>(4) The Board of every company referred to in sub-section (1) shall, –</p>		<p>the Act within a period of 6 months from expiry of FY.</p> <p>Here, it should be noted that no such fund have been prescribed in Schedule VII as on date, and therefore, till then, such unspent amount shall be transferred to any fund as mentioned in Schedule VII of the Act in terms of Rule 10 of amended CSR rules.</p> <p>c. If a company's CSR obligation is less than or upto Rs. 50 lacs, then the Company shall not be required to constitute the CSR committee and the board of directors shall discharge all the function of the CSR committee as prescribed.</p>
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<p>and</p> <p>(c) monitor the Corporate Social Responsibility Policy of the company from time to time.</p> <p>(4) The Board of every company referred to in sub-section (1) shall, –</p> <p>(a) after taking into account the recommendations made by the Corporate Social Responsibility 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, in such manner as may be prescribed; and</p> <p>(b) ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.</p>	<p>(a) after taking into account the recommendations made by the Corporate Social Responsibility 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, in such manner as may be prescribed; and</p> <p>(b) ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.</p> <p>(5) The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company made during the three immediately preceding financial years <b>or where the company has not completed the period of three financial years since its incorporation, during such immediately preceding financial years</b>, in pursuance of its Corporate Social Responsibility Policy:</p> <p>Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social</p>		
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<p>(5) The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company made during the three immediately preceding financial years in pursuance of its Corporate Social Responsibility Policy:</p> <p>Provided that the 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:</p> <p>Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount.</p> <p>Explanation.—For the purposes of this section "net profit" shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of section 198.</p>	<p>Responsibility activities:</p> <p>Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount and, <b>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.</b></p> <p><b>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.</b></p> <p>Explanation.—For the purposes of this section "net profit" shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of section 198.</p> <p><b>6) Any amount remaining unspent under sub-section (5), pursuant to any ongoing project, fulfilling such conditions as may be</b></p>		
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	<p>prescribed, undertaken by a company in pursuance of its Corporate Social Responsibility Policy, shall be transferred by the company within a period of thirty 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 thirty days from the date of completion of the third financial year.</p> <p>(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</p>		
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	<p>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.</p> <p>(8) The Central Government may give such general or special directions to a company or class of companies as it considers necessary to ensure compliance of provisions of this section and such company or class of companies shall comply with such directions.</p> <p>(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.</p>		
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**Suggestions may be sent to [rupesh@cacsindia.com](mailto:rupesh@cacsindia.com)**

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