

E-Book

CORPORATE SOCIAL RESPONSIBILITY - A Way Forward



The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)

Southern India Regional Council

Chennai

E-Book

CORPORATE SOCIAL RESPONSIBILITY

-A Way Forward

This e-book has been authored by
CA. Charmi Shah



The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
Southern India Regional Council
Chennai

Copyright © with SIRC of ICAI

All rights served. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form, or means, electronic, mechanical, photocopying, recording or, otherwise without prior permission in writing, from the publisher.

DISCLAIMER:

The views expressed in this book are of the author(s). The Institute of Chartered Accountants of India (ICAI) and/or Southern India Regional Council of ICAI may not necessarily subscribe to the views expressed by the author(s).

The information cited in this e-book has been drawn primarily by the contributor.

While every effort has been made to keep the information cited in this e-book error free, the Institute or any office of the same does not take the responsibility for any typographical or clerical error which may have crept in while compiling the information provided in this e-book.

First Edition : December 2021

E-mail : sirc@icai.in

Published by : Southern India Regional Council
The Institute of Chartered Accountants of India
ICAI Bhawan
122, Mahatma Gandhi Road
Post Box No. 3314, Nungambakkam, Chennai- 600034

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)
Southern India Regional Council



FOREWORD

Corporate social responsibility (CSR) is a company's commitment to manage the social, environmental and economic effects of its operations responsibly and in line with public expectations.

This e-book provides in-depth knowledge on the topic of Corporate Social Responsibility detailing the meaning, specific provisions/compliances under the regulations to comply with the legal requirements which the corporates are mandated. It also provides insights on the accounting and recognition aspects, penal implications on non-compliances, requirements of Audit and responsibility of auditors towards Corporate Social Responsibility activities, reporting, disclosure requirements and tax benefits for Corporate Social Responsibility activities.

The author has also provided the relevant templates, format for annual reporting of Corporate Social Responsibility activities and other Annexures, provisions relevant to determine the activities which could be eligible for Corporate Social Responsibility, companies for whom the same is mandatory, etc.

This e-book, one in a series of member centric publications planned by SIRC, aims to serve as a Handbook and Guide for the professionals who intend to gain knowledge on the subject of Corporate Social Responsibility.

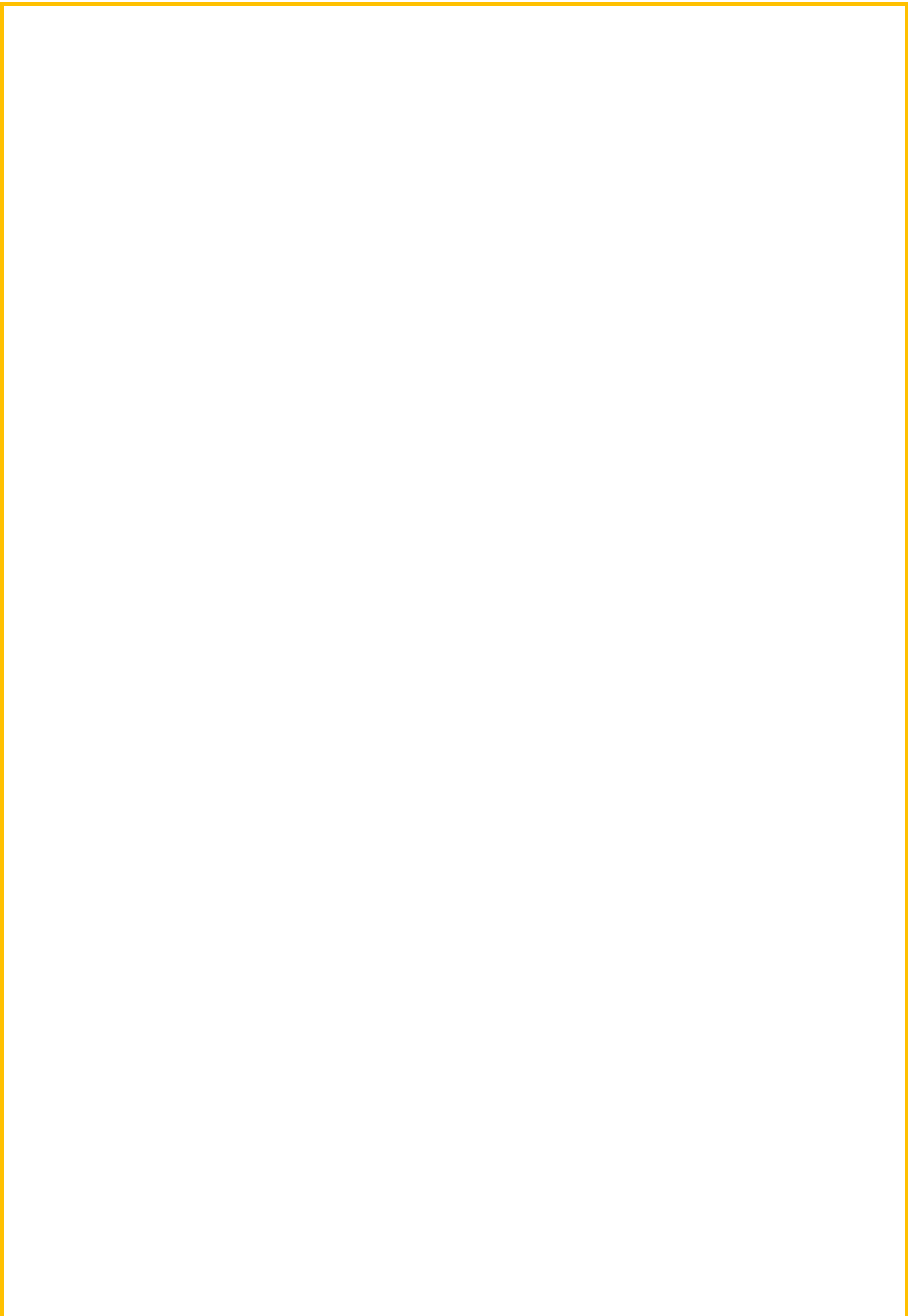
On behalf of SIRC, I wish to place our sincere gratitude and appreciation to CA. Charmi Shah, for sharing his rich experience and expertise on the Corporate Social Responsibility amongst our members through this e-book. I also take the privilege of thanking CA. Gangesh K Shrinivas for reviewing the basic draft of e-book and adding value to the substance of the e-book.

Comments and suggestions on the e-book are welcome at sirc@icai.in

CA.K.JALAPATHI
Chairman, SIRC of ICAI

CONTENT

SNO	PARTICULARS
1	Introduction
2	Definitions
3	Corporate Social Responsibility
4	Accounting Aspects
5	Treatment of CSR Fund
6	Penalty
7	Audit
8	CSR Reporting
9	Tax Benefits for CSR Activities
10	Annexures
11	FAQ's



Introduction

- For "Other than ongoing projects", unspent amount which is to be transferred to a specified fund account

Recognition and Measurement of Income Earned During the Course of Conduct of CSR Activities: –

The Framework for Preparation and Presentation of Financial Statements issued by the ICAI, defines 'income' as "increase in economic benefits during the accounting period in the form of inflows or enhancements of assets or decreases of liabilities that result in increases in equity, other than those relating to contributions from equity participants". Since the surplus arising from CSR activities is not arising from a transaction with the owners, it would be considered as 'income' for accounting purposes.

Recognition and Measurement of CSR spent during the Course of Conduct of CSR Activities in Financial statement: –

Balance Sheet- Any unpaid amount in respect of expenditure incurred for which there is contractual liability is to be shown as part of current liabilities and if payable beyond 12 months, then as non-current liability.

For "On going projects", amount yet to be spent, i.e., transferred to a separate fund account should be shown as current asset under cash and bank balances with description that these funds are earmarked for CSR spend, For "Other than ongoing projects", unspent amount which is yet to be transferred to a specified fund account, should be shown as current liability with description that this is payable within 6 months of balance sheet date Any excess expenditure which company decides to carry forward as asset, to be shown as current asset under the head loans and advances

Directors Report- If there is any unspent amount, explain reason for not spending amount to be spent as per section 135. The amount to be shown in the report is amount to be spent less amount spent and, unless the unspent amount relates to any ongoing project, disclose that such unspent amount is to be transferred to a Specified Fund, within 6 months from the balance sheet date. Amount spent in excess should be disclosed, when asset thereof has been created.

CSR contribution received by third parties from a foreign source

The charitable entities can accept foreign contribution from a foreign source only if they are registered under Foreign Contribution Regulation Act (FCRA). Without FCRA approval, charitable entities in India cannot legally receive foreign contributions. The FCRA deems an Indian subsidiary of a foreign company to be a foreign company, and consequently, a foreign source. Further, Indian companies with foreign ownership of more than 50% may also be treated as foreign source if the nominal value of its share capital is not within the limits specified for foreign investments under FEMA 1999.

The Proviso to Section 2(1)(j) of FCRA provides that:

“Provided that where the nominal value of share capital is within the limits specified for foreign investment under the Foreign Exchange Management Act 1999, or the rules or regulation made thereunder, then, notwithstanding the nominal value of share capital of a company being more than one half of such value at the time of making the contribution, such company shall not be a foreign source.”

Hence, in case of an Indian subsidiary of a foreign company, or an Indian company which have foreign ownership of more than 50% need to ensure that in case they utilize the services of a non-profit organization (NPO) to carry out their CSR activities, such entity must have obtained prior permission from the Central Government under FCRA. The permission, when granted, would apply to only a specific project and specific amount, which means that the NPO cannot use contribution for a different project or for any additional funding for the same project.

Accounting for CSR Funds by Third Parties

Provision relating to contribution to corpus as admissible CSR expenditure has been amended and the contribution to corpus of any entity is not an admissible CSR expenditure w.e.f. 22nd January, 2021

Such corpus donation received by the third party should be taken to the Balance Sheet of the third party and not charged to the Income and Expenditure A/c.

Other than making corpus donations as stated in previous paragraph, a company may make CSR contribution to third parties specifying the projects or programs to be undertaken and the modalities of utilization of funds of such projects as required by CSR Rules. The amounts received by such third parties have to be recognized as project wise accordingly in the books of accounts.

Both, the contribution received and expenditure made should be charged to the Income and expenditure A/c of the third party with relevant project wise. Fixed assets acquired should be taken to the Balance Sheet of the third party.

If the third party is receiving contribution from different companies for different projects, then the amounts should be identified project -wise and the receipts as well as amounts

spent(expenses) corresponding to that projects should be marked and reflected separately with its name of its nature and identified to related project. In case of amounts utilized for acquisition of capital asset, the capital asset head should be debited.

Both, the contribution received and expenditure made should be charged to the Income and expenditure A/c of the third party. Fixed assets acquired should be taken to the Balance Sheet of the third party.

The CSR donations received by the third parties must be applied for agreed project(s) within the specified period as per the projects /programs in CSR policy of the donor. In case the CSR donations are not utilized within the specified period during the year, the same may either to be returned to the donor or the same should be utilized as specified in the agreement /MOU with the donor company.

In case the amount required to be spent on the project remains unspent at the end of the year, then the entity needs to accumulate the balance amount to be utilized in future period. Such unspent amount at the end of the year would be carried forward to the next year and the required formalities / Compliances (if the third party is registered under Income Tax Act) should be done. If the entity is registered u/s 12A, then the charitable entity needs to e-file Form 10 specifying the purpose of accumulation before filing of return of income.

When the required compliances are made under the Income Tax Act, the accumulation for five years is treated as application of income in the year of accumulation under the Income Tax Act. The amount spent out of this accumulated fund would not be charged to the Income and expenditure A/c, but would be reduced from the Fund created.

Utilization Report of CSR Contribution received by Third Parties

Rule 4(5) states that “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”.

Apart from registering w.e.f 1st April 2021, the third parties are required to maintain appropriate documentation with regard to the CSR contribution and details of expenditure on CSR activities.

The utilization of the CSR contribution should be as per the project specified by the company making CSR contribution. It should be for a definite project and the CSR policy must specify monitoring and reporting mechanism for effective utilization of CSR funds.

The CSR Committee of The Institute of Chartered Accountants of India (ICAI) has recommended that the Companies should obtain Chartered Accountants / Auditor’s Report on the utilization of CSR Funds If CSR Activity is done through a third party.

Refer Annexure VI -Draft format of Independent Practitioner's Report on Utilization of CSRFunds.

4. Treatment of CSR Funds

The Board of every company referred to in sub-section (1) of sec 135 of the companies Act , 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 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.

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.

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 .

Effects of Unspent CSR Funds :

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.

Any amount remaining unspent under Sec 135 (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 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.

The company should spend the unspent CSR amount in pursuance of the annual action plan, the CSR policy of the company

Treatment of unspent CSR/ excess spending in case of mergers/ demergers

All assets/ liabilities, privileges/ obligations of the transferor company that shall be transferred to the transferee company shall be explicitly set out by way of the scheme. For instance, the Scheme may provide that the excess spent CSR shall be transferred to the transferee company, which may in turn utilize the same towards its CSR obligations.

Accounting implications w.r.t. transfer of funds to the unspent CSR account

The unspent CSR account can either be treated as a liability or a provision. It can however not be treated as a contingent liability. This is because as per IND AS 37

A liability is a present obligation of the entity arising from past events, the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits.

- A provision is a liability of uncertain timing or amount.
- However, CSR expenditure is not a contingent liability as it is not a future liability occurring due to one or more uncertain future events nor is it present obligation arising out of unrecognised past events.

Accordingly, in cases where the project is identified on which the money is to be spent, irrespective of an ongoing or not an ongoing project, the said amount should be treated as a liability whereas if the application of funds is for an unidentified project or purpose, then the same should be given the treatment of a provision. Our presentation dealing with the accounting and taxation aspect of CSR can be accessed [here](#).

Effect of Surplus Funds

Any surplus arising out of the CSR activities-

- a. shall not form part of the business profit of a company,
- b. and be ploughed back into the same project and
- c. shall be transferred to Unspent CSR account and annual action plan of the Company,
- d. transfer such surplus amount to a fund specified in schedule VII, within a period of 6 Months of the expiry of the financial year. **Effect of Excess**

Amount Spent

Where a company spends an amount in excess of requirement provided under sub-section 135(5), 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 –

- a. the excess amount available for set off shall not include the surplus arising out of the CSR activities.
- b. the Board of the company shall pass a resolution to that effect.

Effect of Amount Spent on Capital Asset

The CSR amount may be spent by a company for creation or acquisition of a capital asset, which shall be held by –

- a. Section 8 Company, registered public trust or registered society having charitable object and CSR registration no.
- b. Beneficiaries of said CSR project, in the form of self-help groups, collectives, entities, or
- c. A public authority.

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.

5. Penalty

After the amendment of the Amendment in Corporate Social Responsibility (CSR) Rules vide Companies Amendment Act 2019, Companies Amendment Act, 2020 & Companies (CSR Policy) Amendment Rules, 2021 W.E.F 22/01/2021.

CSR spending is made Mandatory from Voluntary. Hence after the amendment the company has to either spend the amount or they would get penalized. Earlier it was COREX ie comply or explain.

A company if fails to

- disclose unspent amount in annual report on CSR, or/ and
- transfer unspent amount into fund specified in Schedule VII within specified time, or/ and
- transfer unspent amount relating to ongoing project into unspent CSR account within specified time, or/ and
- transfer amount remaining utilized in unspent CSR account after 3 years into fund specified in Schedule VII within specified time.

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.

6. Audit

The High Level Committee is of the view that CSR may be brought within the purview of statutory financial audit, by making details of CSR spending as part of the financial statement of a company, and incorporated in Schedule III of the Act.

It is the responsibility of the Company (through CSR Committee) to monitor the funds of the Company which are to be utilized as per the CSR Policy of the Company. Wherever, the Company is complying with its CSR obligations by merely making contribution (donation) which is specifically allowed as per Schedule VII of the Act, there would not be any requirement of obtaining any report of such contribution made. However, where the CSR obligation is done through a third party as per sub-rule (2) of Rule 4 of the CSR Policy Rules, report of utilization of funds should be obtained from that third party's auditors by the Company's CSR Committee to have an effective CSR compliance of the monitoring and reporting requirements of the CSR Policy Rules.

Requirement of Audit

The requirement of an audit of CSR activities seems not to be mandatory as per companies act 2013. However monitoring of CSR activities and its reporting is mandatory as per the companies(company social responsibilities policy) rules 2014.

Responsibility of Auditors

Wherever a Company undertakes CSR activity itself, the auditor of the company should ensure that:

- The activity/ project undertaken is within the purview of Schedule VII of the Act, policy of the company.
- If mere contribution/donation is given, then the same is specifically allowed as per Schedule VII of the Act.
- Separate disclosure of expenditure on CSR activities is made as per Schedule III of the Act.
- The expenditure on the project is incurred as per Companies (CSR Policy) Rules 2014.
- The company has complied with applicable Accounting Standards in accounting, recognition and disclosure related to CSR spend.
- He has complied with relevant Standards on Auditing for audit of CSR spend including:
 - o SA 250 - Consideration of Laws and Regulations in an Audit of Financial Statements.
 - o SA 720 (Revised) - The Auditor's Responsibilities Relating to Other Information He has complied with the Guidance note on Audit of Expenses.

Wherever a Company undertakes CSR activity through a Third Party being eligible Section 8 Company / Registered Trust / Registered Society, the company should obtain an Independent Practitioner's Report on Utilisation of such CSR Funds from the auditor / CA in practice of the third party, to whom the funds are given by the Company for implementing CSR activity.

The auditor / CA in practice of the third party before issuing the Independent Practitioner's Report on Utilization of CSR Funds should ensure that:

- The third party has spent the funds on CSR activities as per Section 135 of the Companies Act, 2013, read with Schedule VII to the Act and related regulations.
- Verification of the CSR spend has been done as per Guidance Note on Audit of Expenses issued by ICAI.
- The utilization of CSR Funds report is issued in accordance with the Guidance Note on Reports or Certificates for Special Purposes issued by the Institute of Chartered Accountants of India.

7. CSR Reporting

In the Report of the High-Level Committee on Corporate Social Responsibility dated August 7, 2019, the Committee had given many recommendations. In its recommendation the committee recommended the following:

The reporting for CSR needs to be strengthened, with enhanced disclosures for better information dissemination with respect to selection of projects, locations, implementing agencies to facilitate better monitoring.

Regulation of statutory compliance of CSR is based on the disclosures made by companies. Presently, details of CSR are required to be reported in the 'Annual CSR Report' as part of the Company's Board Report. Financial statements of a company are filed on MCA21 through designated e-Forms AOC-4/AOC-4 XBRL (Extensible Business Reporting Language) by all companies, including Section 8 companies, and in e-Form FC-3, by foreign companies. It has been brought to the notice of the Committee that reporting, as it exists through Board report and e-form AoC-4, is resulting in data inconsistencies. All particulars of CSR activities, Implementing Agencies (IAs), details of Section 8 companies as IAs. Financial details for ascertaining eligibility of a company and its CSR details are not totally machine readable. This requires a revisit to the Annual CSR report and the concerned e-forms which would improve the reporting considerably.

Reporting requirement in Financial Statements

The General Instructions for Preparation of Statement of Profit and Loss under Schedule III to the Companies Act, 2013, requires that in case of companies covered under Section 135, the amount of expenditure incurred on 'Corporate Social Responsibility Activities' shall be disclosed by way of a note to the statement of profit and loss. From the perspective of better financial reporting and in line with the requirements of Schedule III in this regard, it is recommended that all expenditure on CSR activities, that qualify to be recognised as expense should be recognised as a separate line item as 'CSR expenditure' in the statement of profit and loss. Further, the relevant note should disclose the break-up of various heads of expenses based on nature and materiality included in the line item 'CSR expenditure'.

Reporting requirement in notes to accounts

The notes to accounts relating to CSR expenditure should also contain the following:

- (a) Gross amount required to be spent by the company during the year.
- (b) Amount approved by the Board to be spent during the year
- (c) Amount spent during the year on:
 - (i) Construction / acquisition of any asset

(ii) On purposes other than (i) above

The above disclosure, to the extent relevant, may also be made in the notes to the cash flow statement, where applicable.

(d) Details of related party transactions, e.g., contribution to a trust / society / section 8 company controlled by the company in relation to CSR expenditure as per Accounting Standard (AS) 18, Related Party Disclosures.

(e) After the amendments to Section 135(5) and 135(6) are made applicable, then the following details in the notes should also be made:

In case of S. 135(5) unspent amount

Opening	Amount	Amount	Amount	Closing
Balance	deposited in	required to	spent	Balance
	Specified	be spent	during the	
	Fund of Sch.	during the	year	
	VII within 6	Year		
	months			

In case of S. 135(5) Excess amount spent

Opening	Amount required to	Amount spent	Closing
Balance	be spent during the	during the year	Balance
	year		

Details of ongoing projects along with *In case of S. 135(6) (Ongoing Project) (to be given year-wise)*

Opening Balance		Amount required to be spent during the year	Amount spent during the year		Closing Balance	
With Company	In Separate CSR Unspent A/c		From Company's bank A/c	From Separate CSR Unspent A/c	With Company	In Separate CSR Unspent A/c

Movements in the provision during the year should be shown separately. Post applicability of amendments to section 135(5) and section 135(6), the provisions, where applicable should be made and the asset should be recognized for amount spent in excess

Reporting requirement in Board of Directors Report

It may also happen that a Company is incurring losses but it may still satisfy other conditions specified under Section 135 of the Act and becomes liable to comply with the provisions of the Section 135 and Companies Rules, 2014 but since there are no profits, the company may not spend any amount, and still it will have to disclose the reason for not spending any amount in its Boards Report.

In view of the recommendation of the Committee, the Ministry of Corporate Affairs introduced Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021. The said rules came into effect on January 22, 2021. Rule 8 of the said rules, makes it mandatory for companies to annex to the Board's Report an annual report on CSR containing disclosures specified in Annexure I (for Board Report of FY 2019-2020) or Annexure-II (for Board Report of FY 2020-2021 and onwards). [Annexure -I and II attached at the end]

The contents of the annual report on CSR is a mandatory annexure of the Board's Report. Annexure-II is a format for the Annual Report on CSR Activities to be included in the Board's Report for Financial Year commencing on or after the 1st day of April 2020.

In the case of a foreign company, the balance sheet filed under section 381(1)(b) of the Act should contain an annual report on CSR containing particulars specified in Annexure I or Annexure II, as applicable.

Reporting requirement under CARO 2020 relevant to CSR

Companies (Auditor's Report) Order (CARO) 2020 was notified on 25th February 2020 vide S.O. S49(E), and was to be applicable for the financial years commencing on or after the 1st April, 2019. However, the same was extended by a year by Ministry of Corporate Affairs vide Order dated 24th March 2020, to be applicable for the financial years commencing on or after the 1st April, 2020.

Clause xx has been inserted in the CARO which specifically requires reporting on CSR. The same is read as under:

“(xx) (a) whether, in respect of other than ongoing projects, the company has transferred unspent amount to a Fund specified in Schedule VII to the Companies Act within a period of six months of the expiry of the financial year in compliance with second proviso to subsection (5) of Section 135 of the said Act;

(b) whether any amount remaining unspent under sub-section (5) of section 135 of the Companies Act, pursuant to any ongoing project, has been transferred to special account in compliance with the provision of subsection (6) of Section 135 of the said Act”

The Auditor while reporting on this clause should refer and comply with the Guidance Note on CARO 2020 issued by ICAI.

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, if any, for public access.

Disclosures in Schedule III

The Ministry of Corporate Affairs, Government of India, issued notifications dated 24th March, 2021 to amend Schedule III to the Companies Act, 2013 read with Companies (Accounts) Rules, 2014 and Companies (Audit and Auditors) Rule, 2014 with effect from 1st day of April, 2021 to enhance the disclosures required to be made by the Company in its:-

- i. Financial Statements;
- ii. Board Report;
- iii. Audit Report

The main aim of the amendments in Schedule III of the Companies Act, 2013 is to improve the transparency in the financial statements of the company.

Where the company covered under section 135 of the companies act, the following shall be disclosed in schedule III with regard to CSR activities:-

- (a) amount required to be spent by the company during the year,
- (b) amount of expenditure incurred,
- (c) shortfall at the end of the year,
- (d) total of previous years shortfall,
- (e) reason for shortfall,
- (f) nature of CSR activities,
- (g) details of related party transactions, e.g., contribution to a trust controlled by the company in relation to CSR expenditure as per relevant Accounting Standard,
- (h) where a provision is made with respect to a liability incurred by entering into a contractual obligation, the movements in the provision during the year should be shown separately.

8. Tax Benefits for CSR Activities

High Level Committee-2015 observed that no tax benefits are prescribed under the Income Tax Act, 1961 for expenditure incurred by companies towards Corporate Social Responsibility as clarified by the Finance Act, 2014. However, companies spend on several activities like rural development, skill development, agricultural extension projects, contribution to Prime Minister's National Relief Fund, etc., finds place in Schedule VII of the Companies Act, 2013, which may qualify for tax exemption under relevant provisions of the Income Tax Act, 1961, subject to fulfilment of any other specified conditions.

The Committee observed that allocation of CSR funds across development sectors may be distorted in the absence of uniformity in tax treatment for CSR expenditures on all the eligible activities. It was informed to the Committee that outsourcing of CSR activities to Implementing Agencies (IAs) attracts payment of Goods & Services Tax, whereas if the company enters into a Memorandum of Understanding with the Implementing Agency, the contribution made is treated as grant, and, therefore, not liable for payment of Goods & Services Tax. This raises the issue of CSR funds flowing to those activities/modes of implementation which enjoy tax incentives to the exclusion of the rest.

This Committee is of the view that there is a need to address the distortions in CSR spending arising from the prevalent tax structure, and believes that CSR spending should be incentivized for the Corporates. The expenditure on CSR be deductible from the taxable income of the company. This measure will ensure greater transparency and accountability for CSR spending as the CSR expenditure shall get treatment as expenses.

In so far as incidence of GST on IAs is concerned, it has been suggested by stakeholders that IAs be treated as partners, and not as vendors or service providers for CSR activities. This shall address the issue of GST and TDS as is currently faced by IAs. The Committee is in agreement with the suggestion and recommends the same. This is inline with the spirit of the CSR legislation which is about strengthening social development at grassroot level.

Recommendation All activities listed under Schedule VII to enjoy uniform tax benefit. CSR expenditure to be made deductible from the income earned for the purpose of taxation. The mode of implementation to be tax neutral. Implementing agencies be treated as partners and not service providers/vendors for CSR activities, so as to address the variable incidence of indirect taxes on them.

CSR expenditure is eligible for deduction under Sec 80G

No specific tax exemptions have been extended to CSR expenditure per se. Finance Act, 2014 also clarifies that expenditure on CSR does not form part of business expenditure.

As we know the expenditure by corporate on CSR activities are not allowed as deduction from the profit of the company. The expenditure on CSR is considered as appropriation of profit.

The Central Government has inserted an Explanation 2 in Section 37(1) which came into effect from 1st April 2015 of the Income Tax Act, 1961 as follows;

“Explanation 2- it is declared that for the purpose of subsection (1) any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purpose of business or profession”

For the purpose of section 37(1) any expenditure in section 135 of the Companies Act, 2013 shall not be allowed as deduction under section 37. However, the CSR expenditure which is of the nature described in Sections 30 to 36 of the Income Tax Act, 1961 shall be allowed deduction under section.

ANNEXURES

Annexure – I

Format for the Annual Report on CSR Activities to be included in the Board's Report [For Financial Year Commenced Prior To 1st Day of April, 2020]

1. A brief outline of the company's CSR policy, including overview of projects or programs proposed to be undertaken and a reference to the web-link to the CSR policy and projects or programs.
2. The Composition of the CSR Committee.
3. Average net profit of the company for last three financial years
4. Prescribed CSR Expenditure (two per cent of the amount as in item 3 above)
5. Details of CSR spent during the financial year.

(a) Total amount to be spent for the financial year;

(b) Amount unspent, if any;

(c) Manner in which the amount spent during the financial year is detailed below.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
S.No.	CSR project or activity identified	Sector in which the Project is covered	Projects or programs (1) Local area or other (2) Specify the State and district where projects or programs was undertaken	Amount outlay (budget) project or programs wise	Amount spent on the projects or programs Sub-heads: (1) Direct expenditure on projects or programs. (2) Overheads:	Cumulative expenditure upto to the reporting period.	Amount spent: Direct or through implementing agency*
1							
2							
3							
	TOTAL						

*Give details of implementing agency:

6. In case the company has failed to spend the two per cent of the average net profit of the last three financial years or any part thereof, the company shall provide the reasons for not spending the amount in its Board report.

7. A responsibility statement of the CSR Committee that the implementation and monitoring of CSR Policy, is in compliance with CSR objectives and Policy of the company.

Sd/- (Chief Executive Officer or Managing Director or Director)	Sd/- (Chairman CSR Committee)	Sd/- (Person specified under clause (d) of sub-section (1) of section 380 of the Act) (wherever applicable)
--	----------------------------------	---

[Annexure -II]

Format For The Annual Report on CSR Activities to be Included in the Board's Report For Financial Year Commencing on or After 1st Day of April, 2020

1. Brief outline on CSR Policy of the Company.
2. Composition of CSR Committee:

Sl. No.	Name of Director	Designation / Nature of Directorship	Number of meetings of CSR Committee held during the year	Number of meetings of CSR Committee attended during the year

3. Provide the web-link where Composition of CSR committee, CSR Policy and CSR projects approved by the board are 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 the Companies (Corporate Social responsibility Policy) Rules, 2014, if applicable (attach the report).
5. Details of the amount available for set off in pursuance of sub-rule (3) of rule 7 of the Companies (Corporate Social responsibility Policy) Rules, 2014 and amount required for set off for the financial year, if any

Sl. No.	Financial Year	Amount available for set-off from preceding financial years (in Rs)	Amount required to be set-off for the financial year, if any (in Rs)

		the Act.					(in Rs.).	t as per Section 135(6) (in Rs.).		numbe r.
1.										
2.										
3.										
	Total									

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

(1)	(2)	(3)	(4)	(5)		(6)	(7)	(8)	
Sl. No.	Name of the Project	Item from the list of activities in schedule VII to the Act.	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	CSR registration number.
1.									
2.									
3.									
	Total								

(d) Amount spent in Administrative Overheads

(e) Amount spent on Impact Assessment, if applicable

(f) Total amount spent for the Financial Year (8b+8c+8d+8e)

(g) Excess amount for set off, if any

Sl. No.	Particular	Amount (in Rs.)

2								
3								
	Total							

10. In case of creation or acquisition of capital asset, furnish the details relating to the asset so created or acquired through CSR spent in the financial year
(asset-wise details).

(a) Date of creation or acquisition of the capital asset(s).

(b) Amount of CSR spent for creation or acquisition of capital asset.

(c) Details of the entity or public authority or beneficiary under whose name such capital asset is registered, their address etc.

(d) Provide details of the capital asset(s) created or acquired (including complete address and location of the capital asset).

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/- (Chairman CSR Committee).	Sd/- [Person specified under clause (d) of sub-section (1) of section 380 of the Act] (Wherever applicable).
---	--	---

[CSR-1] (Pursuant to section 135 of the Companies Act, 2013 and rule 4(1) and (2) of the Companies (CSR Policy) Rules, 2014)	 सत्यमेव जयते	Registration of Entities for undertaking CSR Activities
--	---	--

Form language English Hindi

Refer the instruction kit for filing the form.

1. *Nature of the Entity: Company established under section 8 of the Companies Act, 2013 with section 12A and section 80G registrations under the Income Tax Act, 1961.

Registered Public Trust with section 12A and section 80G registrations under the Income Tax Act, 1961.

Registered Society with section 12A and section 80G registrations under the Income Tax Act, 1961.

Company established under section 8 of the Companies Act, 2013 or Registered Trust or Registered Society established by the Central Government or State Government.

Entity established under an Act of Parliament or State Legislature.

2. (a) Whether the Entity is established by any company or group of companies: Yes No

(b)(i) If yes, then provide the details of such company (s):

CIN of Company	Pre-fill	Add
-----------------------	-----------------	------------

Name of Company

(ii) If no, whether the entity has an established track record of three years in undertaking similar activities : Yes No

3. (a)* Type of existing entity:

*CIN/ Registration Number: _____ **Pre-fill**

(In case of a section 8 company, enter CIN. Else, enter registration number)

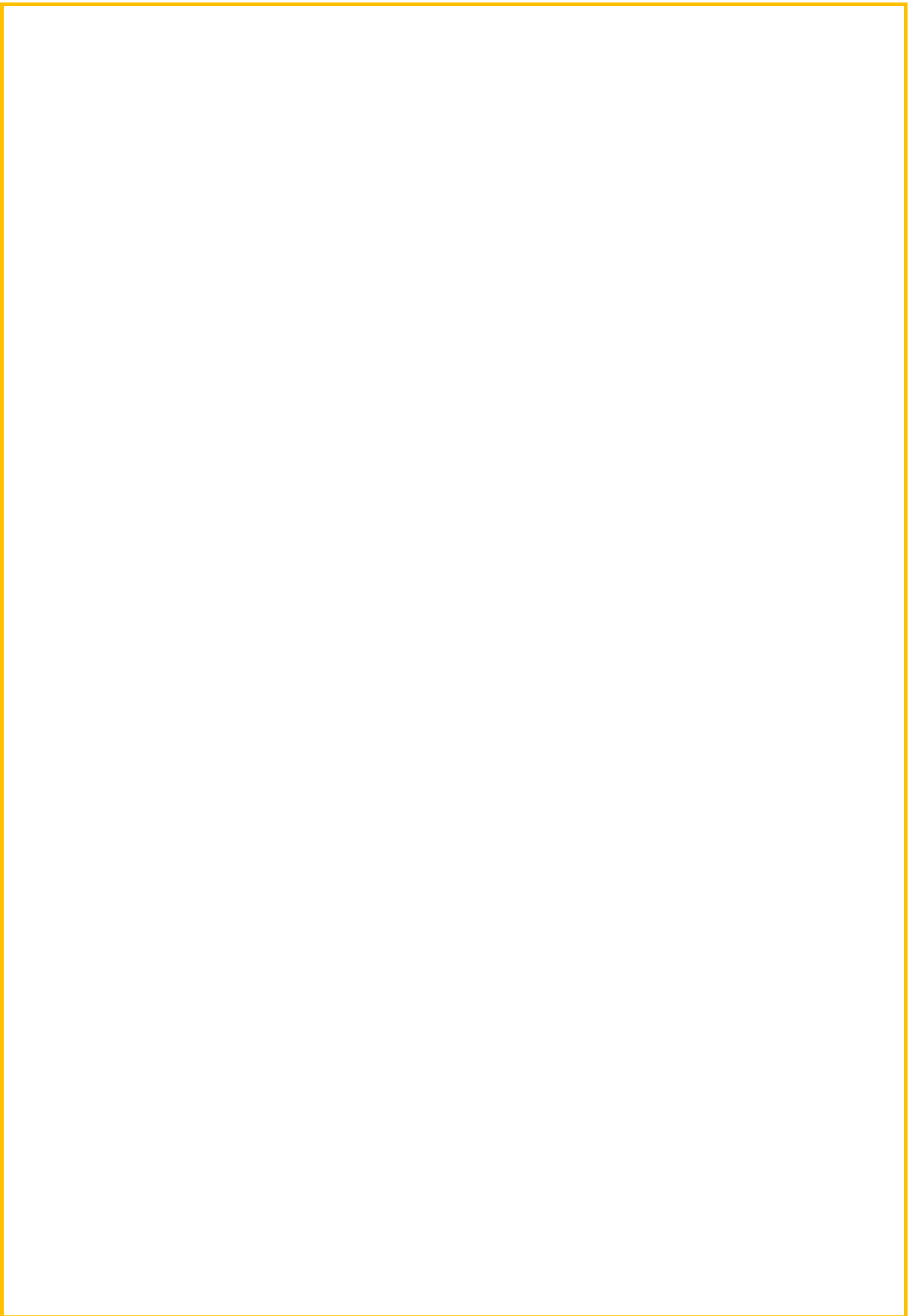
(b) *Name of the entity _____

(c) *Date of incorporation of the entity _____ (DD/MM/YYYY)

(d) *Address of the entity: _____

Line I

Line II



City

State/ Union
territory

District

Pin
Code

(e)* E-Mail ID of the
entity

Send
OTP

(f)*Enter OTP for
email ID

Verify
OTP

(g) *PAN of the
entity

4.*Details of Directors/ Board of Trustees/ Chairman/ CEO/ Secretary/
Authorised Representatives of the entity:

Sl. No.	Name	Designation	DIN/PIN	Email ID

Attachments:

List of Attachments

1. * Copy of Certificate of
Registration;

Attach

2. *Copy of PAN of entity

Attach

**Remove
Attachments**

***Declaration**

I am authorized by the Entity vide *resolution number _____ *dated _____

_____ to sign this form and declare that the particulars given in the form herein above
are true and also are in agreement with the documents maintained by the Entity.

To be digitally signed by one director in case of Section 8 company

To be digitally signed by one of the Trustee/ CEO in case of Registered PublicTrust

To be digitally signed by Chairperson/ CEO/ Secretary in case of RegisteredSociety

To be digitally signed by Authorised Representative in case of Entity established under an Act of Parliament or State Legislature

***To be digitally signed by**

DSC Box



*Designation

· DIN of the director; or DIN

or PAN of the Trustee or

CEO or Chairperson or Chief
functionary or

authorised representative of the
Entity;

***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:

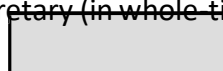
1. The said records have been properly prepared, signed by the required officers/authorised representatives of the entity and were found to be in order;
2. All the required attachments have been completely and legibly attached to this form;
3. It is understood that I shall be liable for action under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

***To be digitally signed by**

DSC Box

Chartered accountant (in
time practice)

Company secretary (in whole time practice) whole-



Cost accountant (in
whole-time practice)

*Whether associate or fellow

Associate Fellow

*Membership number

Certificate of practice number

Note: Attention is drawn to provisions of Section 448 and 449 of the Companies Act, 2013 which provide for punishment for false statement/ certificate and punishment for false evidence respectively.

<input type="button" value="Modify"/>		<input type="button" value="Check form"/>		<input type="button" value="Pre Scrutiny"/>		<input type="button" value="Submit"/>
---------------------------------------	--	---	--	---	--	---------------------------------------

This e-form has been taken on file maintained by the registrar of companies through electronic mode on the basis of statement of correctness given by the authorised person a

Annexure III- Schedule VII of the Act:

Activities which may be included by Companies in their Corporate Social Responsibility Policies:

1. eradicating hunger, poverty and malnutrition, promoting preventive health care and sanitation and making available safe drinking water;
2. promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects;
3. 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;
4. 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;
5. 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 arts and handicrafts;
6. measures for the benefit of armed forces veterans, war widows and their dependents;
7. training to promote rural sports, nationally recognised sports, paralympic sports and Olympic sports;
8. contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women;
9. contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Government
10. rural development projects

Annexure IV- Corporate Social Responsibility– CompaniesAct 2013

135(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 have in its Corporate Social Responsibility Committee two or more directors.]

(2) The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.

(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.

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

(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

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

(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, [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: 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: 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, 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].

[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.]

[*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.]

[(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 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.

[(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.]

(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.]

[(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.]

Annexure V

The Companies (Corporate Social Responsibility Policy) Rules, 2014

G.S.R. 129(E). - In exercise of the powers conferred under section 135 and sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules, namely: -

1. Short title and commencement. - (1) These rules may be called the Companies (Corporate Social Responsibility Policy) Rules, 2014.

(2) They shall come into force on the 1st day of April, 2014.

[2. Definitions. - (1) In these rules, unless the context otherwise requires,-

(a) "Act" means the Companies Act, 2013 (18 of 2013);

(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;

(c) "*Annexure*" means the Annexure appended to these rules;

(d) "*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:

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 -

(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;

(b) details of such activity shall be disclosed separately in the Annual report on CSR included in the Board's Report;

(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;

(iii) contribution of any amount directly or indirectly to any political party under section 182 of the Act;

(iv) activities benefitting employees of the company as defined in clause (k) of section 2 of the Code on Wages, 2019 (29 of 2019);

(v) activities supported by the companies on sponsorship basis for deriving marketing benefits for its products or services;

(vi) activities carried out for fulfilment of any other statutory obligations under any law in force in India;

(e) "*CSR Committee*" means the Corporate Social Responsibility Committee of the Board referred to in section 135 of the Act;

(f) "*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;

(g) "*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;

(h) "*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 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;

(i) "*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;

(j) "*Public Authority*" means 'Public Authority' as defined in clause (h) of section 2 of the Right to Information Act, 2005 (22 of 2005);

(k) "section" means a section of the Act.

(2) 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.]

3. Corporate Social Responsibility. - (1) Every company including its holding or subsidiary, and a foreign company defined under clause (42) of section 2 of the Act having its branch office or project office in India, which fulfills the criteria specified in sub-section (1) of section 135 of the Act shall comply with the provisions of section 135 of the Act and these rules:

Provided that net worth, turnover or net profit of a foreign company of the Act shall be computed in accordance with balance sheet and profit and loss account of such company prepared in accordance with the provisions of clause (a) of sub-section (1) of section 381 and section 198 of the Act.

(2) Every company which ceases to be a company covered under sub-section (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 [sub-section (2) to (6)] of the said section, till such time it meets the criteria specified in sub-section (1) of section 135.

[4. 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 (43 of 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 three 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:

Provided that the provisions of this sub-rule shall not affect the CSR projects or programmes approved prior to 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.]

5. CSR Committees. - (1) The companies mentioned in the rule 3 shall constitute CSR Committee as under.-

(i) [a company] covered under subsection (1) of section 135 which is not required to appoint an independent director pursuant to sub-section (4) of section 149 of the Act, shall have its CSR Committee without such director;

(ii) a private company having only two 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 of the Act and another person shall be nominated by the foreign company.

[(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: -

(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 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.] [6. ***]

[7. CSR Expenditure. - (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.

(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.

(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 -

(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 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.]

[8. 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) (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.

(b) The impact assessment reports shall be placed before the Board and shall be annexed to the annual report on CSR.

(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.]

[9. 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, if any, for public access.

10. Transfer of unspent CSR amount. - 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.]

Annexure:VI

Advisory for Members of the Institute of Chartered Accountants of India (ICAI) and Companies to whom CSR provisions under Companies Act, 2013 apply

Wherever a Company is required to comply with CSR Regulations under section 135 of the Companies Act, 2013, it may undertake the CSR activity, either:

- By the Company itself; or
- Through a Third Party being a Trust / Society or Section 8 Company / NGO

Wherever the company undertakes the CSR activity through a third party / NGO, it is advised that all such companies should obtain an Independent Practitioner's Report on Utilisation of such CSR Funds from the auditor / CA in practice of the third party / NGO, to whom the funds are given by the Company for implementing CSR activity.

In such cases the auditor / CA in practice of the third party / NGO is advised that they should submit the Independent Practitioner's Report on Utilization of CSR Funds after verifying that the third party has spent the funds on CSR activities as per Section 135 of the Companies Act, 2013, read with Schedule VII to the Act and related regulations in accordance with the Guidance Note on Reports or Certificates for Special Purposes issued by the Institute of Chartered Accountants of India.

The draft format of Independent Practitioner's Report on Utilization of CSR Funds is attached.

Thanking you,

Chairman,

CSR Committee, ICAI

Note: The format of the Utilization Report is being issued after being duly vetted by the Auditing and Assurance Standards Board of ICAI

Draft format of Independent Practitioner's Report on Utilization of CSR Funds

To

The Governing Body of the Entity (Third Party) (Address of the Entity)

Independent Practitioner's Report on Utilization of Funds by (Name of the third party/ NGO) for purposes of discharging the Corporate Social Responsibility requirements of (Name of the Company)

1. This Report is issued in accordance with the terms of our engagement letter dated (date).
2. The accompanying **Statement** contains the details of utilization of funds received from (name of the company from whom CSR amount has been received hereinafter referred as "**the Company**") by (name of the entity who received the amount hereinafter referred as "**the entity**") under XX Project (name of the Project under which the amount was received and hereinafter referred as "**the Project**") having its office at (address of the entity) for CSR activities pursuant to the requirements of spending on CSR activities by the company as per section 135 of the Companies Act 2013 (hereinafter referred as the Act) read with Schedule VII to the Act and has been initiated by us for identification purposes.

Management's Responsibility

3. The management of the entity is responsible for preparation of the accompanying Statement including the preparation and maintenance of all accounting and other relevant supporting records and documents. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of the Statement and applying an appropriate basis of preparation; and making estimates that are reasonable in the circumstances.
4. The management is also responsible for ensuring that the [Project of] entity complies with the requirements specified by the Company at the time of providing the funds regarding end utilisation to meet the CSR requirements of the company and for providing all relevant information to the Company as agreed to between the Company and the entity spending on the Project on the activities specified in Schedule VII to the Act.

Practitioner's Responsibility

5. Pursuant to the requirements of the "Advisory issued by the CSR Committee of ICAI on Issue of CSR Utilization Report by Auditors of Third Party", it is our responsibility to provide reasonable assurance in the form of an opinion on the Statement based on our examination of the matters in the Statement with reference to the books of account and other records of the [Project of] entity, whether the details given in the Statement have been accurately extracted from the [audited / unaudited] financial statements of the [Project of] entity produced before us for examination and the activities for which amount was utilized by the [Project of] entity are covered under CSR activities as per Schedule VII to the Companies Act, 2013. We have performed following procedures in this regard :

- 1 These are indicative procedures and the practitioner should assess specific procedures to be performed for a particular engagement.

2 In case the financial statements are unaudited, instead use “The financial statements of the [Project] of the entity as of and for the financial year ended March 31, 20XX are unaudited and certified by the management of the entity”

3 In case of unaudited books of account, the practitioner should provide limited assurance instead of reasonable assurance.

a) Traced and agreed the amounts in the attached Statement, to the [audited / unaudited] financial statements of the entity as at and for the year ended March 31, 20XX.

b) Checked whether the entity has incurred amounts on the Corporate Social Responsibility (CSR) activities specified in Schedule VII of the Companies Act, 2013.

c) Traced the amount spent on CSR activities from the bank statements / cash book of the entity.

d) Checked whether amounts spent on CSR activities have been adequately disclosed in the financial statements of the [Project of] the entity.

e) Obtained written representation from the management of the entity on the total amount unspent and their plan to disburse the unspent amount related to the project.

f) Tested the arithmetical and clerical accuracy of the Statement.

6. We audited the financial statements of the [Project] of the entity as of and for the financial year ended March 31, 20XX, on which we issued an unmodified audit opinion vide our reports dated (specify date). Our audits of these financial

statements were conducted in accordance with the Standards on Auditing and other applicable authoritative pronouncements issued by the Institute of Chartered Accountants of India. Those Standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement².

7. We conducted our examination of the Statement in accordance with the Guidance Note on Reports or Certificates for Special Purposes issued by the Institute of Chartered Accountants of India. The Guidance Note requires that we comply with the ethical requirements of the Code of Ethics issued by the Institute of Chartered Accountants of India.

8. We have complied with the relevant applicable requirements of the Standard on Quality Control (SQC) 1, Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements.

9. Based on our examination as above, and the information and explanations given to us, in our opinion, the details given in the Statement have been accurately extracted from the audited financial statements of the [Project of] of the entity for the year ended [March 31, 20XX] produced before us for examination. We are also of the opinion that the activities for which amount was utilized by the [Project of] entity are covered under CSR activities as per Schedule VII to the Act.

OR

Conclusion

Based on our examination as above, and the information and explanations given to us, nothing has come to our attention that causes us to believe that the details given in the Statement have not been accurately extracted from the unaudited financial statement of the [Project of] of the entity for the year ended [March 31, 20XX] produced before us for examination or The

activities for which amount was utilized by the [Project of] entity are not covered under CSRactivities as per Schedule VII to the Act.

Restriction on Use

10. This report is addressed to and provided to the governing body of the entity for the purpose of certifying the utilization of the funds by the [Project of] entity for CSR activities as envisaged by the CSR Committee of the Company, and should not be used by any other person or for any other purpose. Accordingly, we do not accept or assume any liability or any duty of care for any other purpose or to any other person to whom this report is shown or into whose hands it may come without our prior consent in writing.

For XYZ and Co.

Chartered Accountants

Firm's Registration Number

Signature

(Name of the Member Signing the Assurance Report)(Designation)

Membership Number

UDIN

Place of Signature

Date

Statement

Details of amount received from (*name of the company from whom CSR amount has been received*) by (*name of the entity who received the amount*)and its utilization up to 31st March 20XX is as under

S. No.	Particulars	Amount (in Rs.)	Amount (in Rs.)
1.	Amount brought forward from financial year 20XX-XX (opening balance as at.....) Out of which Amount brought forward from previous financial yearsfrom (name of the company from whom CSR amount has been received) (give dates of

receipts with
year)

2. Add: Amount(.....)
Received From
(name of the
company from
whom CSR amount
has been received)
during the
financial year (give
dates of the
receipt) Less:
Program
Management
Fees @ XX%

3. Less: Amount Spent (detail (.....)
of amount spent project
wise) during the financial
year (Give no. of clause of
schedule VII against each
amount)
i. Material expenditure
(nature of spend for
every material
expenditure)
ii. Travel and
conveyance
iii. Resource cost
iv. Printing &
Stationery
v. Communication
cost

Monitoring Cost

4. Balance amount
carried forward to
financial year 20XX- XX
(Next year) (Closing
Balance as at
.....)

Frequently Asked Questions (FAQs) on Corporate Social Responsibility (CSR)

S. No.	Question	Answer
1.0	Applicability of CSR	
1.1	Which companies qualify for CSR under the Companies Act, 2013?	<p>A company satisfying any of the following criteria during the immediately preceding financial year is required to comply with CSR provisions specified under section 135(1) of the Companies Act, 2013 read with the Companies (CSR Policy) Rules, 2014 made thereunder:</p> <ul style="list-style-type: none">(i) net worth of rupees five hundred crore or more, or(ii) turnover of rupees one thousand crore or more, or(iii) net profit of rupees five crore or more.
1.2	Whether a holding or subsidiary of a company fulfilling the criteria under section 135(1) has to comply with the provisions of section 135, even if the holding or subsidiary itself does not fulfil the criteria?	<p>No, the compliance with CSR requirements is specific to each company. A holding or subsidiary of a company is not required to comply with the CSR provisions unless the holding or subsidiary itself fulfils the eligibility criteria prescribed under section 135(1) stated above.</p> <p>Example: Company A is covered under the criteria mentioned in section 135(1). Company B is holding company of company A. If Company B by itself does not satisfy any of the criteria mentioned in section 135(1), Company B is not required to comply with the provisions of section 135.</p>
1.3	Whether provisions of CSR are applicable to a section 8 Company?	<p>Yes, section 135(1) of the Act commences with the words "Every company....." and thus applies to section 8 companies as well.</p>

1.4	Whether CSR provisions apply to a company that has not completed the period of three financial years since its incorporation?	<p>Yes. If the company has not completed three financial years since its incorporation, but it satisfies any of the criteria mentioned in section 135(1), the CSR provisions including spending of at least two per cent of the average net profits made during immediately preceding financial year(s) are applicable.</p> <p>Example: Company A is incorporated during FY 2018- 19, and as per eligibility criteria the company is covered under section 135(1) for FY 2020-21. The CSR spending obligation under section 135(5) for Company A would be at least two per cent of the average net profits of the company made during FY 2018-19 and FY 2019-20.</p>
-----	---	---

2.0	CSR Framework	
2.1	What is the composition of the CSR Committee?	<p>The composition of the CSR Committee for various categories of companies is as under:</p> <p>Where the amount required to be spent by a company on CSR does not exceed fifty lakh rupees, the requirement for constitution of the CSR Committee is not mandatory and the functions of the CSR Committee, in such cases, shall be discharged by the Board of Directors of the company.</p>

Listed companies	Three or more directors, out of which at least one shall be an independent director.
Unlisted public companies	<p>Three or more directors, out of which at least one shall be an independent director.</p> <p>However, if there is no requirement of having an independent director in the company, two or more directors.</p>

Private companies	Two or more directors. No independent directors are required as mentioned in the proviso under section 135(1).
Foreign company	<p>At least two persons out of which:</p> <ul style="list-style-type: none">(a) one shall be as specified under clause (d) of sub-section (1) of section 380 of the Act, and(b) another shall be nominated by the foreign company. <p>(Refer rule 5(1) of the Companies (CSR Policy) Rules, 2014)</p>

2.2	What are the functions of the CSR Committee?	<p>The Corporate Social Responsibility Committee shall</p> <ul style="list-style-type: none"> (i) formulate and recommend the CSR policy to the Board; (ii) recommend the amount of expenditure to be incurred on CSR activities; (iii) monitor the CSR policy of the company from time to time; and (iv) formulate and recommend to the Board, an annual action plan in pursuance of its CSR policy, which shall include the items as mentioned in rule 5(2) of the Companies (CSR Policy) Rules, 2014. <p>For companies covered under Section 135(9) of the Act and not required to have CSR Committee, these functions shall be carried out by the Board itself.</p>
2.3	What are the responsibilities of the Board in relation to the CSR provisions?	<p>CSR is a Board-driven process. The responsibilities of the Board of a CSR-eligible company, inter-alia, include the following —</p> <ul style="list-style-type: none"> (i) approve the CSR policy; (ii) disclose contents of such policy in its report and also place it on the company's website, if any; (iii) ensure that the activities included in the CSR policy are undertaken by the company; (iv) 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; (v) satisfy itself regarding the utilisation of the disbursed CSR funds; and (vi) if the company fails to spend at least two per cent of the average net profits of the company, 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 transfer the unspent CSR amount as per provisions of sections 135(5) and 135(6) of the Act.

2.4	What is the role of the Government in the approval and implementation of the CSR programmes/projects of a company?	<p>Provisions of section 135, read with Schedule VII of the Act and Companies (CSR Policy) Rules, 2014 provide the broad framework within which the eligible companies are required to formulate their CSR policies including activities to be undertaken and implementation of the same. CSR is a board-driven process, and the Board of the company is empowered to plan, approve, execute, and monitor the CSR activities of the company based on the recommendation of its CSR Committee.</p> <p>The Government has no direct role in the approval and implementation of the CSR programmes /projects of a company.</p>
2.5	What are the mechanisms for monitoring the CSR process?	<p>CSR is a Board-driven process, and the Board of the company is empowered to plan, decide, execute, and monitor the CSR activities of the company based on the recommendation of its CSR Committee. The CSR architecture is disclosure-based and CSR-mandated companies are required to file details of CSR activities annually in MCA21 registry. Companies are required to make necessary disclosures in the financial statements regarding CSR including non-compliance. The existing legal provisions such as mandatory disclosures, accountability of the CSR Committee and the Board, and provisions for audit of accounts of the company provide sufficient mechanisms for monitoring.</p>
2.6	What is the role of the Government in monitoring compliance of CSR provisions by companies?	<p>The Government monitors the compliance of CSR provisions through the disclosures made by the companies in the MCA 21 portal. For any violation of CSR provisions, action can be initiated by the Government against such non-compliant companies as per provisions of the Companies Act, 2013 after due examination of records, and following due process of law. Non-compliance of CSR provisions has been notified as a civil wrong w.e.f. 22nd January, 2021.</p>

3.0	CSR Expenditure	
3.1	<p>How is average net profit calculated for the purpose of section 135 of the Act? Whether 'profit before tax' or 'profit after tax' is used for such computation?</p>	<p>The average net profit for the purpose of determining the spending on CSR activities is to be computed in accordance with the provisions of section 198 of the Act and will also be exclusive of the items given under rule 2(1)(h) of the Companies (CSR Policy) Rules, 2014. Section 198 of the Act specifies certain additions/deletions (adjustments) to be made while calculating the net profit of a company (mainly it excludes capital payments/receipts, income tax, set-off of past losses).</p> <p>Profit Before Tax (PBT) is used for computation of net profit under section 135 of the Act.</p>
3.2	<p>What is the meaning of the term 'administrative overheads'? What is the maximum permissible limit for administrative overheads?</p>	<p>Administrative overheads are the expenses incurred by the company for 'general management and administration' of CSR functions. However, the expenses which are directly incurred for the designing, implementation, monitoring, and evaluation of a particular CSR project or programme, shall not be included in the administrative overheads.</p> <p>Administrative overheads generally comprise of items such as employee costs, utilities, office supplies, legal expenses, etc. However, expenses which are attributed to the project implementation shall be included in project cost only.</p> <p>Example: Salary and training for the employees working in the CSR division of a company, stationery cost, travelling expenses, etc. may be categorised as administrative overheads. However, salary of school teachers or other staff, etc. for education-related CSR projects shall be covered under education project cost.</p> <p>The maximum permissible limit for administrative overheads is five per cent of the total CSR expenditure of the company for the financial year.</p>

3.3	Are administrative overheads applicable only for expenses incurred by the company, or can they be applied to expenses incurred by the implementing agency as well?	According to rule 2(1)(b) of the Companies (CSR Policy) Rules, 2014, administrative overheads mean the expenses incurred by the company in the general management and administration of CSR functions in the company. Therefore, expenses incurred by implementing agencies on the management of CSR activities shall not amount to administrative overheads and cannot be claimed by the company.
3.4	What is the meaning of surplus arising from CSR activities? How can this surplus be utilised?	<p>Surplus refers to income generated from the spend on CSR activities, e.g., interest income earned by the implementing agency on funds provided under CSR, revenue received from the CSR projects, disposal/sale of materials used in CSR projects, and other similar income sources.</p> <p>The surplus arising out of CSR activities shall be utilised only for CSR purposes.</p>
3.5	Whether contribution to the corpus of an entity is an admissible CSR expenditure?	No, the provision relating to contribution to corpus as admissible CSR expenditure has been amended and the contribution to corpus of any entity is not an admissible CSR expenditure w.e.f. 22 nd January, 2021.
3.6	Whether expenses related to transfer of capital asset as provided under rule 7(4) of Companies (CSR Policy) Rules, 2014, will qualify as admissible CSR expenditure?	Yes, the expenses relating to transfer of capital asset such as stamp duty and registration fees, will qualify as admissible CSR expenditure in the year of such transfer.

3.7	If a company spends more than the requirement provided under section 135, can that excess amount be set off against the mandatory 2% CSR expenditure in succeeding financial years?	Yes, the excess amount can be set off against the required 2% CSR expenditure up to the immediately succeeding three financial years subject to compliance with the conditions stipulated under rule 7(3) of the Companies (CSR Policy) Rules, 2014. This position is applicable from 22 nd January, 2021 and has a prospective effect. Thus, no carry forward shall be allowed for the excess amount spent, if any, in financial years prior to FY 2020-21.
-----	---	---

3.8	<p>If a company cannot take the benefit of set off of excess amount spent in the previous financial year because of non-applicability of CSR provisions, will the excess amount lapse?</p>	<p>Yes, the law states that the excess CSR amount spent can be carried forward up to immediately succeeding three financial years; thus, in case any excess amount is left for set off, it will lapse at the end of the said period.</p> <p>Example: In FY 2020-21 a company had spent Rs. 2 crores in excess. In FY 2021-22, it sets-off Rs. 50 lakhs from such excess. However, from FY 2022-23, the company is no longer subject to CSR provisions under section 135(1). In such case, the company may continue to retain the remaining excess CSR of Rs. 1.50 crores up to FY 2023-24, and thereafter the same shall lapse.</p>
3.9	<p>Whether it is mandatory for companies to carry out CSR in their local areas?</p>	<p>The first proviso to section 135(5) of the Act provides that the company shall give preference to local areas and the areas around where it operates. Some activities in Schedule VII such as welfare activities for war widows, art and culture, and other similar activities, transcend geographical boundaries and are applicable across the country. With the advent of Information & Communication Technology (ICT) and emergence of new age businesses like e-commerce companies, process-outsourcing companies, and aggregator companies, it is becoming increasingly difficult to determine the local area of various activities.</p> <p>The spirit of the Act is to ensure that CSR initiatives are aligned with the national priorities and enhance engagement of the corporate sector towards achieving Sustainable Development Goals (SDGs).</p> <p>Thus, the preference to local area in the Act is only directory and not mandatory in nature and companies need to balance local area preference with national priorities.</p>

3.10	Whether CSR expenditure of a company can be claimed as a business expenditure?	No, the amount spent by a company towards CSR cannot be claimed as business expenditure. Explanation 2 to section 37(1) of the Income Tax Act, 1961 which was inserted through the Finance Act, 2014 provides that any expenditure incurred by an assessee on the activities relating to CSR referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.
------	--	--

3.11	What tax benefits can be availed under CSR?	No specific tax exemptions have been extended to CSR expenditure. The Finance Act, 2014 also clarifies that expenditure on CSR does not form part of business expenditure.
3.12	Whether contribution in kind can be monetized to be shown as CSR expenditure?	The requirement comes from section 135(5) that states that "The Board of every company shall ensure that it spends..." Therefore, CSR contribution cannot be in kind and monetized.
3.13	Can CSR expenditure be incurred on activities beyond Schedule VII?	No, CSR expenditure cannot be incurred on activities beyond Schedule VII of the Act. The activities undertaken in pursuance of the CSR policy must be relatable to Schedule VII of the Companies Act, 2013. The items enlisted in Schedule VII of the Act are broad-based and are intended to cover a wide range of activities. The entries in the said Schedule VII must be interpreted liberally to capture the essence of the subjects enumerated in the said Schedule.
3.14	What are the different modes of incurring CSR expenditure?	<p>CSR expenditure can be incurred in multiple modes:</p> <ul style="list-style-type: none"> (i) 'Activities route', which is a direct mode wherein a company undertakes the CSR projects or programmes as per Schedule VII of the Act, either by itself or by engaging implementing agencies as prescribed in Companies (CSR Policy) Rules, 2014. (ii) 'Contribution to funds route', which allows the contributions to various funds as specified in Schedule VII of the Act. (iii) Contribution to incubators and R&D projects, as specified in item (ix)(a) and contribution to institutes/organisations, engaged in research and development activity, as specified under item (ix)(b) of Schedule VII of the Act.

3.15	Which are the funds specified in Schedule VII of the Act for the purpose of CSR contribution?	<p>Contributions to the following funds shall be admissible as CSR expenditure:</p> <ul style="list-style-type: none"> (i) Swachh Bharat Kosh (ii) Clean Ganga Fund (iii) Prime Minister's National Relief Fund (PMNRF) (iv) Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) (v) Any other fund set up by the Central Government and notified by the Ministry of Corporate Affairs, for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women.
3.16	Will contribution to any other fund set up for carrying out the activities mentioned in Schedule VII of the Act, be an admissible CSR expenditure?	No, the Act does not recognise any contribution to any other fund, which is not specifically mentioned in Schedule VII, as an admissible CSR expenditure.
3.17	Can CSR funds be utilised to fund Government schemes?	The objective of CSR provisions is to involve the corporates as partners in the social development process. Use of corporate innovations and management skills in the delivery of 'public goods' is at the core of CSR implementation by the companies. Therefore, CSR should not be interpreted as a source of financing the resource gaps in Government Schemes. However, the Board of the eligible company may undertake similar activities independently subject to fulfilment of Companies (CSR Policy) Rules, 2014.

3.18	Whether involvement of employees of a company in their CSR projects can be monetized and accounted for under the head of 'CSR expenditure'?	No, involvement of employees in CSR projects of a company cannot be monetized. Contribution and involvement of employees in CSR activities of the company will no doubt generate interest/pride in CSR work and promote transformation from Corporate Social Responsibility (CSR) as an obligation to Socially Responsible Corporate (SRC) in all aspects of their functioning. Companies, therefore, should be encouraged to involve their employees in CSR activities.
------	---	--

4.0	CSR Activities	
4.1	Which activities do not qualify as eligible CSR activity?	<p>Rule 2(1)(d) of the Companies (CSR Policy) Rules, 2014 defines CSR and the following activities are specifically excluded from being considered as eligible CSR activity:</p> <ul style="list-style-type: none"> (i) Activities undertaken in pursuance of normal course of business of the company. However, exemption is provided for three financial years, till FY 2022-23, to companies engaged in R&D activities for new vaccines, drugs, and medical devices in their normal course of business, related to COVID-19. This exclusion is allowed only in case the companies are engaged in R&D in collaboration with organisations as mentioned in item (ix) of Schedule VII and disclose the same in their Board reports. (ii) Activities undertaken outside India, except for training of Indian sports personnel representing any State or Union Territory at national level or India at international level; (iii) Contribution of any amount, directly or indirectly, to any political party under section 182 of the Act; (iv) Activities benefitting employees of the company as defined in section 2(k) of the Code on Wages, 2019; (v) Sponsorship activities for deriving marketing benefits for products/services; (vi) Activities for fulfilling statutory obligations under any law in force in India.

4.2	Whether the companies can undertake any CSR activity mentioned under Schedule VII of the Act for the exclusive benefit of their employees, workers and their family members?	Rule 2(1)(d)(iv) of the Companies (CSR Policy) Rules, 2014 states that any activity benefitting employees of the company shall not be considered as eligible CSR activity. As per the rule, any activity designed exclusively for the benefit of employees shall be considered as an “activity benefitting employees” and will not qualify as permissible CSR expenditure. The spirit behind any CSR activity is to benefit the public at large and the activity should be non-discriminatory to any class of beneficiaries. However, any activity which is not designed to benefit employees solely, but the public at large, and if the employees and their family members are incidental beneficiaries, then, such activity would not be considered as “activity benefitting employees” and will qualify as eligible CSR activity.
-----	--	---

4.3	<p>What is the meaning of sponsorship activities deriving marketing benefits for company's products or services?</p>	<p>Sponsorship activities of an event are done with an aim of deriving marketing benefits for a company's product or services. The intent of CSR is to encourage companies to undertake the activities in a project or programme mode rather than as a one-off event. Companies shall not use CSR purely as a marketing or brand building tool for their business, but brand building as a collateral benefit does not vitiate the spirit of CSR.</p>
4.4	<p>Are activities undertaken by companies outside India for the benefit of resident Indians, permitted as eligible CSR activity?</p>	<p>Rule 2(1)(d)(ii) of the Companies (CSR Policy) Rules, 2014 clearly states that any activity undertaken by the company outside India shall not be an eligible CSR activity. The only exception is training of Indian sports personnel representing any State or Union Territory at national or international level.</p>
4.5	<p>How can companies with small CSR funds take up CSR activities in a project mode?</p>	<p>A well-designed CSR project can be managed with small CSR funds as well. Further, there is a provision in the Companies (CSR Policy) Rules, 2014 that enables such companies to collaborate with other companies for undertaking CSR activities by way of pooling their CSR resources. (Refer rule 4(4) in Companies (CSR Policy) Rules, 2014).</p>
5.0	<p>CSR Implementation</p>	
5.1	<p>What are the different modes of implementation of CSR activities?</p>	<p>Pursuant to rule 4 of the Companies (CSR Policy) Rules, 2014 a company may undertake CSR activities through following three modes of implementation:</p> <ul style="list-style-type: none"> (i) Implementation by the company itself (ii) Implementation through eligible implementing agencies as prescribed under sub-rule (1) of rule 4. (iii) Implementation in collaboration with one or more companies as prescribed under sub-rule (4) of rule 4.

5.2	Which entities are eligible to act as an implementing agency for undertaking CSR activities?	<p>Rule 4(1) of the Companies (CSR Policy) Rules, 2014 provides the eligible entities which can act as an implementing agency for undertaking CSR activities. These are:</p> <ul style="list-style-type: none"> (i) Entity established by the company itself or along with any other company – 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. (ii) Entity established by the Central Government or State Government – a company established under section 8 of the Act, or a registered trust or a registered society. (iii) Statutory bodies – any entity established under an Act of Parliament or a State legislature. (iv) Other bodies – 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.
5.3	Whether all three types of entities – a company established under section 8 of the Act, or a registered public trust, or a registered society, are required to have income-tax registration u/s 12A as well as 80G of the Income Tax Act, 1961?	Yes, as per rule 4(1) all three types of entities – a company established under section 8 of the Act, or a registered public trust, or a registered society are required to have income-tax registration u/s 12A as well as 80G of the Income Tax Act, 1961 to act as implementing agency, except for any entities established by Central or State Government.
5.4	What is meant by 'registered public trusts' in such states where registration is not mandatory?	Registered public trust (as referred to in rule 4(1) of the Companies (CSR Policy) Rules, 2014) would include trusts registered under the Income Tax Act, 1961 in respect of those states where registration of public trusts is not mandatory.

5.5	What is the purpose of registration of the implementing agency on MCA21 portal?	The identification of suitable implementing agencies is a major concern for companies. Registration of implementing agencies on MCA21 portal is aimed at creating a database of such agencies for companies who may want to engage them. Further, this will bring accountability and transparency in the implementation of CSR activities and thereby strengthen the CSR eco- system.
-----	---	---

5.6	Is it mandatory for every implementing agency to register on the MCA21 portal?	Yes, every implementing agency mentioned in rule 4(1) of the Companies (CSR Policy) Rules, 2014 shall mandatorily register itself in the MCA21 portal w.e.f. 01 st April 2021 in order to enable it to undertake CSR activities on behalf of the company.
5.7	Whether an ongoing project approved prior to April 01, 2021, may be implemented by an implementing agency not registered on MCA21 portal?	<p>Since the requirement of registration has commenced from 01st April, 2021, any ongoing project which has been approved between 22nd January, 2021 and 31st March, 2021, may be carried out by an implementing agency which is not registered in MCA21 portal.</p> <p>However, the unregistered implementing agency is required to register in MCA21 portal before undertaking any new project after 01st April, 2021.</p>
5.8	Whether registration of implementing agency by filing e-form CSR-1 is mandatory in case the company carries out CSR activities directly?	No. The question of filing e-form CSR-1 does not arise in case the company carries out CSR activities directly.
5.9	Can international organisations act as an implementing agency?	No, an international organisation cannot act as an implementing agency.

5.10	What is the role of international organisations in the context of CSR?	Pursuant to rule 4(3) of the Companies (CSR Policy) Rules, 2014, a company can engage international organisations for the limited purposes of designing, monitoring, and evaluation of the CSR projects or programmes, or for capacity building of personnel of the company involved in CSR activities.
6.0	Ongoing Project	
6.1	What is the meaning of 'ongoing project'? Which projects can be considered as ongoing?	<p>Ongoing project has been defined under rule 2(1)(i) of the Companies (CSR Policy) Rules, 2014 as:</p> <ul style="list-style-type: none"> (i) a multi-year project, stretching over more than one financial year; (ii) having a timeline not exceeding three years excluding the year of commencement; (iii) includes 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>The project should have commenced within the financial year to be termed as 'ongoing'. The intent is to include a project which has an identifiable commencement and completion dates. After the completion of any ongoing project, the Board of the company is free to design any other project related to operation and maintenance of such completed projects in a manner as may be deemed fit on a case-to-case basis.</p> <p>Note: The term 'year' refers to financial year as defined in section 2(41) of the Act.</p>

6.2	When will an ongoing project be regarded as 'commenced'?	An ongoing project will have 'commenced' when the company has either issued the work order pertaining to the project or awarded the contract for execution of the project.
6.3	What is the maximum permissible time period for any ongoing project? Can the time period of an ongoing project be extended beyond the permissible period?	<p>As per the definition of an ongoing project, the maximum permissible time period shall be three financial years excluding the financial year in which it is commenced i.e., (1+3) financial years.</p> <p>Under no circumstances shall the time period of an ongoing project be extended beyond its permissible limit.</p>
6.4	What are the responsibilities of the Board in case ongoing projects are undertaken by the company?	<p>In case of ongoing projects, the major responsibilities of the Board, inter-alia, include:</p> <ul style="list-style-type: none"> (i) identification of the ongoing projects; (ii) year-wise allocation of funds; (iii) transferring the unspent money to a separate bank account as prescribed under sub-section (6) of section 135; (iv) monitoring the implementation of the projects with reference to the approved timelines and year-wise allocation; and (v) making modifications, if any, for smooth implementation of the projects within the overall permissible time period.

6.5	Can ongoing projects be implemented through implementing agencies?	Yes, once the Board approves a project as an ongoing project, then it can choose to implement the project either itself, or through any of the implementing agencies as mentioned in rule 4(1) of the Companies (CSR Policy) Rules, 2014.	
6.6	Does the Board have the power to abandon or modify an ongoing project within the permissible period of three years?	As per provisions of the CSR Rules, the Board may abandon or modify an ongoing project, partially or wholly, under exceptional circumstances, during the prescribed project period as per the recommendation of its CSR Committee, and by providing reasonable justification to that effect. It is important to keep in mind that the maximum permissible period for an ongoing project is three years excluding the year of its commencement.	
6.7	Can funds earmarked for one project be used for another project?	Yes, the budget outlay dedicated for one project can be used against another project. In such a case, the Board and CSR Committee should appropriately record the alteration in the target spending and modify the same in accordance with the actuals.	
7.0	Treatment of Unspent CSR Amount		
7.1	What actions need to be taken if a company spends less than the amount required to be spent under CSR obligation in a particular year?	If a company spends less than the amount required to be spent under their CSR obligation, the Board shall specify the reasons for not spending in the Board's report and shall deal with the unspent amount in the following manner:	
Nature of unspent amount		Action required	Timelines
Unspent amount pertains to 'ongoing projects'		Transfer such unspent amount to a separate bank account of the company to be called as 'Unspent CSR Account'.	Within 30 days from the end of the financial year.
Unspent amount pertains to 'other than ongoing projects'	Transfer unspent amount to any fund included in Schedule VII of the Act.	Within 6 months from the end of the financial year.	

7.2	Where the company was unable to meet its CSR obligation, but transferred the said unspent amount to any fund included in Schedule VII of the Act, will the same be considered as compliance under section 135(5)?	The compliance of CSR is fulfilled when the company spends the prescribed amount as per its obligation. However, in case the company fails to spend the requisite amount within the financial year, it shall fulfil its obligation by transferring the unspent amount to any fund included in Schedule VII of the Act. The same will be considered as compliance with section 135(5) of the Act. Further, the Board of the company is required to give the requisite disclosure in the Board report and annual report on CSR.
7.3	A company has been given six months' time to transfer the unspent CSR amount, other than the amount pertaining to ongoing projects, to any fund included in Schedule VII of the Act. Can the company spend this amount in the said period of six months on any CSR activity?	No, companies are not permitted to spend the unspent CSR amount, other than the amount pertaining to ongoing projects, on any CSR activity during the intervening period of six months after the end of the financial year. Such unspent CSR amount is required to be transferred to any fund included in Schedule VII of the Act.
7.4	Whether disbursement of funds by a company to the implementing agency for the implementation of projects will be considered as spend under section 135(5) and rules made there under?	Section 135(5) of the Act prescribes minimum spending obligation for the company. The company may fulfil its CSR spending obligation directly by itself or through engaging an implementing agency. The implementing agency acts on behalf of the company and mere disbursement of funds for implementation of a project does not amount to spending unless the implementing agency utilises the whole amount.

		<p>In the annual action plan, the CSR Committee of the company is required to provide for modalities of utilisation of funds. The CSR Committee shall recommend to the Board on budget allocation for any CSR project including modalities of utilisation of funds in every project. Further, as per rule 4(5) of the Companies (CSR Policy) Rules, 2014, 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. Accordingly, the CSR Committee and Board should ensure that CSR fund should be disbursed to implementing agencies, partially or wholly, in such a manner so that they can be utilised by them during the financial year. Mere disbursement of funds for implementation of a project does not amount to spending unless the implementing agency utilises the whole amount.</p>
--	--	---

7.5	Should a company open a separate 'Unspent CSR Account' for each ongoing project?	No, a company can open a single special account, called 'Unspent Corporate Social Responsibility Account', for a financial year in any scheduled bank, to transfer the unspent amount w.r.t ongoing project(s) of that financial year. A company needs to open a separate 'Unspent CSR Account' for each financial year but not for each ongoing project.
7.6	Can the amount transferred to 'Unspent CSR Account' of the company be utilised for regular business of the company?	No, the provisioning of a separate special account, namely the 'Unspent CSR Account', in any scheduled bank is to ensure that the unspent amount, if any, is transferred to this designated account and used only for meeting the expenses of ongoing projects, and not for other general purposes of the company. The special account cannot be used by the company as collaterals or creating a charge or any other business activity.
7.7	Can an ongoing project initiated by a company in any previous financial year (for instance in FY 2019-20) be classified as an ongoing project under section 135(6) of the Act. Is the unspent amount of previous financial years also required to be transferred to the Unspent CSR Account?	<p>No, the provisions related to ongoing projects have come into effect from 22nd January 2021, i.e., from FY 2020-21 onwards. The said provisions are prospective in effect and not applicable to projects of previous financial years.</p> <p>Further, the Board of the company is free to decide the treatment of the unspent CSR amount of previous financial years prior to FY 2020-21. The Board can either transfer the amount to 'Unspent CSR Account' or continue as per the previous accounting practices adopted by the company.</p>

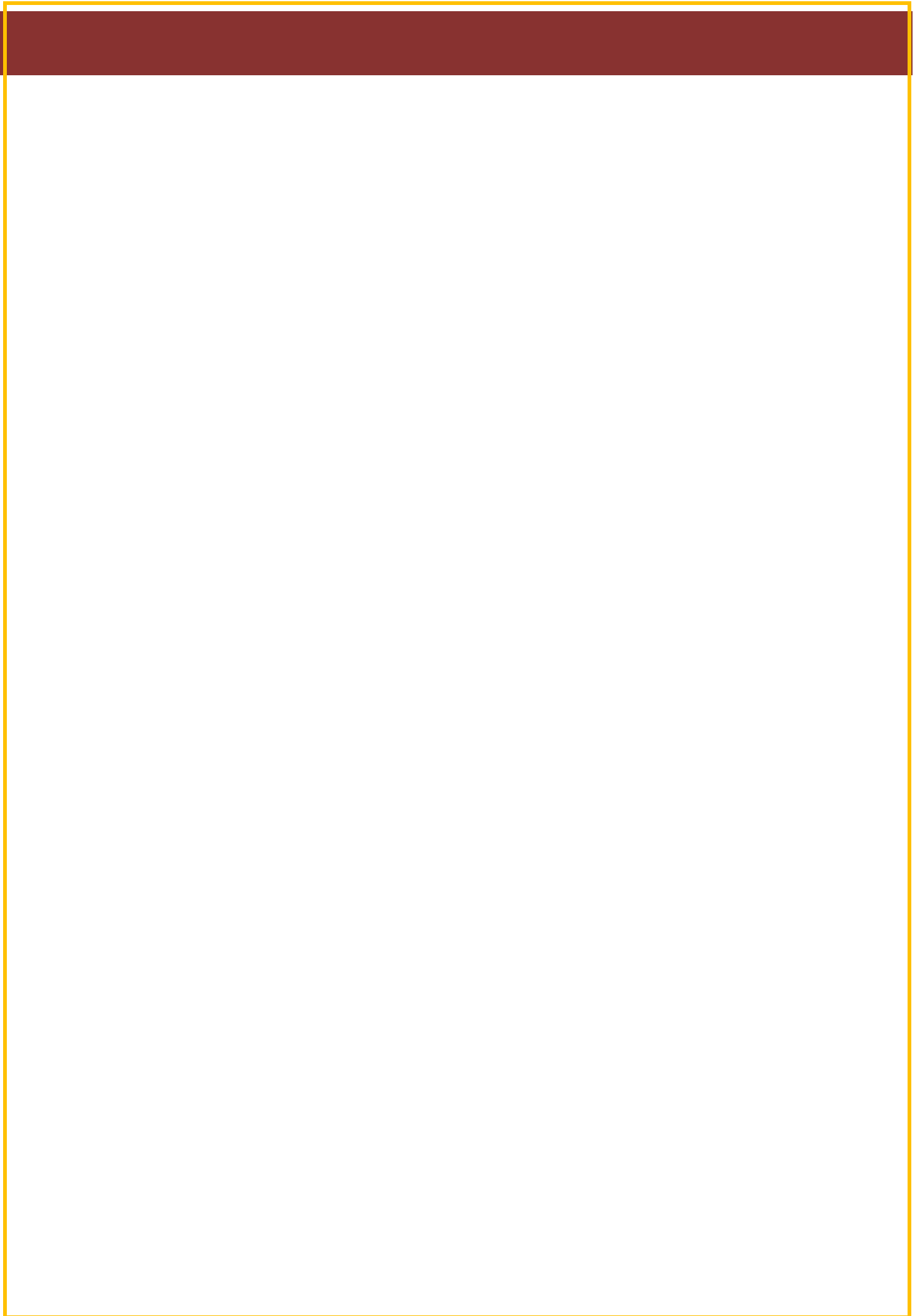
8.0	CSR Enforcement					
8.1	<p>What are the penal provisions for non-compliance with the provisions regarding transfer of unspent amount?</p>	<p>The said non-compliance is a civil wrong and shall attract the following penalties:</p> <table border="1" data-bbox="676 304 1500 887"> <tr> <td data-bbox="676 304 871 600">Company</td> <td data-bbox="871 304 1500 600">Twice the unspent amount required to be transferred to any fund included in Schedule VII of the Act or Unspent CSR Account, as the case may be, or one crore rupees, whichever is less.</td> </tr> <tr> <td data-bbox="676 600 871 887">Every Officer in Default</td> <td data-bbox="871 600 1500 887">1/10th of the unspent amount required to be transferred to any fund included in Schedule VII of the Act or Unspent CSR Account, or two lakh rupees, whichever is less.</td> </tr> </table>	Company	Twice the unspent amount required to be transferred to any fund included in Schedule VII of the Act or Unspent CSR Account, as the case may be, or one crore rupees, whichever is less.	Every Officer in Default	1/10th of the unspent amount required to be transferred to any fund included in Schedule VII of the Act or Unspent CSR Account, or two lakh rupees, whichever is less.
Company	Twice the unspent amount required to be transferred to any fund included in Schedule VII of the Act or Unspent CSR Account, as the case may be, or one crore rupees, whichever is less.					
Every Officer in Default	1/10th of the unspent amount required to be transferred to any fund included in Schedule VII of the Act or Unspent CSR Account, or two lakh rupees, whichever is less.					
8.2	<p>Will the penal proceedings apply even after the unspent amount has been transferred to the Unspent CSR Account or to the funds mentioned in Schedule VII of the Act?</p>	<p>The penalty does not relieve the company from the obligations under the law, and the penalty is over and above the obligated amount required to be transferred under section 135(5) or 135(6). The penalty is the consequence of not abiding by the law, and not an alternative for the same.</p>				
8.3	<p>Is the penal provision in section 135(7) specific to non-transference of the unspent CSR amount?</p>	<p>Yes, section 135(7) clearly states the penalty for default in complying with the provisions of sub-section (5) or sub-section (6) only.</p>				
8.4	<p>What are the penal provisions relating to non-compliance with provisions other than section 135(5) and 135(6) of the Act?</p>	<p>In case of non-compliance with any other provisions of this section or rules, the provisions of section 134(8) or general penalty under section 450 of the Act will be applicable. Further, in case of non-payment of penalty within the stipulated period, the provisions of section 454(8) will be applicable.</p>				

9.0	Impact Assessment	
9.1	What is the objective of providing impact assessment of CSR activities?	The purpose of impact assessment is to assess the social impact of a particular CSR project. The intent is to encourage companies to take considered decisions before deploying CSR amounts and assess the impact of their CSR spending. This not only serves as feedback for companies to plan and allocate resources better but shall also deepen the impact of CSR.
9.2	Which companies are required to undertake impact assessment?	<p>Rule 8(3) of the Companies (CSR Policy) Rules, 2014 mandates following class of companies to conduct impact assessment:</p> <ul style="list-style-type: none"> (i) companies with minimum average CSR obligation of Rs. 10 crore or more in the immediately preceding 3 financial years; and (ii) companies that have CSR projects with outlays of minimum Rs. 1 crore and which have been completed not less than 1 year before undertaking impact assessment. <p>Impact assessment shall be carried out project-wise only in cases where both the above conditions are fulfilled. In other cases, it can be taken up by the company on a voluntary basis.</p>
9.3	Whether companies are required to undertake impact assessment for FY2020-21?	The provisions for impact assessment have come into effect from 22nd January, 2021. Accordingly, the company is required to undertake impact assessment of the CSR projects completed on or after January 22, 2021. However, as a good practice the Board may undertake impact assessment of completed projects of previous financial years.
9.4	Who can conduct impact assessment?	Rule 8(3) of the Companies (CSR Policy) Rules, 2014 requires that the impact assessment be conducted by an independent agency. The Board has the prerogative to decide on the eligibility criteria for selection of the independent agency for impact assessment.

9.5	Is expenditure on impact assessment over and above the administrative overheads of 5%, or included in the same?	Yes, the expenditure incurred on impact assessment is over and above the specified administrative overheads of 5%. Expenditure up to a maximum of 5% of the total CSR expenditure for that financial year or 50 lakh rupees (whichever is lower) can be incurred separately for impact assessment.
9.6	Whether impact assessment reports of all the CSR projects shall be annexed to the annual report on CSR?	Rule 8(3)(b) of the Companies (CSR Policy) Rules, 2014 provides that impact assessment reports shall be placed before the Board and shall be annexed to the report on CSR. It is clarified that web-link to access the complete impact assessment reports and providing executive summary of the impact assessment reports in the annual report on CSR, shall be considered as sufficient compliance of the said rule.
9.7	When two or more companies collaborate for implementation of a CSR project, should the impact assessment carried out by one company be shared with other companies?	Yes, in case two or more companies choose to collaborate for the implementation of a CSR project, then the impact assessment carried out by one company for the common project may be shared with the other companies for the purpose of disclosure to the Board and in the annual report on CSR. The sharing of the cost of impact assessment may be decided by the collaborating companies subject to the limit as prescribed in rule 8(3)(c) of the Companies (CSR Policy) Rules, 2014 for each company.
10.0	CSR Reporting & Disclosure	
10.1	Whether reporting of CSR is mandatory in Board's Report?	Yes, as per rule 8(1) of the Companies (CSR Policy) Rules, 2014, the Board's Report pertaining to any financial year, for a CSR-eligible company, shall include an annual report on CSR containing particulars specified in Annexure I or Annexure II of the said rules, as applicable.

10.2	Is it mandatory for foreign companies to give reports on CSR activities?	Yes, as per rule 8(2) of the Companies (CSR Policy) Rules, 2014, in case of a CSR-eligible foreign company, the balance sheet filed under clause (b) of sub-section (1) of section 381 of the Act, shall include an annual report on CSR containing particulars specified in Annexure I or Annexure II of the said rules, as applicable.
------	--	--

10.3	What are the disclosure requirements on the website of the company?	As per rule 9, the Board of Directors of the company shall mandatorily disclose the following on their website, if any, for public access: (i) Composition of the CSR Committee; (ii) CSR Policy; and (iii) Projects approved by the Board.
10.4	Whether every CSR project irrespective of outlay and percentage to the total CSR expenditure of the company needs to be disclosed on the website of the respective company in terms of rule 9 of the Companies (CSR Policy) Rules, 2014?	Yes, as per rule 9 of the Companies (CSR Policy) Rules, 2014, all CSR projects approved by the Board are required to be disclosed on the website of the company, if any, for public access.





www.sirc-icai.org