

MONETARY PENALTY FOR FLOUTING CSR REGULATIONS KICKS IN

Relevant for: Indian Economy | Topic: Issues relating to Growth & Development - Public Finance, Taxation & Black Money incl. Government Budgeting

The govt's latest move allows business to spend more than their obligation to fulfil the community needs post-covid

The government on Friday notified sections of the Companies Act prescribing a monetary penalty for violation of corporate social responsibility (CSR) obligations of businesses and made sweeping changes to the rules to make companies more accountable and to offer some flexibility in CSR spending.

In one of the three separate orders on Friday, the corporate affairs ministry gave effect to monetary penalty for businesses not spending 2% of net profit on CSR or for not transferring unspent amounts to specified accounts.

The penalty—at least 1 crore for the defaulting company and at least 2 lakh for each defaulting officer—was introduced in 2020 to replace imprisonment provision—maximum three years—for defaulting officers that was brought in a year before. The [Centre](#) opted to remove imprisonment in favour of penalty after corporates protested. The monetary penalty for violations kicks in from Friday with 2020 amendment to the Companies Act taking effect.

Also, a series of steps is notified to make companies more accountable and transparent in their CSR obligations, a government official said, requesting anonymity.

The ministry amended the rules to mandate companies to register their entities conducting CSR, conduct impact assessment of large projects and offered more leeway in the utilization of CSR funds in the spirit of ease-of-doing business.

Accordingly, companies are now free to spend more than the mandated 2% of their net profits on CSR in any year and the excess amount spent can be set off against the CSR spending obligation in future years, subject to riders.

This move allows businesses to spend more than their spending obligation to fulfil the community's needs, especially on covid-related health and disaster relief work in the short term, and set off the excess spending against their spending obligation in subsequent years. This flexibility is available in perpetuity.

Businesses are allowed to allocate up to 5% of their CSR spending in a year on 'administrative overheads' or the cost of general management and administration of CSR work. This, however, does not cover the cost of designing, implementing, and evaluating a project. The rules also clarified that the permission given to drug makers and life science companies to consider efforts to develop covid-19 therapies, as CSR, although these are part of their normal course of business, is applicable for three financial years from FY21-23.

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