

CSR In India: Overview & Developments

written by Prashant Kataria | June 18, 2022



CSR In India

In an effort to meet the global standard of sustainability, the Government of India mandated Corporate Social Responsibility (CSR) activities for the giants of the economy in 2014. This program was created in the light of environmental consciousness and a necessity to safeguard resources that are used in abundance by big corps.

How Did CSR Become A Part Of The Legal Framework In India?

- In 2007, the 11th five-year plan introduced the adoption of inclusive growth which led to the development of voluntary guidelines on CSR, 2009.
- These voluntary guidelines were refined to broaden the scope of CSR as National Voluntary Guidelines (NVGs) on social, environmental and economic responsibilities of business in 2011 by the Ministry of Corporate Affairs (MCA).
- Through the 21st committee report on finance, 2014, the CSR provisions were incorporated in the statutes under the Companies Act as Section 135 and Rule 8 of Companies (Corporate Social Responsibility Policy), Rules 2014.
- The latest version of the NVGs has been curated in alignment with relevant international treaties and was renamed 'National Guidelines on Responsible Business Conduct' (NGRBC) in March 2019.

Who Is Eligible For The Conducting CSR Activities Under The Companies Act?

Section 135 of the Companies Act 2013 provides the threshold limit for applicability of CSR to a company of Indian origin and if a foreign company, their branch and project in India. These companies must have either-

- (a) the net worth of the company to be INR 500 crore or more; or
- (b) turnover of the company to be INR 1000 crore or more; or
- (c) net profit of the company to be INR 5 crore or more.

These corporations are required to create a CSR Policy as per Rule 2(1)(f) of Companies (CSR) Rules, 2014 and must contribute 2% of their average net profit to activities that further the problem points outlined in the policy. This portion of 2% is not considered a regular business expense but CSR expenditure as per Section 135 of the Act.

Who Is Eligible To Receive CSR Funding From Companies?

Any company or public trust registered under Section 8 of the Companies Act with the registrar of societies as a non-profit company to promote non-profit objectives (such as trade, commerce, arts, charity, education, religion,

environment protection, social welfare, sports research, etc.) is eligible to receive the CSR funding. These NGOs act on behalf of the companies for conducting CSR activities.

For incorporation, two directors (minimum) are required. Unlike for-profit companies, there is no requirement for minimum paid-up capital and any profit generated by the organisation is put to use for the purpose stated while registering the NGO.

Apart from the registration certificate and 3 years of undertaking charitable activities, the organisation must have:

1. 80G registration which provides a 50% Income Tax exemption to the donor,
2. 12A registration which allows Tax-free income for NGOs
3. FCRA (Foreign Contribution Regulation Act) registration for receiving donations from foreign companies

Under Rule 4(2) of the New Companies CSR Amendment Rules, 2021, an NGO is required to register with the MCA portal for accessing corporate CSR funds, NGOs must also register with the Central Government by filing the form CSR-1 electronically with the Registrar -- this form would be verified digitally by a chartered accountant/company secretary/cost accountant in practice.

On the submission of the Form CSR-1 on the MCA portal, an SRN will generate for correspondence with the MCS and a unique CSR Registration Number will be generated by the system automatically to access funds.

Recent Developments In CSR

Increased Expenditure

As per the trends of past decades, CSR expenditure has gone up in the field of education and healthcare. Expenditure in education has risen due to policies in India which emphasise skill and learning – the direct correlation is hard to miss, Healthcare seems to have gained rapid growth in expenditure since MCA included expenditure towards infrastructure for Covid-19 as a CSR activity under the inclusive list of Schedule VII. Currently, environmental sustainability, rural projects and poverty remain the least contributed-to causes. Despite the constant effort for inclusivity of causes, India has been slipping ranks in various global indexes. Some notable statistics are:

- Lowest in Environmental performance Index, 2022 (EPI-2022), ranked 180th with a score of 18.6.10.
 - On the Hunger Index 2021, India ranked 101, a lower rank than that in the 2020 index.
 - 131st position in Human Development index, 2021, 2 ranks lower than 2019.
- While the MCA has tried to streamline the CSR process, corporations have been failing to meet their obligations in making adequate expenditures for most CSR activities – which is perhaps due to unsustainable company policies. There is a need to mandate such corporations to revise their CSR strategies and develop a standard policy to follow.

CSR Amendments, 2022

- *Form CSR-2*: On February 11th 2022, the MCA issued a notification stating that Form CSR-2 is to be filled by the corporations which are required to comply with CSR provisions under Section 135 of the Companies Act. This form requires corporations to disclose information regarding relevant information such as their criteria for CSR eligibility, the amount spent or unspent on CSR activities, the type of activities the funds are used for, etc. Through this form, the government can determine the compliance of corporations with the updated CSR provisions. For the FY 2020-21, the Form had to be filed

separately on or before March 31st 2022 however, from the FY 2021-22 onwards, the Form CSR-2 is to be filed as an addendum to Form AOC-4.

If you're interested in further information about Form CSR-2, we've covered it in more detail here.

- *Audit Trail:* In the spirit of increasing transparency, on March 31st 2022, vide a notification, MCA issued the Companies Accounts Second Amendment Rule, 2022 – issuing a mandate for the companies to employ accounting software as an audit trail which would allow backtracking to the initial source of funds and flow of transactions.

Previously, this software was to be implemented by corporations by April 1st 2022. This date has been deferred by a year to April 1st 2023.

CSR Portal

To further simplify the process, and shorten the gap between corporations and their CSR duties, the MCA recently introduced the National CSR Exchange Portal on June 7th 2022. This portal will allow the corporations to directly transfer funds for CSR activities or to NGOs conducting CSR activities without the hassle of relying on other sources to conduct CSR activities for them.

Conclusion

The future of CSR depends on how closely aligned corporations are with the goals of social progress and their role in the path of betterment. Though the concept of CSR implies a need for a stronger relationship with social responsibility above economic progress, it is not necessarily a hangnail to the individualistic nature of the corporation and its identity. This is because a corporation will ultimately (and undoubtedly) benefit from any social ecosystem it contributes toward the welfare of.

However, there is a need to correct the scale in favour of the more underfunded categories like environmental sustainability and poverty. To create a balance, there should be enforcement of caps and ceiling on funding toward a particular cause, after which, the extra funds could be re-directed to the causes that need it, creating an equitable distribution of wealth. Moreover, an impact assessment must be done for the amendments of 2022 in the coming five years to determine the suitability of digital advancement in the CSR regime.

Contributed by Prashant Kataria, Partner

- <https://www.csr.gov.in/content/csr/global/master/home/aboutcsr/history.html>
- [schedulefile \(indiacode.nic.in\)](https://www.indiacode.nic.in)
- Section 135 of The Companies Act, 2013
- Section 8 of The Companies Act, 2013
- [How Indian NGOs can mobilize funds through CSR: A guide - fundsforNGOs - Grants and Resources for Sustainability](#)
- [Filing of eForm CSR-1 - Application Procedure - IndiaFilings](#)
- [World Environment Day 2022: Environmental Csr Spends Up But Still Behind Education, Healthcare And Rural Projects For Indian Firms \(cnbctv18.com\)](#)
- [GeneralCircularNo9_05052021.pdf \(mca.gov.in\)](#)
- [Environmental Performance Index | Environmental Performance Index \(yale.edu\)](#)
- [India slips to 101st rank in Global Hunger Index 2021; behind Pak, B'desh | Business Standard News \(business-standard.com\)](#)

- [India ranks 131 in United Nations' human development index - The Economic Times \(indiatimes.com\)](#)
- [MCA Form CSR-2 - Report on the CSR - IndiaFilings](#)
- <https://www.indiafilings.com/learn/companies-accounts-second-amendment-rules-2022/>
- <https://www.newindianexpress.com/business/2022/jun/16/csr-portal-to-aid-effective-management-of-projects-2466180.html>