

General Circular No. 2 /2010

**F. No. 2/7/2010-CL V
Government of India
Ministry of Corporate Affairs**

5th Floor, A Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi
Dated the 26th May, 2010

To

All Regional Director,
All Registrar of Companies.

Subject: Easy Exit Scheme, 2010

Sir,

It has been observed that certain companies have been registered under the Companies Act, 1956, but due to various reasons some of them are inoperative since incorporation or commenced business but became inoperative later on and are not filing their due documents timely with the Registrar of Companies. These companies may be defunct and are desirous of getting their names strike off from the Register of Companies.

2. In order to give an opportunity to the defunct companies, for getting their names strike off from the Register of Companies, the Ministry has decided to introduce a Scheme namely, "Easy Exit Scheme, 2010" under Section 560 of the Companies Act, 1956. The details of the Scheme are as under:-

(i) The Scheme shall come into force on the 30th May, 2010 and shall remain in force up to 31st August, 2010.

(ii) **Definitions** - In this Scheme, unless the context otherwise requires, -

(a) "company" means a company registered under the Companies Act, 1956;

- (b) “Collective Investment Management Company” means the company as defined in clause (h) of sub-regulation of 2 of Securities and Exchange Board of India (Collective Investment Companies) Regulations, 1999;
- (c) “defunct company” means a company registered under the Companies Act, 1956 which is not carrying over any business activity or operation on or after the 1st April, 2008 and includes a company which has not raised its paid up capital as provided in sub sections (3) and (4) of section 3 of the Companies Act, 1956;
- (d) “Non-Banking Financial Company” means a company as defined under clause (f) of section 45-I of the Reserve Bank of India Act, 1934;
- (e) “Scheme” means the “Easy Exit Scheme, 2010”, being specified through this Circular;
- (f) “vanishing company” means a company, registered under the Companies Act, 1956 and listed with Stock Exchange which, has failed to file its returns with Registrar of Companies and Stock Exchange for a consecutive period of two years, and is not maintaining its registered office at the address notified with the Registrar of Companies or Stock Exchange and none of its Directors are traceable.

(iii) Applicability: -

- (a) Any “defunct company” which has active status on Ministry of Corporate Affairs portal may apply under EES, 2010 in accordance with the provisions of this Scheme for getting its name strike off from the Register of Companies;
- (b) Any defunct company which is a Government Company shall submit ‘No Objection Certificate’ issued by the concerned Administrative Ministry or Department or State Government along with the application under this Scheme;

(c) The purpose of the Scheme is to allow eligible companies to avail of this opportunity to exit from the Register of Companies after fulfilling the requirements laid down herewith and the decision of the Registrar of Companies in respect of striking off the name of company shall be final.

(iv) Scheme not applicable to certain companies: - The Scheme does not cover the following companies namely:-

- (a) listed companies;
- (b) companies registered under section 25 of the Companies Act, 1956;
- (c) vanishing companies;
- (d) companies where inspection or investigation is ordered and being carried out or yet to be taken up or where completed prosecutions arising out of such inspection or investigation are pending in the court;
- (e) companies where order under section 234 of the Companies Act, 1956 has been issued by the Registrar and reply thereto is pending or where prosecution if any, is pending in the court;
- (f) companies against which prosecution for a non-compoundable offence is pending in court;
- (g) companies accepted public deposits which are either outstanding or the company is in default in repayment of the same;
- (h) company having secured loan ;
- (i) company having management dispute;
- (j) company in respect of which filing of documents have been stayed by court or Company Law Board(CLB) or Central Government or any other competent authority;
- (k) company having dues towards income tax or sales tax or central excise or banks and financial institutions or any other Central Government or State Government Departments or authorities or any local authorities.

(v) Procedure for making an application:-

(a) Any defunct company desirous of getting its name strike off the Register under Section 560 of the Companies Act, 1956 shall make an application in the Form EES, 2010, annexed;

(b) The Form EES, 2010, should be filed electronically on the Ministry of Corporate Affairs portal namely www.mca.gov.in and there shall be no fee payable for filing of the same;

(c) In case, the application in Form EES, 2010, is not being digitally signed by any of the director or Manager or Secretary, a physical copy of the Form duly filled in, shall be signed manually by a director authorised by the Board of Directors of the company and shall be attached with the application Form at the time of its filing electronically;

(d) In all cases, the Form EES, 2010, shall be certified by a Chartered Accountant in whole time practice or Company Secretary in whole time practice or Cost Accountant in whole time practice;

(e) The company shall disclose pending litigations if any, involving the company while applying under this Scheme;

(f) The Form shall be accompanied by an affidavit annexed at Annexure- A of Form EES, 2010, which should be sworn by each of the existing director(s) of the company before a First Class Judicial Magistrate or Executive Magistrate or Oath Commissioner or Notary, to the effect that the company has not carried on any business since incorporation or that the company did some business for a period up to a date (which should be specified) and then discontinued its operations and has not carried on any business after the 1st April, 2008, as the case may be;

(g) The Form EES, 2010 shall further be accompanied by an Indemnity Bond, duly notarized, as annexed at Annexure B of Form EES, 2010, to be given by every director individually or collectively, to the effect that any losses, claim and liabilities on the company, will be met in full by every director individually or collectively, even after the name of the company is struck off the register of Companies;

(h) The Company shall also file a Statement of Account annexed at Annexure C, prepared as on date not prior to more than one month preceding the date of filing of application in Form EES, 2010, duly certified by a statutory auditor or Chartered Accountant in whole time practice, as the case may be.

(vi) Simplified procedure for Registrar of Companies for removal of name of defunct companies:-

(a) The Registrar of Companies, on receipt of the application, shall examine the same and if found in order, shall give a notice to the company under section 560(3) of the Companies Act, 1956 by e-mail on its e-mail address intimated in the Form, giving thirty days time, stating that unless cause is shown to the contrary, its name be struck off from the Register and the company will be dissolved;

(b) The Registrar of companies shall put the name of applicant(s) and date of making the application(s) under Easy Exit Scheme, 2010, on daily basis, on the MCA portal www.mca.gov.in, giving thirty days time for raising objection, if any, by the stakeholders to the concerned Registrar;

(c) In case of company(s) like Non-Banking Financial Company(s), Collective Investment Management Company(s) which are regulated by other Regulator(s) namely RBI, SEBI, the Registrar of Companies, at the end of every week, after the Scheme commences, shall send intimation of such companies availing EES, 2010, during that period to the concerned Regulator(s) and also an intimation in respect of all companies availing EES, 2010, during that period to the office of the Income Tax Department giving thirty days time for their objection, if any;

(d) The Registrar of Companies immediately after passing of time given in sub-paras (a) to (c) of this Para and on being satisfied that the case is otherwise in order, shall strike its name off the Register and shall send notice under sub-section (5) of section 560 of the Companies Act, 1956 for publication in the Official Gazette and the applicant company under this Scheme shall stand dissolved from the date of publication of the notice in the Official Gazette.

Yours faithfully,

Sd/-
(P.K. Malhotra)
Joint Director

Encl: As above

FORM EES, 2010

Application for striking off the name of company under the Easy Exit Scheme (EES), 2010

[Pursuant to Easy Exit Scheme, 2010]

Note - All fields marked in * are to be mandatorily filled.

To
The Registrar of Companies

Sir/ Madam,

The company after carefully considering all aspects has duly resolved in the Board meeting held on* (DD/MM/YYYY) to make an application for striking the name of our company off the Register u/s 560 of the Companies Act, 1956.

I, hereby make an application for striking the name of the company off the Register u/s 560 of the Companies Act, 1956.

I furnish the following details for consideration of the application

1. (a) *Corporate identity number (CIN) of the company
- (b) Global location number (GLN) of company
- (c) Name of the company
- (d) Address of the registered office of the company
- (e) *e-mail ID of the company
- (f) Date of incorporation of the company (DD/MM/YYYY)
2. (a) *Whether the company is listed or not Yes No
- (b) *Whether the company has been delisted in last three years Yes No
3. (a) *Whether the company is a Collective Investment Management Company (CIMC) Yes No
- (b) *Whether the company is a plantation company Yes No
- (c) If company is registered with Securities and Exchange Board of India (SEBI), enter registration number
4. (a) *Whether the company is a Non Banking Financial Company (NBFC) Yes No
- (b) If company is registered with Reserve Bank of India (RBI), enter registration number
5. *Whether the company is a venture capital company Yes No

6. Details of director(s), Managing Director, manager, secretary of the company

*Number of director(s), Managing Director, manager, secretary

(In case of director or Managing Director, enter Director identification number (DIN) if available. Otherwise provide Income-tax permanent account number (Income-tax PAN) or passport number)

I. DIN or Income-tax PAN or Passport number

*Designation

*Name

*Present residential address

Line I

Line II

City State ISO country code

Country Pin code

II. DIN or Income-tax PAN or Passport number

Designation

Name

Present residential address

Line I

Line II

City State ISO country code

Country Pin code

III. DIN or Income-tax PAN or Passport number

Designation

Name

Present residential address

Line I

Line II

City State ISO country code

Country Pin code

IV. DIN or Income-tax PAN or Passport number

Designation

Name

Present residential address

Line I

Line II

City State ISO country code

Country Pin code

7. *Brief description of main objects of the company as per Memorandum of Association (MoA)

8. *Brief description of main business last carried out by the company

9. *Whether there are litigation(s) pending against or involving the company

Yes No

If yes, provide details

10. *Whether the application is being digitally signed by Managing Director, director, manager or secretary of the company. If No, attachment at serial number 5 is mandatory Yes No

11. I hereby confirm that:

- * there is no inspection or investigation ordered and carried out or yet to be taken up against the company or where completed, there is no prosecution pending in the court arising out of such inspection or investigation
- * reply is not pending in respect of any order issued u/s 234 of the Act to the company or where action completed, no prosecution is pending in the court
- * there is no prosecution for any non-compoundable offence pending in court against the company
- * the company is not having any public deposits which are either outstanding or the company is in default in repayment of the same
- * the company is not having any secured loans
- * there is no management dispute in the company
- * filing of documents has not been stayed by Court or Company Law Board (CLB) or Central Government or any other competent authority
- * the company does not have any dues towards Income Tax/ Sales Tax/ Central Excise/ Banks and Financial institutions or any other Central or State Government Departments/ Authorities or any Local Authorities.

- * 12. I/ We shall be liable under section 628 of the Companies Act, 1956 and under relevant provisions of the Indian Penal Code and any other law as applicable if I/ we make any statement in this application (including attachments)-
- (a) which is false in any material particular, knowing it to be false; or
 - (b) which omits any material fact knowing it to be material

13. Details of assets and liabilities as given in the statement of accounts (As per annexure C of the Scheme)

*Statement of account as on (DD/MM/YYYY)

Particulars	Amount (in Rs.)
I. Source of funds	
(a) *Share capital	
(b) *Reserves and surplus (including balance in Profit and Loss Account)	
(c) Secured loans	
(d) *Debentures	
(e) *Unsecured loans	
(f) Public deposits	
(g) Total loan funds (Sum of (c) to (f))	
(h) *Others (Please specify)	
<input type="text"/>	
(i) Total of (a), (b), (g), (h)	
II. Application of funds	
(a) *Fixed assets	
(b) *Investments	
(c) *Current assets, loans and advances	
(d) Current liabilities and provisions	
(i) *Creditors	
(ii) *Unpaid dividend	
(iii) *Payables	
(iv) *Others	
(v) Total current liabilities and provisions	
(e) Net current assets [(c) - (d)]	
(f) *Miscellaneous expenditure to the extent not written off or adjusted	
(g) *Profit and loss account (debit balance)	
(h) *Others (Please specify)	
<input type="text"/>	
(i) Total of (a), (b), (e) to (h)	

Attachments

1. *A duly certified statement of account by a chartered accountant in whole-time practice or statutory auditor of the company (As per annexure C of the Scheme)	<input type="button" value="Attach"/>	<div style="border: 1px solid black; padding: 5px;">List of attachments</div> <div style="border: 1px solid black; height: 150px; width: 100%;"></div> <div style="text-align: right;"><input type="button" value="Remove attachment"/></div>
2. *Copy of Board resolution showing authorisation given for filing this application	<input type="button" value="Attach"/>	
3. *Affidavit (to be given individually by director(s)) (As per annexure A of the Scheme)	<input type="button" value="Attach"/>	
4. *Indemnity bond (to be given individually or collectively by director(s) (As per annexure B of the Scheme)	<input type="button" value="Attach"/>	
5. In case application is not digitally signed by the company representative, copy of application duly signed by the director, Managing Director, manager or secretary	<input type="button" value="Attach"/>	
6. Copy of no objection certificate (NOC) from concerned administrative Ministry/ Department/ State Government (in case of a government company)	<input type="button" value="Attach"/>	
7. Optional attachment(s)	<input type="button" value="Attach"/>	

Verification

To the best of my knowledge and belief, the information given in this application and its attachments is correct and complete.
I have been authorised by the Board of directors' resolution number dated (DD/MM/YYYY) to sign and submit this application.

To be digitally signed by

Managing Director or director or manager or secretary

Designation

Director identification number of the director or Managing Director; or Income-tax permanent account number (Income-tax PAN) of the manager; or Membership number, if applicable or income-tax PAN of the secretary (secretary of a company who is not a member of ICSI, may quote his/ her income-tax PAN)

Certificate

It is hereby certified that I have verified the above particulars (including attachment(s)) from the records of

and found them to be true and correct. I further certify that all required attachment(s) have been completely attached to this application.

<input type="radio"/> Chartered accountant (in whole-time practice) or	<input type="radio"/> Cost accountant (in whole-time practice) or
<input type="radio"/> Company secretary (in whole-time practice)	<input type="text"/>
*Whether associate or fellow <input type="radio"/> Associate	<input type="radio"/> Fellow
*Membership number or certificate of practice number	<input type="text"/>

<input type="button" value="Modify"/>	<input type="button" value="Check Form"/>	<input type="button" value="Prescrutiny"/>	<input type="button" value="Submit"/>
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For office use only:

	<input type="button" value="Affix filing details"/>
eForm Service request number (SRN) <input type="text"/>	eForm filing date <input type="text"/> (DD/MM/YYYY)
Digital signature of the authorising officer	
This e-Form is hereby approved <input type="text"/>	<input type="button" value="Confirm submission"/>
This e-Form is hereby rejected <input type="text"/>	
Date of signing <input type="text"/>	(DD/MM/YYYY)

ANNEXURE-A

AFFIDAVIT

(to be given individually by every director)

1. I/, Director of _____, (hereinafter called "the Company"), incorporated on ___/___/___ under the Companies Act, 1956 having its Registered Office at _____ and having CIN No _____ do solemnly affirm and state as under:

2. I/ _____, S/o/ D/o Shri/ Smt _____, holder of DIN /Income Tax PAN /Passport number: _____ (copy of Income Tax PAN /Passport duly attested by a Gazetted Officer or a whole time practicing professional (Chartered Accountant/ Company Secretary/Cost Accountant) or a Company Secretary in full time employment of the company is enclosed) am Director of the company stated above since _____ (mention date of appointment).

3. My present residential address is _____ (Copy of documentary evidence duly attested by a Gazetted Officer or a whole time practicing professional (Chartered Accountant/ Company Secretary/Cost Accountant) or a Company Secretary in full time employment of the company is enclosed. Alternatively, an affidavit sworn before Magistrate may be enclosed)

4. My permanent address is _____ (Copy of documentary evidence duly attested by a Gazetted Officer or a whole time practicing professional (Chartered Accountant/ Company Secretary/Cost Accountant) or a Company Secretary in full time employment of the company is enclosed. Alternatively, an affidavit sworn before Magistrate may be enclosed)

5. The company maintains/does not maintain any bank account as on date (mention details of Bank Account(s) if maintained).

6. I affirm that the Company _____ (mention name of the company) have assets and liabilities amounting to Rs. _____ (as per annexed Statement of Accounts).

7. The Company has been inoperative from the date of its incorporation / The company commenced business/operations/commercial activity after

incorporation but has been inoperative for the past _____
year(s) due to following reasons*_____

(Give the reasons here)

8. As on date, the Company does not have any dues towards Income Tax / Sales Tax / Central Excise/ Banks and Financial Institutions; any other Central or State Government Departments/Authorities or any Local Authorities.

9. Strike out whichever is not applicable:-

(i) There is no litigation pending against or involving the company.

(ii) There are litigations pending against the company, details of which are mentioned under serial number 9 of Form EES 2010.

10. In case of any loss(es) to any person or any valid claim and liability arising from any person after the striking off the name of the Company_____ (mention name) from the Register of Companies, I, the director of the company, undertake to indemnify any person for such losses, valid claim and liability and the indemnity bond to this effect is being submitted separately with the application Form.

I solemnly state that the contents of this affidavit are true to the best of my knowledge and belief and that it conceals nothing and that no part of it is false.

Signature: _____

(Deponent)

Verification:-

I verify that the contents of this affidavit are true to the best of my knowledge and belief.

Place : _____

Signature : _____

(Deponent)

Date: _____

INDEMNITY BOND

(to be given individually or collectively by every director)

To

The Registrar of Companies,

1. I/ We, the director (s) of _____
(mention name of the company), incorporated on ___/___/_____ under the
Companies Act, 1956, having its Registered Office at _____
_____ do hereby declare that:

2. I/ We _____, S/o D/o Shri/Smt _____
am/are Director (s) of this company.

3. That I/We have made an affidavit dated the _____, duly sworn
before First Class Judicial Magistrate or Executive Magistrate or Oath
Commissioner or Notary, affirming that the Company
_____Private/ Limited have assets and liabilities
amounting to Rs._____.

4. Further, the Company has been inoperative from the date of its
incorporation. / The company commenced business/operations/commercial
activity after incorporation but has been inoperative for the past
_____ year(s)*. And the company is not intending to do any
business or commercial activity. Thus the Company is defunct and I request
the Registrar of Companies, _____ to strike off the name of the
Company from the Register of Companies under Section 560 of the
Companies Act, 1956.

* Strike out whichever is not applicable.

5. I/We do hereby undertake and indemnify in writing:

(a) to pay and settle all lawful claims arising in future after the
striking off the name of the Company.

(b) to indemnify any person for any losses that may arise pursuant to
striking off the name of the Company.

(c) to settle all lawful claims and liabilities which have not come to our notice up to this stage, even after the name of the Company has been struck off in terms of Section 560 of the Companies Act, 1956.

Place: (Name, Father's name, Address & Signature)
Date: (To be given by every director)

WITNESSES:

1. Signature:
Name:
Father's name:
Address:
Occupation:

2. Signature:

Name:
Father's name:
Address:
Occupation:

Statement of Account

Name of the Company:

CIN No.

Statement of Account as on date: :

Particulars : (Brief break up in respect of each item needs to be given).

Amount (Rs.)

I. Sources of Funds

(1) Capital

(2) Reserves & Surplus (including balance in Profit and Loss Account)

(3) Loan Funds

Secured loans from Financial Institutions

Secured loans from Banks

Secured loans from Govt.

Others Secured loans

Debentures

Unsecured Loans

Deposits & interest thereon

Total Loan Funds

Total of (1) to (3)

II. Application of Funds

(1) Fixed Assets

(2) Investments

(3) (i) Current Assets, loans and Advances

Less : (ii) Current Liabilities & provisions

Creditors

Unpaid Dividend

Payables

Others

Total Current Liabilities &

provisions

--

Net Current assets (i –ii)

--

(4) Miscellaneous expenditure to the extent not written off or adjusted

--

(5) Profit & Loss Account (Debit balance)

--

Total of 1 to 5

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Date :	Name and Signature of
Place:	(Managing Director)*
Name and Signature	Name and Signature of
(Secretary)*	(Directors)

* Applicable only if there is MD/Secretary

Duly certified by Statutory Auditor or Chartered Accountant in whole time practice.

Membership No/Certificate of Practice Number with seal.