

Clarity with the new Corporate Social Responsibility Rules

An article by Hufriz Wadia, Partner, Kochhar & Co.

The Companies (Corporate Social Responsibility Policy) Rules, 2014 (the “Rules”) have just been notified and released on 27th February 2014.

What does CSR mean?

While the definition of the term Corporate Social Responsibility (“CSR”) under the Rules is inclusive, it is rather prescriptive and includes any project or programme relating to (i) an activity listed in Schedule VII or (ii) an activity undertaken by the board of directors further to the recommendations of the CSR Committee of the Board and as per the company’s declared CSR policy, provided these activities cover subjects listed in Schedule VII. Here is a gist of the activities listed at Schedule VII:

1. Eradicating hunger, poverty, malnutrition, promoting preventive healthcare and sanitation
2. Education, special education and employment enhancing vocational skills
3. Promoting gender equality, women’s empowerment, setting up homes for women, orphans, the aged, day care centres, reducing inequalities faced by socially/economically backward groups
4. Environmental sustainability and ecological balance, animal welfare, agroforestry and conservation of natural resources
5. Protection of national heritage, art and culture, promotion of tradition arts and handicraft
6. Measures to benefit armed forces veterans, war widows and their dependents
7. Training to promote rural sport, nationally recognised sports, paraolympic and Olympic sports
8. Contribution to the Prime Minister’s National Relief Fund or other such fund set up by the Central Government for socio-economic development
9. Contribution to technology incubators within approved academic institutions
10. Rural development projects

Whom does this affect?

All domestic companies and foreign companies with branch or project offices in India will need to comply with the CSR provisions with effect from 1st April 2014.

What does and does not count?

It has been clarified that the CSR activities (as defined above) must take place within India for them to count towards a company’s CSR obligations under the Companies Act 2013.

Activities undertaken in the normal course of business or that only help the company’s employees and their families and/or contributions to political parties will not qualify as CSR activities.

It is permissible for companies to join together on CSR initiatives provided each company is able to separately report on their respective CSR activities.

Other points to note

The Rules provide for the composition of a company's CSR Committee, the must haves in a CSR policy, details of CSR expenditure and the requirement of annual reporting on the CSR initiatives (in the prescribed format) by the board. These will need to be followed carefully by a company setting up its CSR model. For a foreign company, the CSR report is to be included as an annexure to the balance sheet. Every company is required to disclose its CSR report on the Company website.

The Companies Act specifies the percentage of net profit or turnover that a company needs to spend on CSR. The Rules clarify that in calculating this amount, the profits of a foreign branch office (of a domestic company) are not to be considered. Accordingly, turnover / net profit only through India would need to be calculated.

The above is only a brief gist of the Rules. In case the reader has any queries on the above, please contact the author, Ms. Hufriz Wadia, Partner, Kochhar & Co. at hufrizwadia@chennai.kochhar.com