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Virtual Dialogues on CSR compliance readiness for NGOs

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Introduction

Speaker Profiles

Srikrishna Sridhar Murthy

CEO and Co-Founder,
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Dr SB Muniraju

Deputy Advisor,
Niti Aayog

Nikhil Pant

Former Chief Programme
Executive, National
Foundation for CSR, MCA

Parth Joshi

Founder,
Arvaksha Consultants

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Agenda

#	Topic	Speaker	Duration
1	**Context Setting**	Srikrishna Sridhar Murthy	10 minutes
3	**Role of CSRs and NGOs in achieving SDGs**	Dr SB Muniraju	10 minutes
4	**Letter and spirit of CSR law and new amendments**	Nikhil Pant	15 minutes
5	**Implication of the law on NGOs: CSR compliance indicators & best practices**	Parth Joshi	30 minutes
6	**Questions from the audience**	All speakers	25 minutes

Role of CSRs and NGOs in achieving SDGs

CSR regulation as a means to scale impact and strengthen partnerships between the state, private and social sector to achieve SDGs

Sustainable Development Goals (SDGs) or Agenda 2030 was adopted on 25 September 2015 by 193 countries including India to end poverty, protect the planet, and ensure prosperity for all as part of a new sustainable development agenda.

- Achievement of SDGs at national level may not be possible with Government initiatives alone, it needs a **high-level collaboration between the Government,Corporate sector and Civil society.**
- An important guiding framework for the private sector with respect to sustainable development is provided by Section 135 of the Companies Act, 2013, in the form of Corporate Social Responsibility (CSR).
- Leveraging CSR to achieve SDG: Implementation of CSR through Corporates and NGOs based on the identified needs on the ground

Letter & spirit of CSR law and new amendments

CSR law in a nutshell

The companies on whom the provisions of the CSR shall be applicable are contained in Sub Section 1 of Section 135 of the Companies Act, 2013. As per the said section, the companies having Net worth of INR 500 crore or more; or Turnover of INR 1000 crore or more; or Net Profit of INR 5 crore or more during immediately preceding financial year shall be required to constitute a Corporate Social Responsibility Committee of the Board "hereinafter CSR Committee" with effect from 1st April 2014.

On whom are the provisions of CSR applicable?

Qualifying norms:
- Net worth of INR 500 crore or more; or
- Turnover of INR 1000 crore or more
- Net Profit of INR 5 crore or more

What is section 135?

Section 135 of the Companies Act was notified from 1st April 2014. This made CSR mandatory for qualifying companies.

What is Companies Act 2013?

It is an Act, in the constitution of India, that mandates that qualifying companies spend 2% of their average net profits from 3 immediately preceding FY on social activities.

What is Corporate Social Responsibility Committee of the Board?

CSR Committee of the board is a three-member committee, consisting of 3 or more directors with one as independent director (honorary post).

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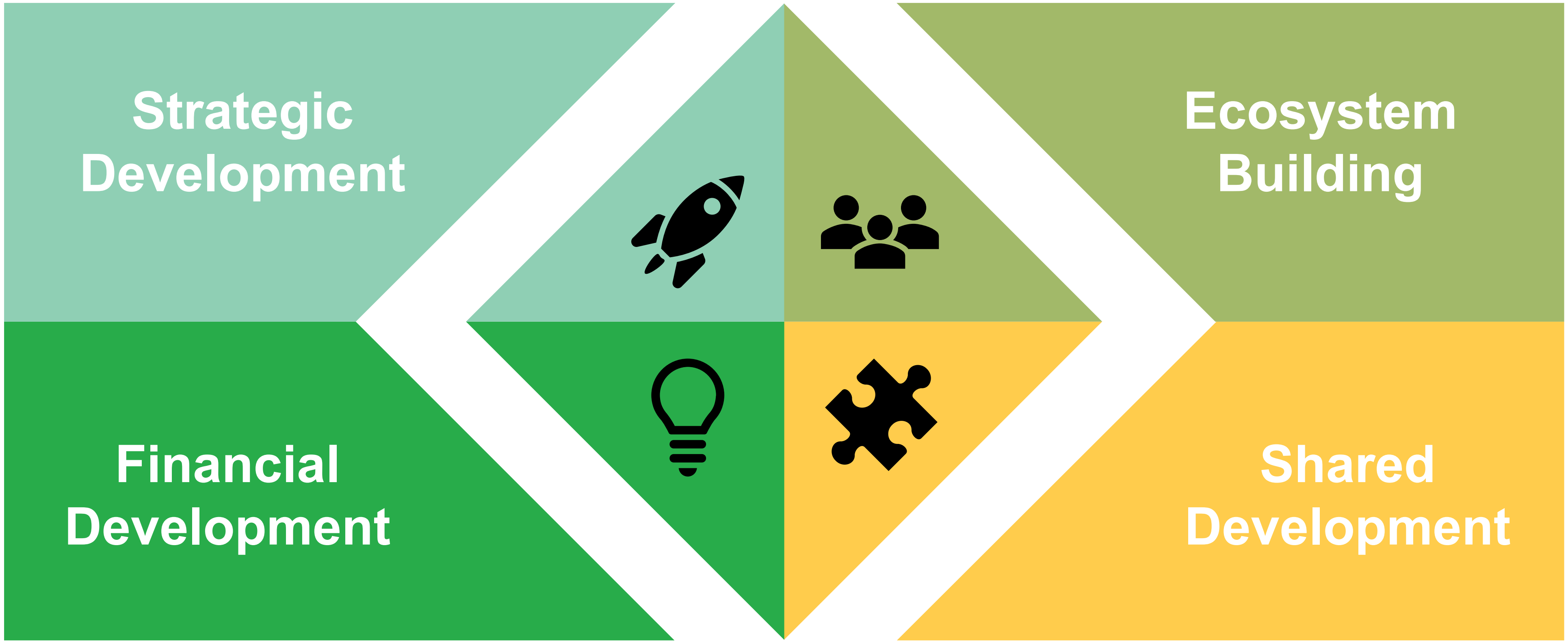
Importance of CSR law to the National Ecosystem

CSR Section 135 gives an opportunity to qualifying companies to meaningfully contribute to Nation Building



The importance of inclusive growth is widely recognized as an essential part of India's quest for development. It reiterates the firm commitment to include those sections of the society in the growth process, which had hitherto remained excluded from the mainstream of development.

Key areas of recommendations by the recent High Level Committee (HLC) on CSR

Thrust on Budgeted Spending

Annual CSR Survey

Utilization as Spend

Reporting / Disclosure

MCA – DPE Collaboration

Impact Assessment

CSR Expert in the Board

SDG alignment

Implementing Agencies as Partners, not Vendors/Service Providers

Recent amendments under the Companies Act, 2013 based on the recommendations of HLC

On 18th March 2020, the Ministry of Corporate Affairs invited public comments on the Draft Companies (Corporate Social Responsibility Policy) Amendment Rules 2020. The Draft rules projected the Government's shift from a 'comply or explain' stand towards 'comply or pay'. Based on the public feedback, the Government recently amended the Companies (Corporate Social Responsibility Policy) Rules, 2014 and Section 135 of the Companies Act, 2013, **effective 22nd January 2021 (Amendments).**

Incorporating many recommendations put forth by the High-Level Committee on CSR 2018, the Amendments

- implicitly highlight the Government's deeper intent to push corporates to be more strategically involved with the CSR initiatives and on an ongoing basis
- explicitly lay out CSR functions and responsibilities of the corporates, and
- implement the Government's intention to penalise corporates breaching CSR provisions through monetary penalties.

Implication of the law on NGOs: CSR compliance indicators & best practices

Broad areas of CSR compliance

1 Statutory/ Legal Compliance

- NGO registration
- 80G, 12AB and MCA registration
- MoA/ AoA/ Trust deed

2 Finance and accounting

- GST and PAN number
- IT returns
- Documentation, Financial and utilization reports
- Break-up of Budget

3 Planning and reporting

- Annual reports
- Program plans and budget
- Self-audited project reports

4 Registrations and declarations

- FCRA registration and account maintenance
- Third-party accreditation
- Self-declaration statements

5 Governance and MIS

- Quarterly donor meetings
- MIS systems and personnel

6 Volunteering and branding

- Volunteering opportunities
- Branding opportunities

Finance and Accounting

Financial audit reporting framework

Organisation review	Examination of internal controls (accounting policy, travel policy, procurement process, HR policy, legal compliance) followed by the organisation
Project review	Review financial Statements (Expense Report) and MIS For each budgetary line item, indicate the annual budget, annual actual, quarterly budget, quarterly actual variance value Corroborate with programmatic audit to review variance justification and recommend appropriate treatment

Financial Summary of project	Status of the disbursal, expenditure and fund balance as at each project quarter
Fund Disbursal recommendation	Review financial plan for following quarter. Recommend disbursement based on the financial performance and indicated plan

Key best practices in finance and accounting

1. Vendor onboarding mechanism
2. Vendor contracts / agreements
3. Payment policy for vendors & contractors
4. Salary cost constitution
5. Cost allocation methodology
6. Inter head budget adjustments
7. Indirect cost apportionment

Planning and Reporting

Key best practices in planning and reporting

1. Budgeting
2. Short term plans for achieving the targets
3. Compliance calendar
4. SPOC for due diligence
5. CFO Certification for donors
6. Project activity variance analysis
7. Utilisation certificates
8. Audit documentation

Questions from the audience?

THANK YOU!

Direct and indirect implications of the amendments on NGOs

Mandatory 80G & 12A

- Not-for profit entities established by the corporate (singly or jointly with others) or independently established entities are mandatorily required to have their registrations under Section 12A and Section 80G of the Income Tax Act.

Mandatory Registration

- Every CSR implementing agency must register itself with the MCA and obtain a unique CSR Registration Number, for projects undertaken from 1 April 2021

International Organisations

- International Organisations (UN agencies as notified under UN (Privileges & Immunities) Act, 1947) are permitted to be appointed for designing, monitoring and evaluation of CSR projects as well as capacity building for own CSR personnel (latter capped at 5% as admin expense)

Audited Financial reports

- The amendments have made the CFO of the company responsible to certify disbursal and utilisation of CSR spends. This change warrants the need for CSR implementing agencies to have audited financial utilisation reports at a project level in place.

Impact Evaluation reports

- Companies with a minimum total CSR budget and project budget to undertake impact assessment through an independent agency. Such a requirement warrants the need for CSR implementing agencies to bring in the required capabilities and partnerships to drive external impact assessment for qualifying projects.

Robust Reporting

- Implementation organisations would require strong documentation and reporting process & systems In order to provide the required evidence and information towards financial and other compliance

Importance of CSR Law in the Global Ecosystem

Business Sustainability

ESG Norms

CSR as corollary to business

Schedule VII Thematic Areas

SDG Goals can be achieved by the country

INR 58,580 Crore of CSR Prescribed

INR 50,612 Crore of CSR Spend

30,040 companies

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Financial Audit Methodology

01	Invite documents based on audit framework	• Utilisation certificate • Income & Expenditure Account • Variance Analysis
02	Verification of auditable evidence	• Sample vouchers • Materiality concept • Bank statement & organisation policies
03	Follow up on specific financial queries	• Discussion of audit observations with management • Resolution and best practices
04	Corroboration with programmatic progress	• Physical targets achieved and expenses incurred • Carry forward and reallocation of project activities
05	Present financial status & Recommend fund disbursement	• Financial status of the project • Fund recommendation rational • Disbursement as per MOU and next quarter plan

Key Best Practices in Finance and Accounting- Pre Grant Diligence

Cost Category	Particulars
General	• Detailed breakdown of unit cost and units with a logical rationale with monthly budget estimate for the entire year • Surplus income earned on donor grant to be ploughed back to the donor project • Separate code/ Id be opened for the donor
Human Resource	• If the resources are used for multiple projects then a cost allocation methodology to be worked out for the project
Materials, services & consumables	• To provide: unit wise break down of material and consumables costs that is directly attributable to the project deliverable and the timing of the spend. • The organization is expected to have a clear procurement policy on vendor selection, and the estimates are expected to be backed by quotations unless otherwise justified
Training / Experts / Marketing Expense	• A clear marketing/development plan outlay needs to be submitted with monthly and unit level breakdown of training/marketing/development costs to be given. • In case of event related travel costs or other reimbursements, the organization shall have a detailed reimbursement policy with templates for claiming reimbursements
Indirect OH	• Indirect cost should in general scenario be 10-15% of the direct cost • Expenses that are at organization level should only be included in Indirect OH, and not incorporated under any other head. eg: finance, manpower, M&E that is not directly linked to the project • The % allocation of indirect OH shall be consistent across the project term and in approved proportion to the spend incurred and cannot be considered on budget estimated

Key best practices in finance and accounting- Post Grant diligence

Cost Category	Particulars
General	• Update of the grant utilization for the previous month close, in excel/google sheet including upload of the supporting vouchers shall be submitted latest by the TAT provided by donor • Commentaries need to be updated against variance in each spend line. Justification for variance need to be provided during the monthly cadence.
Human Resource	• Underspend on staffing costs cannot go to cover additional OH absorption • In case the organization proposes to change the cost allocation methodology/ the amount allocation varies, the same needs to be communicated to the donor before going ahead with the change • Reimbursement expenses shall be recorded separately and not included in the salary costs • Change in salary band for any resource against budgeted shall be within the overall approved staffing budget and shall not increase the overall staffing cost % for the upcoming tranche, unless otherwise justified for exception
Materials, services & consumables	• Any underspend in this head could be repurposed to other heads of expenses except staffing costs and OH costs after discussion with the donor • Payments to vendors should be based on work completion / delivery completion basis which should have pre defined milestones. • In case of procuring assets like laptop, tablets and mobiles as part of materials, these are to be used exclusively by/for the project beneficiaries and shall be tagged and maintained in a fixed asset register.

Evidence Verified

Cost Component	Sample Evidence verified
Direct Cost	• Documented procurement policy • Physical copies of requisition note, delivery challan, invoice, vendor selection approval, bank payment advice • Vendor onboarding • approval process • Material distribution receipt
Indirect cost	• Documented HR policy • Recruitment process • Salary and attendance register • EPF, ESIC, TDS challans • Expense approval matrix • Supporting documents like air ticket, boarding pass, train ticket, cab receipts etc • Vehicle running costs calculation
Administration cost	• Registration copies of all legal acts applicable • Tds returns and challans • Agreement copies of the vendors • Copy of rent agreement • Invoices of infrastructure procurement

Key Questions from the Webinar Participants

1. **Statutory and legal compliance**
    a. CSR-1 form/ MCA registration
    b. Renewal of 80G and 12AB certifications

2. **Finance and accounting**
    a. GST applicability and implication on CSR funds received
    b. Clarity on unspent funds
    c. Break-up of CSR budget w.r.t to admin expenses
    d. Tax deduction applicability

3. **Planning and reporting**
    a. Approach to impact reporting
    b. Clarity on third-party audits
    c. Maintenance of CSR records

4. **Registrations and declarations**
    a. Requirement of an FCRA registrations

5. **Volunteering and branding**
    a. Broad guidelines for volunteering and branding

- Budgeting
- Project activity variance analysis
- CFO Certification for donors
- Compliance calendar
- Utilisation certificates
- Audit documentation
- SPOC for due diligence
- Short term plans for achieving the targets

Key best practices for Planning and Reporting

- Budgeting
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Robust Reporting

- Implementation organisations would require strong documentation and reporting process & systems In order to provide the required evidence and information towards financial and other compliance

Key Best Practices in Finance and Accounting - Pre Grant Diligence

- The costs of manpower consultant services, taken for hiring resources for the project, should not be a part of project cost
- Services like manpower, accounting & finance, M&E that are not directly linked to the project shall not form part of staffing costs and be included only as OH absorption
- Indirect costs are overhead expenses incurred by the applicant organization as a result of the project but are costs that cannot be easily identified with the specific project.
- Indirect cost should in general scenario be 10-15% of the direct cost
- Expenses that are at organization level should only be included in Indirect OH, and not incorporated under any other head (direct project cost)

Key Best Practices in Finance and Accounting - Post Grant Diligence

- Update of the grant utilization for the previous month close, in excel/google sheet including upload of the supporting vouchers shall be submitted latest by the TAT provided by donor
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- In case of cost allocation for shared resources, the % of cost allocation shall remain constant throughout the year. In case the organization proposes to change the cost allocation methodology/ the amount allocation varies, the same needs to be communicated to the donor before going ahead with the change
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