

Modality and practical issues faced in **CSR**

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- Background of CSR in India
 - Modalities of CSR
 - Case Studies
 - Statistical snapshots
 - Practical issues faced
 - CA & CSR
 - Conclusion

CSR Journey...

Old days thoughts

"Do Charity from right hand so secretly that even your left hand should not know it"

Present scenario

"CSR viewed as organization brand value enhancement tool"

Background of CSR in India

CSR – India and Global



- USA, UK, Europe, etc.
- France, Denmark, South Africa, China etc.
- India is the first country to have contribution requirement under a statute
- Other countries such as UAE are yet proposing to introduce contribution requirement under a statute for large companies

Overview

Applicability of Sec 135

1. Every company having net worth of rupees **five hundred crore or more**, or
2. Turnover of rupees **one thousand crore or more** or
3. A net profit of rupees **five crore or more** in **immediately preceding financial year** (as amended 19th Sept. 18).

Requirement of Sec 135

1. Constitute a **Corporate Social Responsibility Committee** consisting of **three or more directors with at least one independent director**. (unless the company is not required to appoint independent director under the Companies Act, the committee shall comprise of two directors)
2. Shall spend at least **2 % of average net profit as per section 198** of last three financial years.

Way forward – strict regulatory changes proposed

Unspent Amount

- Pursuant to an ongoing CSR project, it must be transferred to unspent CSR account within 30 days from the end of the financial year. This amount if unutilized within a period of 3 years, must be transferred to fund specified under Schedule VII of the Act within 30 days from end of third financial year.
- In the absence of an ongoing CSR project, such amount to be transferred to fund specified under Schedule VII of the Act within 6 months from end of the financial year.
- Two-fold penal consequences:
 - Company to pay penalty of Rs. 50,000 to Rs. 25 Lakhs,
 - Defaulting Officers to pay penalty of Rs. 50,000 to Rs. 25 Lakhs and also liable to imprisonment for a period up to 3 years.
- The above changes are still not effective as the changes have not been notified in the gazette
- Comply and explain to comply or face consequences

Modalities of CSR

Methods for implementing CSR

01

**Directly on its own
by developing its own
capacities**

03

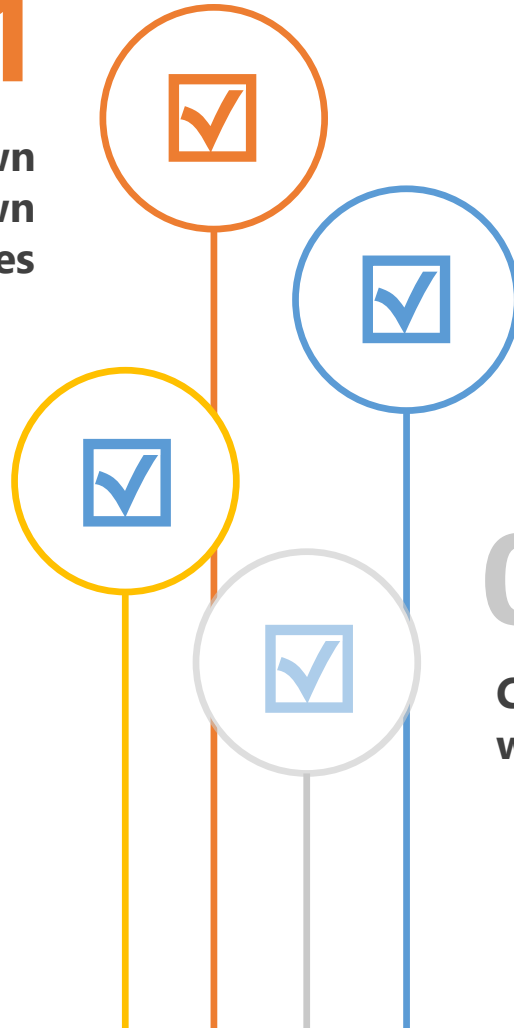
**Through independently registered
non-profit organisations that have a
track record of at least three
years in similar such related
activities**

02

**Through its own non-profit
foundation set-up so as to
facilitate this initiative**

04

**Collaborating or pooling their resources
with other companies**

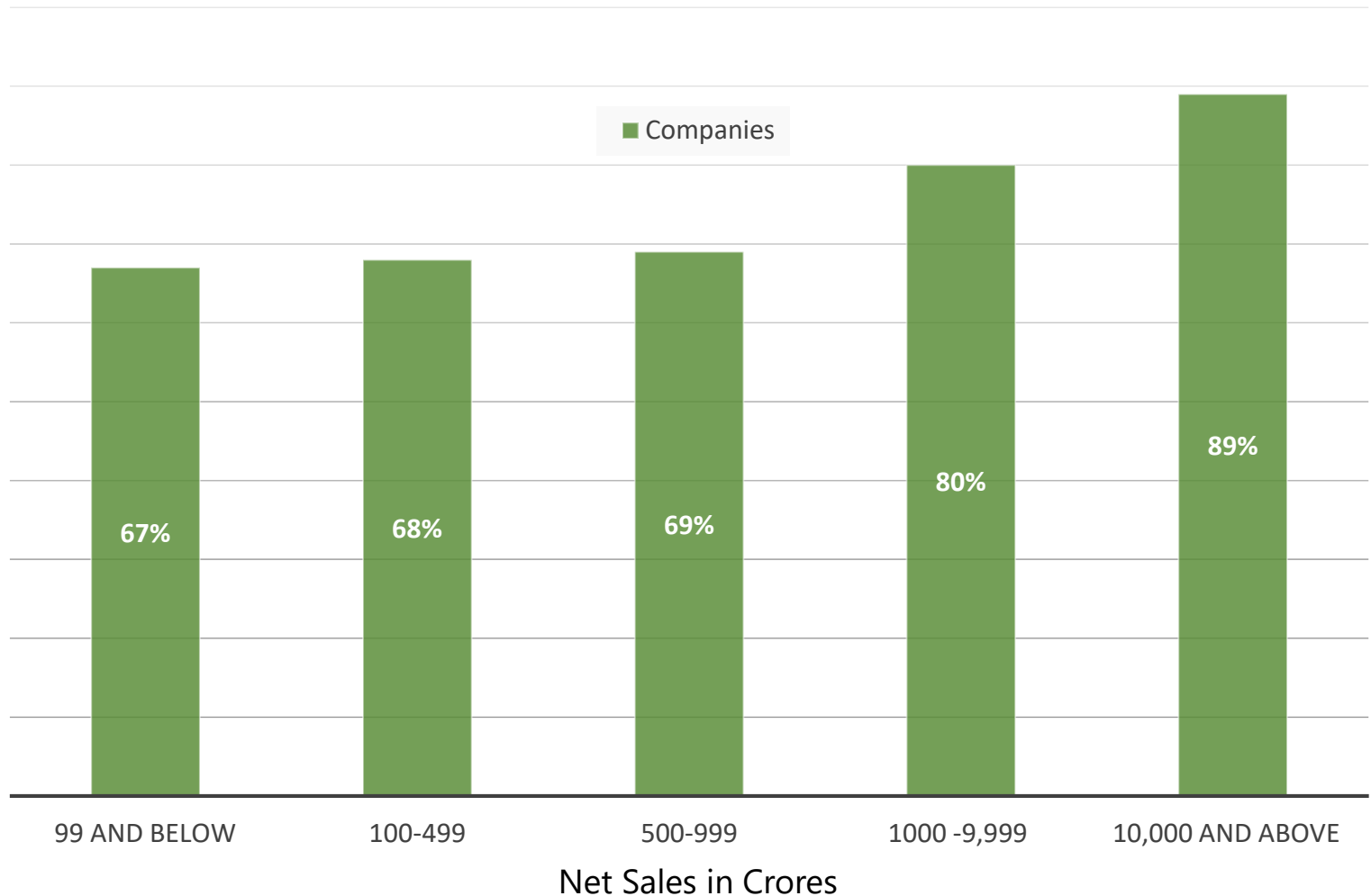


Implementing agency and self execution

Decision criteria	Implementing agency	Self execution
Cost	More likely to be a lower cost option	High cost option
Customisation	Not highly customisable	High flexibility to customise the project
Control	Low to medium level of control	High levels of controls possible
Building Expertise	Development issues are not expected	Possibility of development issues due to lack of in depth knowledge

Companies that use implementing agencies

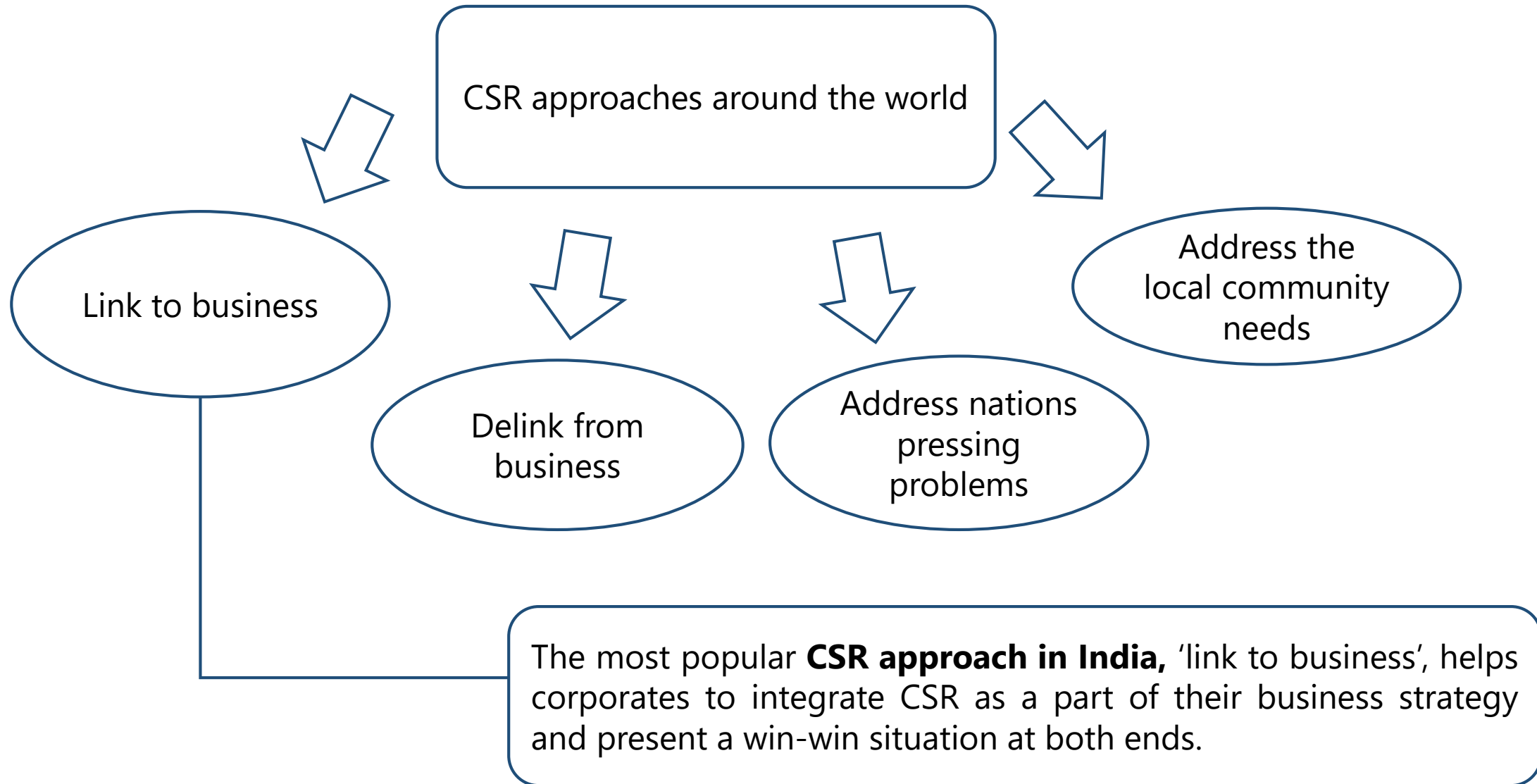
Implementing agencies used based on net sales



Of the companies with sales of Rs. 10,000 crore and above, 89% used implementing agencies, indicating larger companies prefer to conduct their CSR activities through implementing agencies.

Source: CRISIL CSR Yearbook 2020

Approach towards CSR



Eligible activities



Permitted Activities

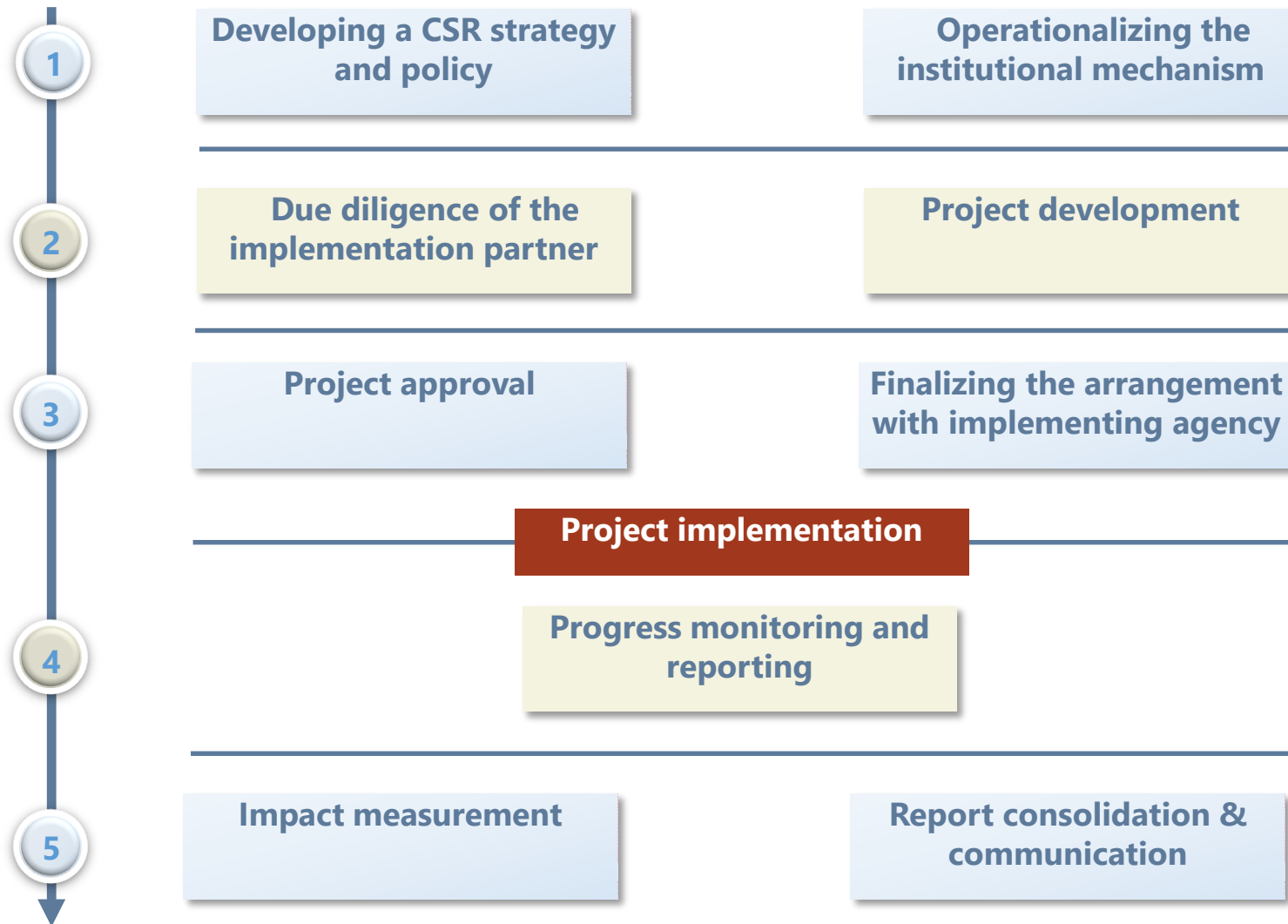
- Eradicating hunger, poverty, malnutrition
- Promoting healthcare / education / gender equality / sports
- Environmental sustainability
- Contribution to Prime Minister's National Relief Fund
- Rural / slum area development projects
- Disaster management
- COVID 19 related [newly added]

Prohibited Activities

- Activities in normal course of business
- Activities undertaken outside India
- Activities that benefit only the employees and their families
- Contribution to any political party
- One-off events– marathons / awards etc.
- Expenses incurred for the fulfillment of any act / statute

As per MCA Circular dated 28th May 2018 preference should be given to local area and areas around which company operates (this provision should be followed in letter and spirit)

CSR Processes



How to ensure the amount is rightly spent?

Internal audit of CSR

Special area audit of CSR compliances by an independent party (at implementation, monitoring and reporting stage) ensures better compliance

Due diligence of implementing agency

To ensure that a company's implementation partners have the reputation, competence and integrity to implement effective projects

CSR Checklist

Ensures compliance with regulatory requirements and notification and acts as a tool for reflecting commitment towards stakeholders

Continuous monitoring of activity

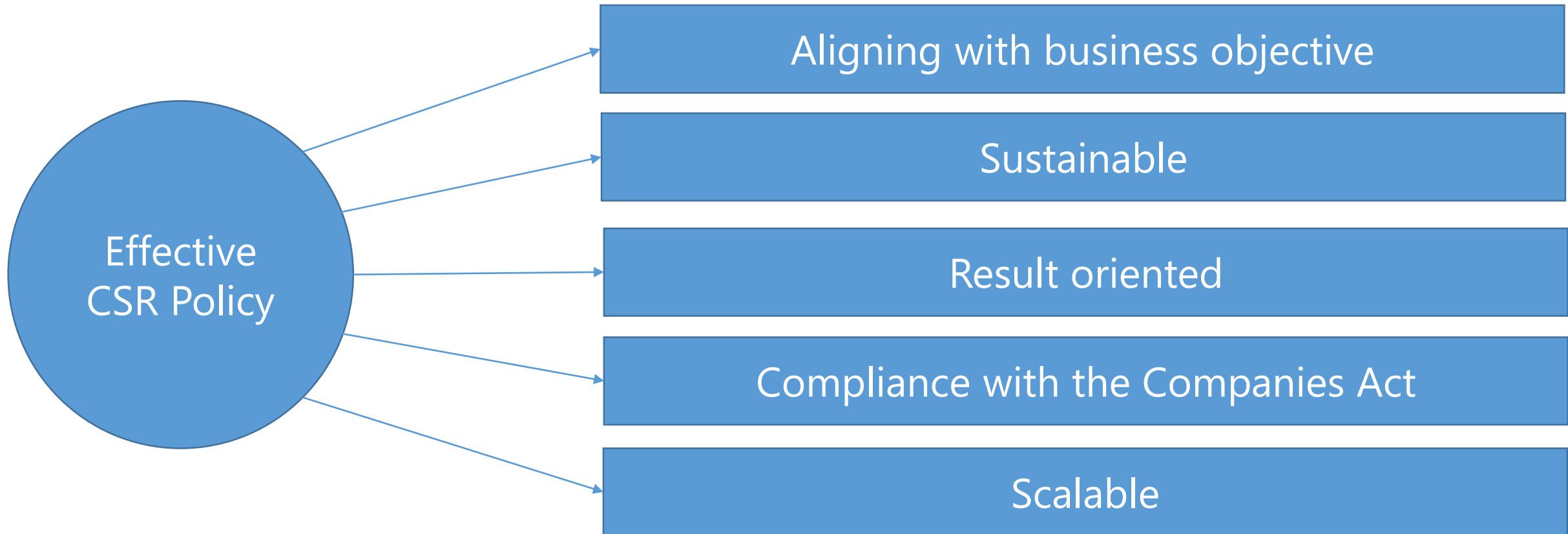
Checking progress against plan and to take corrective actions against any deviation (including obtaining feedback through frequent field visits)

Compliance with Global standards of Social responsibility

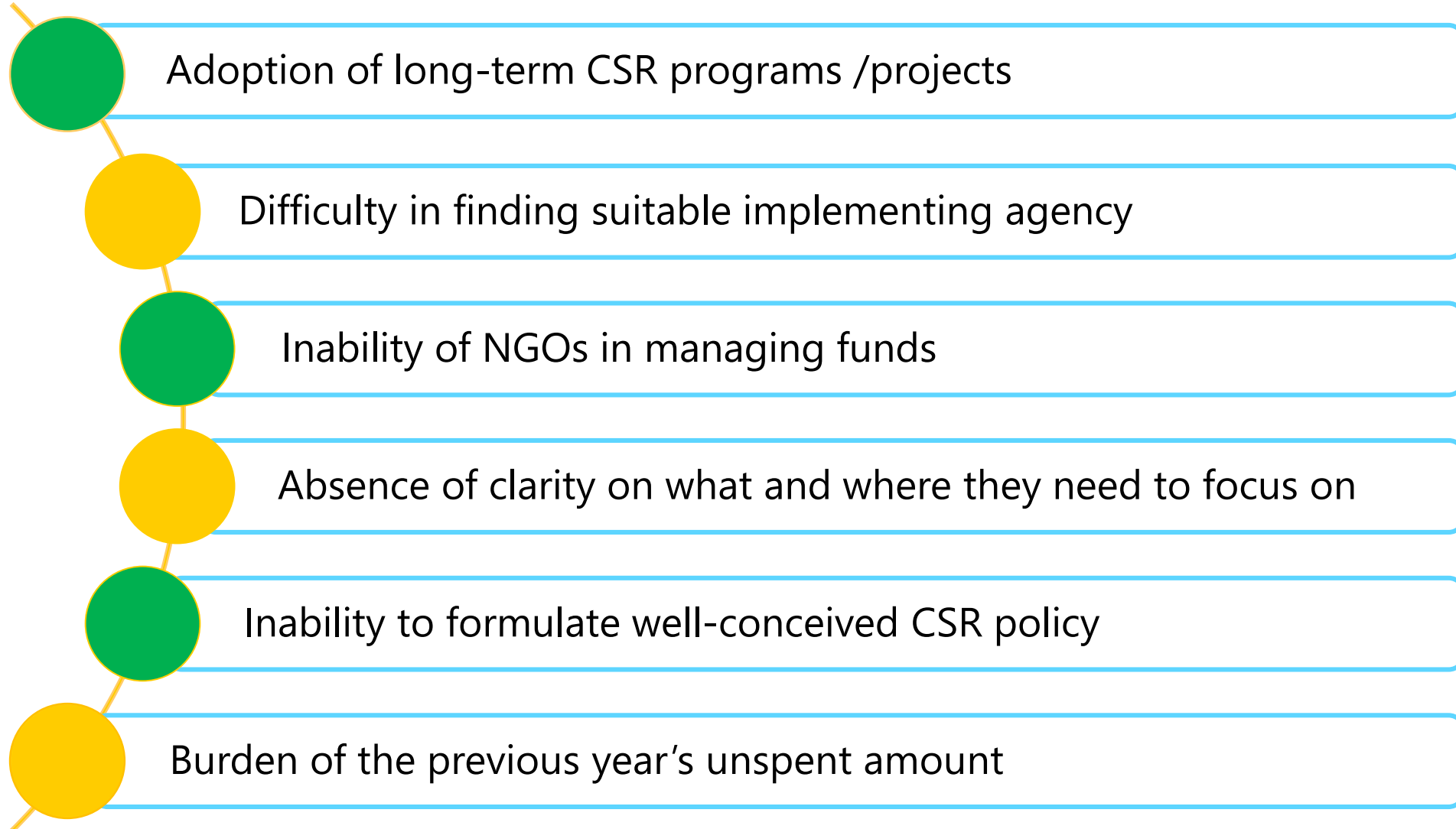
A comprehensive guidance for companies pertaining to CSR is available in the form of several globally recognised guidelines, frameworks, principles and tools. Most of which are closely aligned with larger concept of sustainability. (ISO 26000, UN guidelines, Social Accountability international standards etc.)

How to device CSR Policy

Objectives

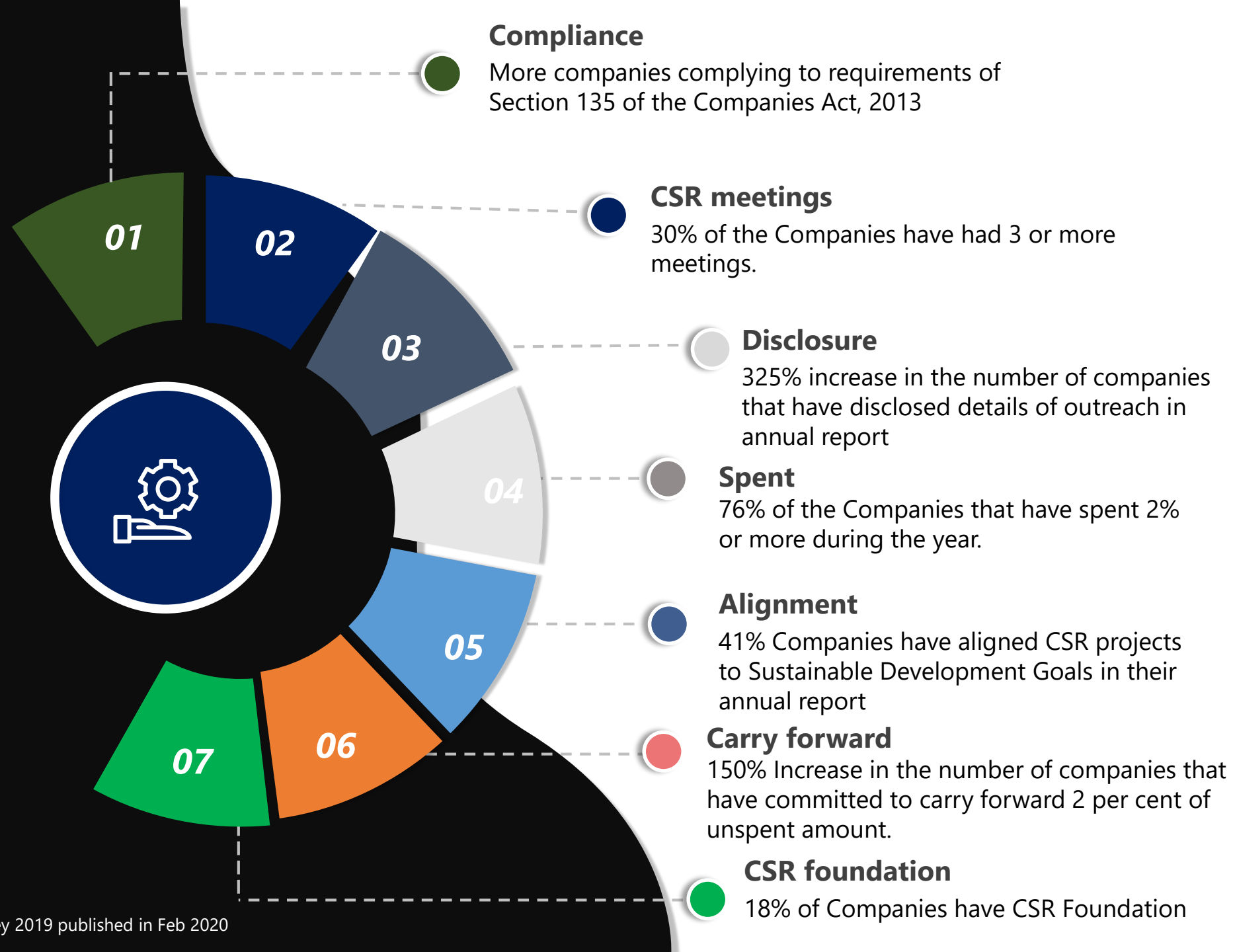


Common reasons given for not spending

- 
- Adoption of long-term CSR programs /projects
 - Difficulty in finding suitable implementing agency
 - Inability of NGOs in managing funds
 - Absence of clarity on what and where they need to focus on
 - Inability to formulate well-conceived CSR policy
 - Burden of the previous year's unspent amount

Statistical Snapshots

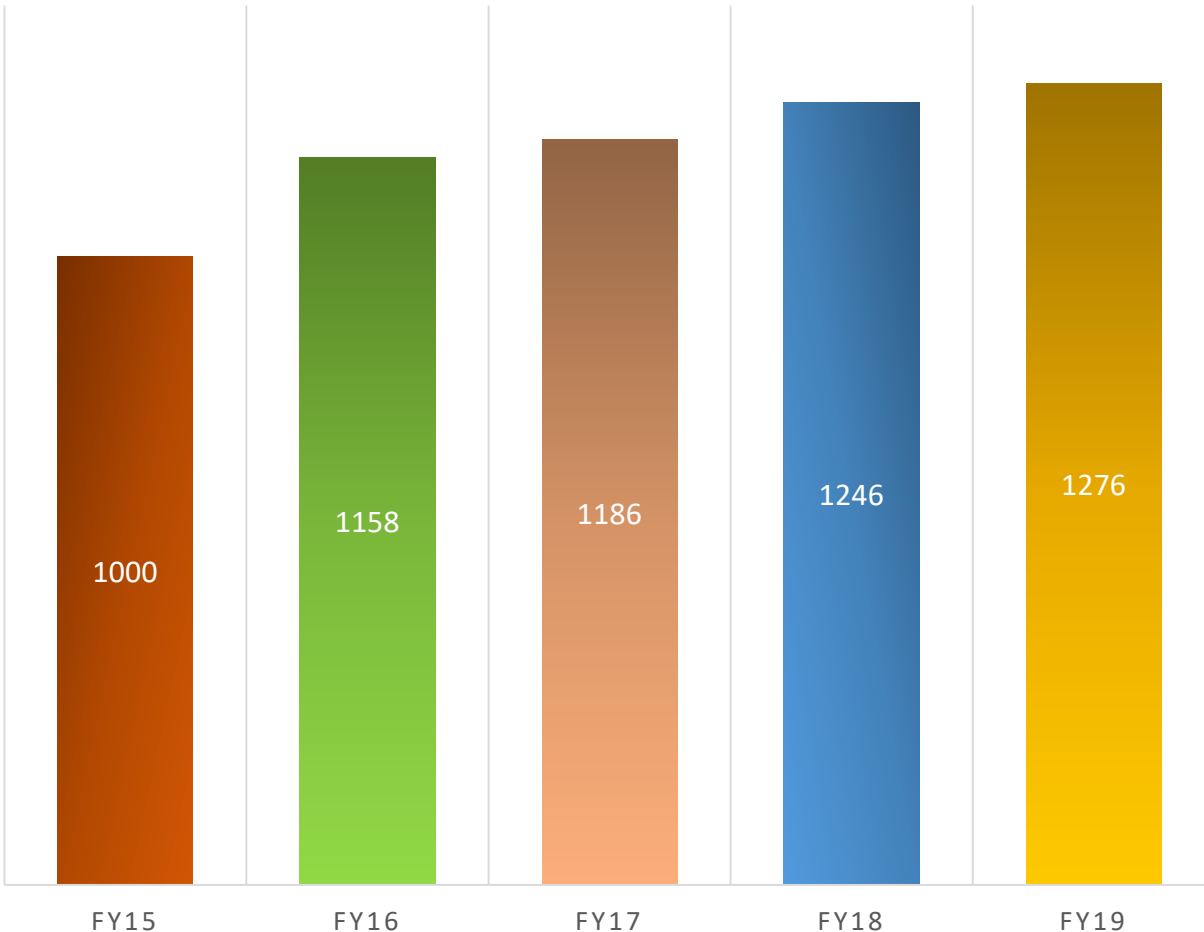
Key highlights of CSR in India[#]



Number of companies reporting CSR spend on the rise

CSR SPEND ON THE RISE

■ Number of Companies



The number of companies reporting on CSR spends has increased every year since fiscal 2015, signifying improved compliance.

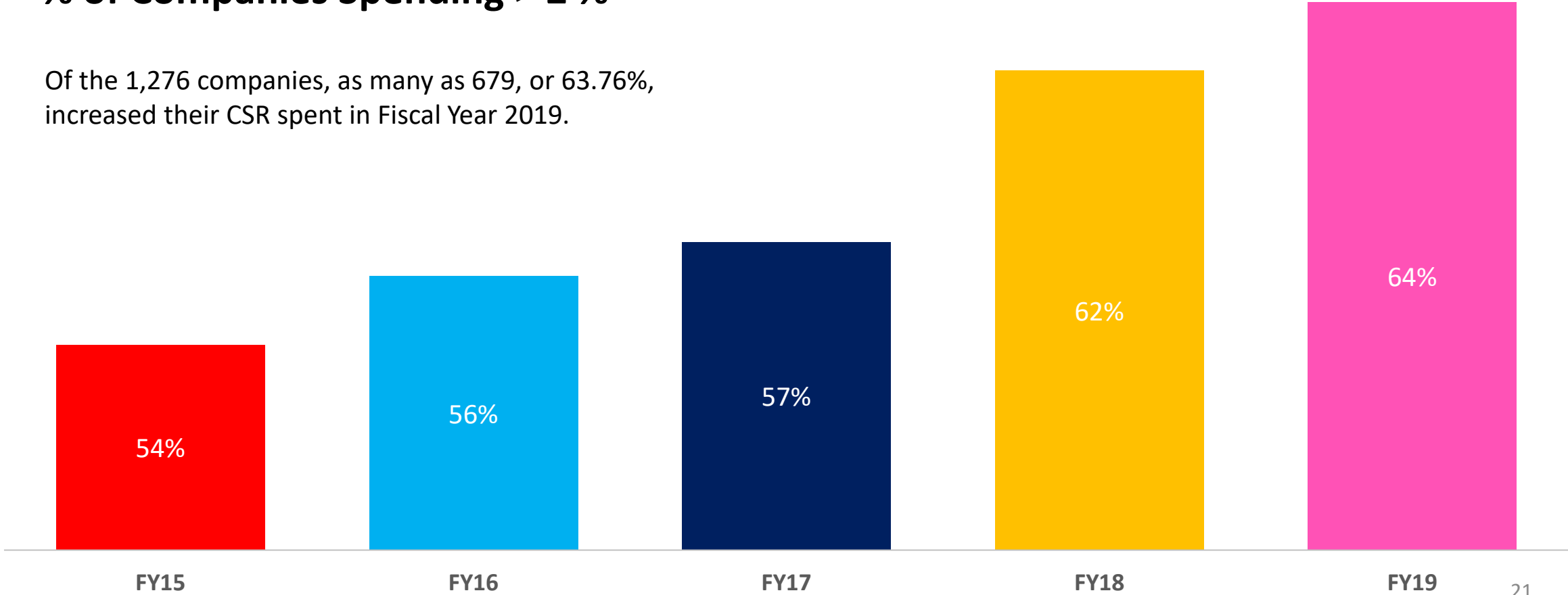
Five years since it was part of the statute, spending on corporate social responsibility and reporting by eligible listed companies continued to improve, with the number of companies and their cumulative spend alike printing higher yet again in fiscal 2019.

1,276 companies spent an aggregate Rs 11,392 crore on CSR activities in fiscal 2019, marking a growth of almost 14% on-year.

Number of Corporates spending > 2 % as CSR rises over the years

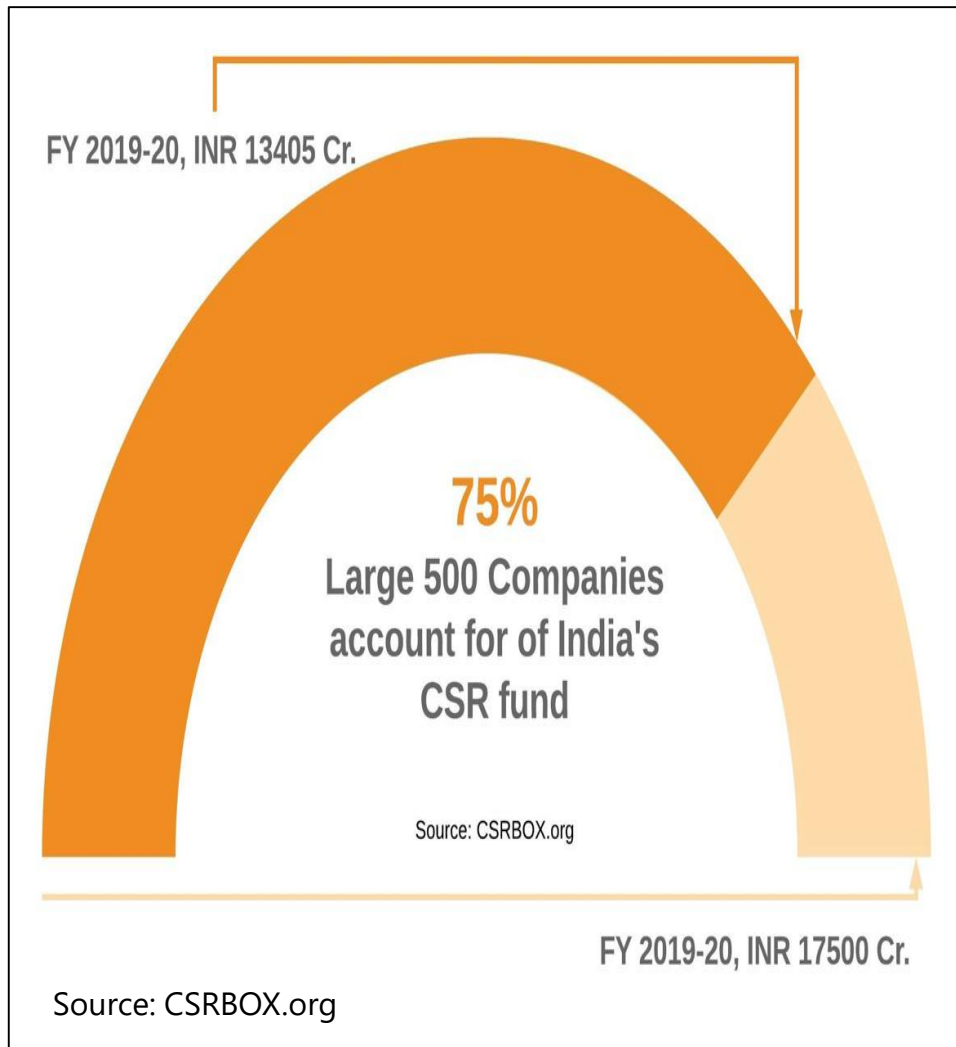
% of Companies Spending > 2 %

Of the 1,276 companies, as many as 679, or 63.76%, increased their CSR spent in Fiscal Year 2019.



Source: CRISIL CSR Yearbook 2020

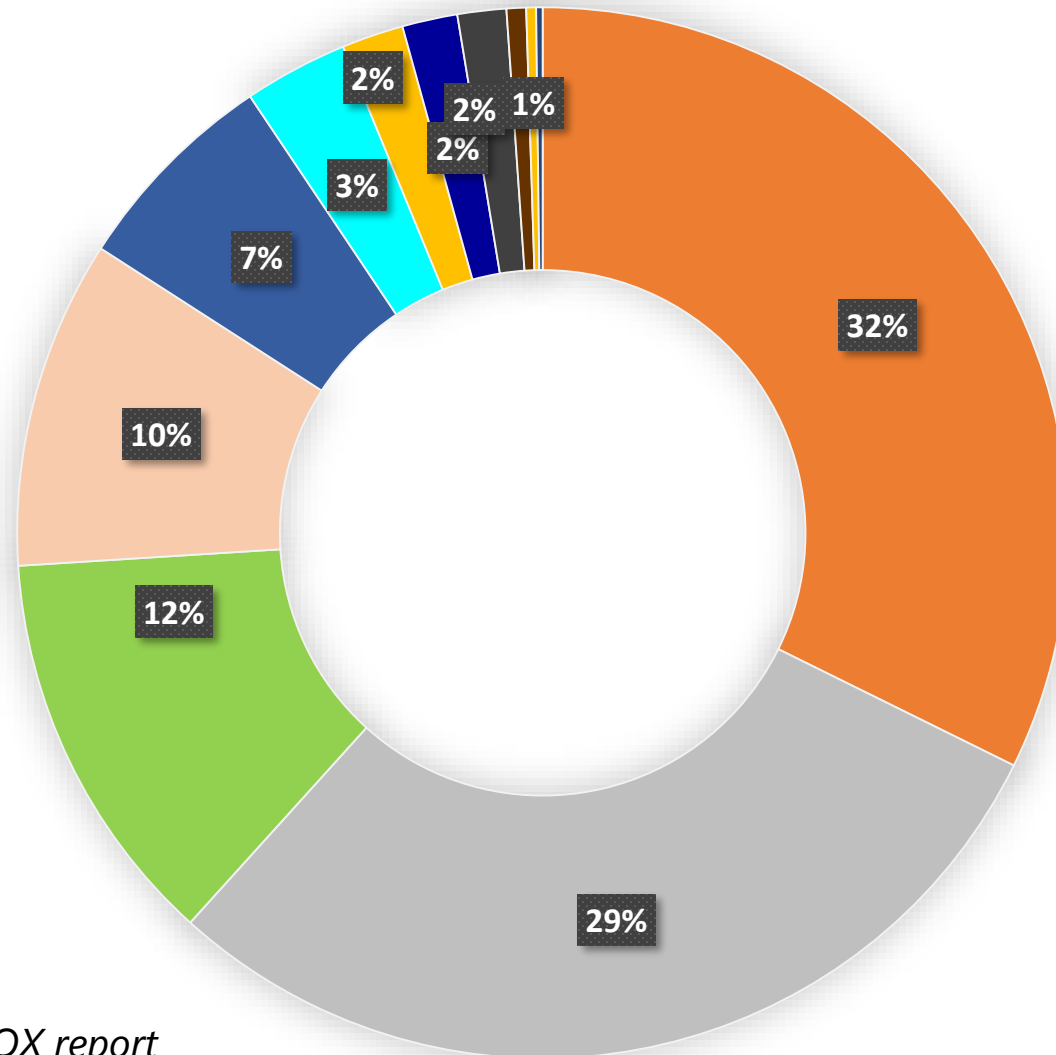
Estimated CSR



- Large 500 listed companies have spent about INR 13400 Crores on CSR in FY 2019-20, to comply with the CSR rules.
- Overall prescribed CSR for all listed and unlisted companies will be in the range of INR 16500-18000 Crores.
- Top 10 Companies will contribute almost 1/5th of the total CSR Fund.
- 30 companies will spend over INR 100 Cr. each on CSR projects, while 25 companies will spend between INR 50-100 Crores. on CSR projects.
- Almost 115 companies will spend between INR 10-50 Crores on CSR projects.
- Banking and finance sector companies will contribute almost 1/5th of the total CSR fund

Theme-wise CSR spent

Projected CSR fund distribution from FY14-15 to FY 18-19



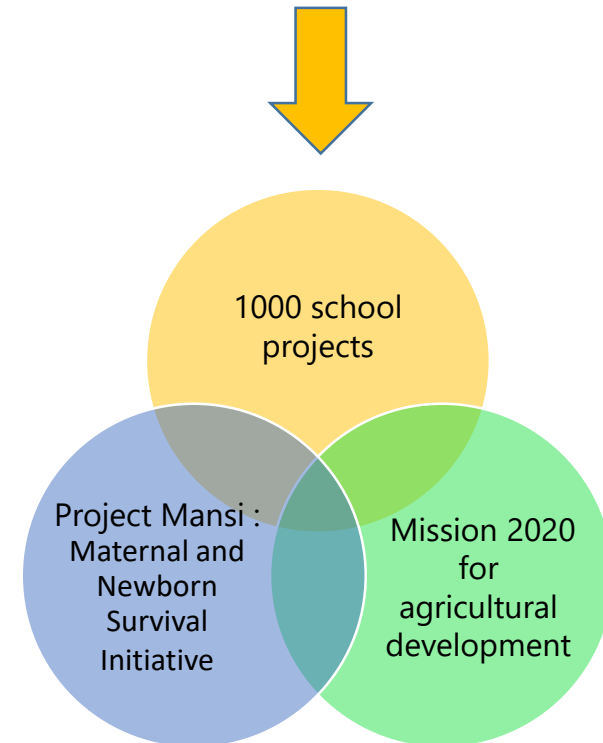
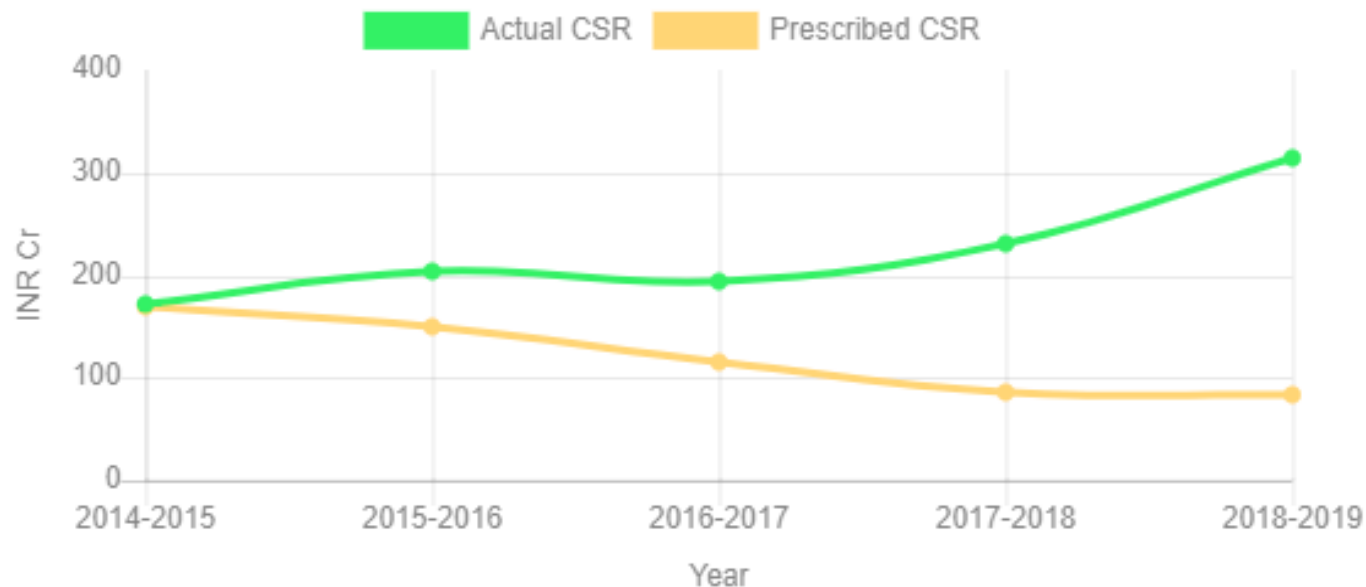
- Education & Skills
- Poverty Alleviation, Healthcare and WASH
- Rural Development
- Environment Sustainability
- Other (Admin, Misc. Projects)
- Gender Equality and Women Empowerment
- Rural Sports and Paralympic
- Protection of Heritage & Art
- Prime Minister's National Relief Fund
- Urban Slum Development
- Technology Incubation
- Benefits to Armed Forces Veteran

Source: NGOBOX report

Some Case Studies

Tata Steel Ltd : The first Co. to incorporate Corporate Social Responsibility back in 1979

Financial Year	Prescribed Amount	Amount Spent
2016-17	115.80 Cr	193.61 Cr
2017-18	85.62 Cr	231.62 Cr
2018-19	82.40 Cr	314.94 Cr



Story of Compassion : Akshay Patra

- One day, while looking out of a window in Mayapur, a small hamlet near Calcutta, Srila Prabhupada saw a group of children fighting with stray dogs over scraps of food. Deeply moved by this incident, he resolved to ensure that no one within a ten-mile radius of his centre would go hungry. This direction to his followers inspired the genesis of **The Akshaya Patra Foundation**. It also became the driving force behind all the milestones that the Foundation has achieved

Akshaya Patra was honored with the ICAI Gold Shield Award for 'Excellence in Financial Reporting' 2017-18 in the Not-for-Profit Sector for the 7th time.

Few CSR Initiatives by India Inc.

• **Reliance Industries Limited**

- Activities for visually impaired
- Digital education initiatives
- Digital health and health outreach program
- Disaster relief



• **Tata Consultancy Services Limited**

- Child line software support to track missing children
- Restoration of Heritage building
- Education and Skill building
- Disaster relief

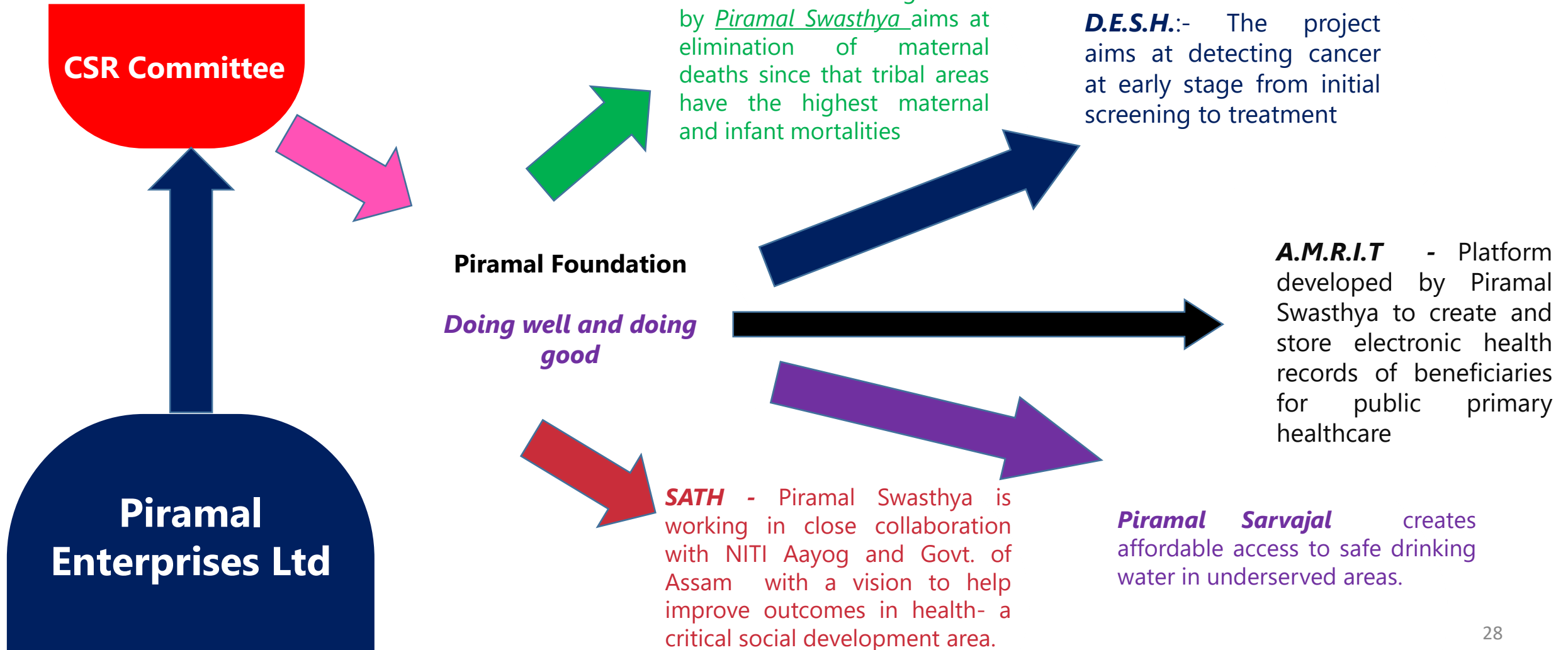


• **Infosys Limited**

- Biomass Cookstove project
- Aiding flood relief efforts
- Constructing Zoo protection wall



Piramal Enterprises Ltd and Piramal Foundation



Unique CSR initiatives



bharti

Nyaya Bharti

- In deserving cases, it will help the under trails by paying the bail and surety amounts



ADITYA BIRLA GROUP

E-Spousing

- Revolutionary projects undertaken-widow remarriages in UP
- Espousing dowryless marriages



ई-चौपाल

फिसानों के हित में, फिसानों का अपना

E-Choupal

- Link directly with rural farmers via the internet for procurement of agriculture and aquaculture products

International - unique CSR initiatives

LEGO – Build the change

Lego is top CSR spending company in 2017

Focuses on Innovative learning programs for children

Environmental leadership – by partnering with WWF and other conservative organizations



TOMS - One for One Campaign

TOMS shoes has given 60mn shoes to children as a CSR initiative. For every pair of shoe bought one pair is given as a charity to children who cannot afford to buy a the same

TOMS is also involved in helping in restoring eyesight of people, providing safe drinking water and safe birth services



People water – Drop for Drop initiative

Drop for Drop initiative, the company drills or restores wells, provides water purification systems or implements new water-providing solutions to deliver new sources of clean water to those in need for every bottle purchased



#dropfordrop

International - unique CSR initiatives (Contd...)



*Protecting Ecosystems –
continuing CSR work since
last 40 +years*



*"One Planet. One Health –
basic health care coverage
in countries where there is
no welfare system"*



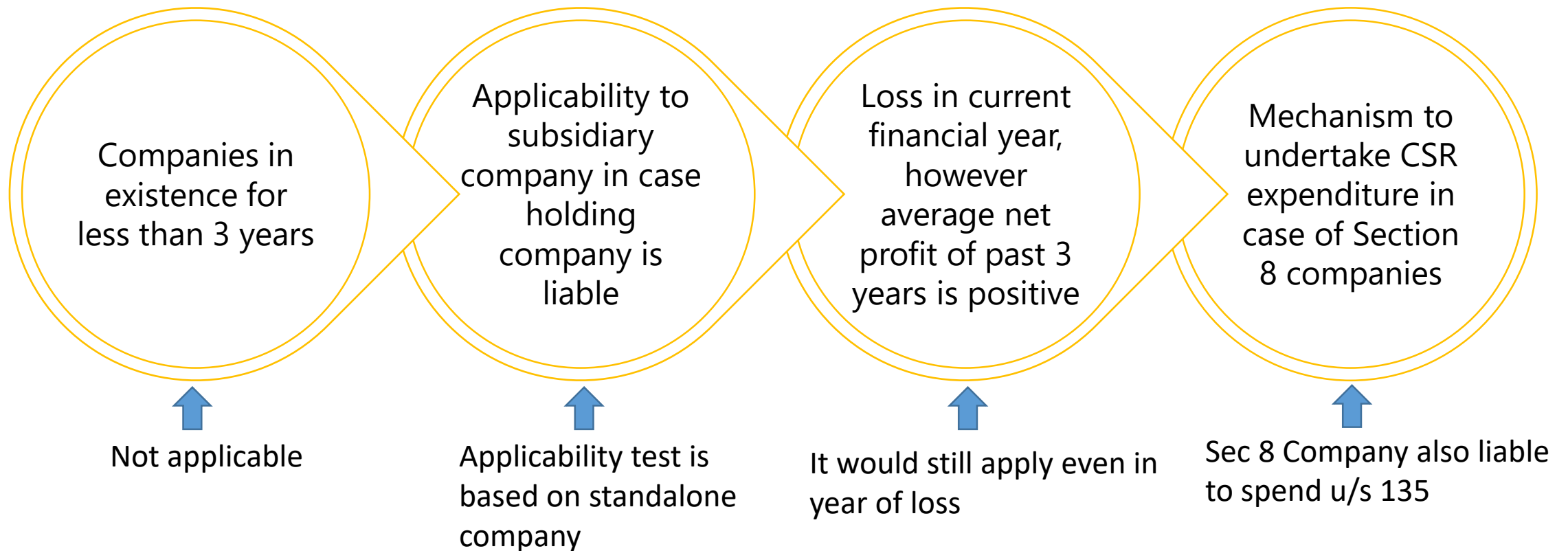
*Vocational training for school
drop-outs*

CSR Initiatives during COVID-19

- **Tata Power Limited** manufactured and supplied over 1.20 lac masks to the states of Maharashtra and Jharkhand to contain the spread of coronavirus under its Dhaaga initiative.
- **Infosys Limited** through its CSR arm Infosys Foundation has partnered with Narayana Health City to open 100-bed quarantine facility for COVID-19 patients.
- **Hyundai Motor India Limited** through its CSR arm Hyundai Motor India Foundation, ordered COVID-19 advanced diagnostic testing kits from South Korea.
- **Cadila Pharmaceuticals Limited** distributed essential kits among underprivileged families dwelling in surrounding region of Cadila Corporate Campus and its plants through its charitable arm KakaBa Charitable Trust.
- **Jindal Steel & Power Limited** distributed personal hygiene products to people and has been feeding the hungry across all its operational locations through its CSR Arm JSPL Foundation.

Practical Issues Faced

Questions on Applicability



FAQs on CSR spend towards COVID-19

Expenditure	Whether eligible under Schedule VII?
Spending for COVID-19 related relief activities	Yes
Contribution to PM-CARES Fund	Yes
Chief Minister's Relief Funds or State Relief Fund for COVID-19	No
State Disaster Management Authority	Yes
Payment of salary / wages to employees / workers or contract labour during lockdown	No
Payment of ex-gratia payment to temporary / casual / daily wage workers	Yes [subject to certificate from statutory auditor]

Questions for CSR Accounting

Accounting for excess amount spent

Prepaid expenses cannot be accounted

Grant received

CSR expenditure to be net of grant received

Functional classification of CSR expenditure

CSR amount to be shown as separate line item in statement of P&L

Supply of company's goods or service for CSR expenditure

Principles of AS 2 / IND AS 2 to be followed and recorded as CSR expenses when goods / services are delivered [as per technical guide para 24 of ICAI it is allowed as CSR and FAQ issued by MCA it states that Company is obliged to spend the amount]

Provision for unspent amount

Whether provision to be made in accounts for unspent amount ?

- Provision not to made unless liability is incurred by entering into contractual obligation [para 9 to 13 of technical guide on CSR]
- Post amendment to section 135 is notified, provision is required for unspent amount [para 14 to 19]

Excess spent

Whether excess amount spent above 2% can be carried forward?

Not allowed to be c/f. [para 20 and 21 of Technical guide] However post the proposed amendment to section 135, excess amount spent can be c/f and accounted as prepaid expense. [para 22-23 of technical guide]

Other FAQ's

Query	Response	Technical guide para ref
Whether surplus money from CSR funds can be used for business	No	25
Income earned on CSR funds whether to be credited to P&L and corresponding liability to be recognized on books	Yes	33
Capital asset contributed whether can be accounted as asset in books	No	28-30

Other Points

Set off of losses suffered in previous 3 years against net profit calculated as per Sec 198 in other two years is allowed while calculating Prescribed CSR.

ITC of GST paid cannot be claimed against CSR expenditure as the same is not considered to be spent for the purpose of Business.

CSR spent is not allowed as a business expenditure under Income Tax Laws.

Disclosure of transaction with related party to be given as per IGAAP / Ind AS

CA & CSR

Role of a Chartered Accountant in CSR

ICAI is nominated by Prime Minister for Swachh Bharat Abhiyaan

CAs are entrusted to monitor compliance – hence a stringent check should be kept

Role of CA in CSR

CAs should refrain from engaging / advising to engage in unethical practices

Assist client in complying with the requirements under law

Monitoring Mechanism

- Internal reviews by CSR teams
- Periodic third party assessment of key programs
- Impact assessment of operation on periodical basis
- Regular review by the CSR Committee and reporting to the Board on:
 - achievement against milestones and objectives
 - planned budget vis-a-vis actual expenditure on each program
- External concurrent audit for CSR programs

Conclusion

Food for Thought

Proper compliance vs. Better compliance

Contribution made to implementing partner qualifies as sufficient compliance under the Act. However it is recommended that continuous monitoring mechanism is present to ensure Maximum benefit from the activity to the community as well as the enterprise

There should be a balance between Proper and Better compliance

Should CSR be applicable for other entities (viz. LLP, Firms, Co-operative society etc.)

Mandatory CSR compliance is not applicable to non-corporates such as co-operative society, trusts, LLPs, Firms etc. which may be covered under threshold limit under the Companies Act for CSR.

Should there be mandatory policy under other acts as well covering large non-corporates under the ambit of CSR?

Food for Thought (Contd...)

More incentives for doing CSR

Mechanism **for** monitoring fund utilisation

Should there be progressive % limit to be spent on CSR?

Possibility of setoff of losses of group companies by calculating CSR on consolidated basis

Emerging possibilities for mandatory CSR audit

Thoughts of Sir Ratanji Tata back in 1913

“

To engage qualified and competent persons to investigate into matters that pertain to the social, economic or political welfare of the Indian community, *the object being to design schemes of a practical nature calculated to promote the welfare of the said community, care being taken that such work is not undertaken from the stereo typed point of view but from the point of view of fresh light that is thrown from day to day by the advance of science and philosophy on problems of human well-being...*

Further, he also directed that:

No experiment and no venture should be aided or undertaken unless the scheme thereof is carefully prepared. No institution or organisation should be aided of which the accounts are not subject to periodic audits and are not regularly issued and which would not be open to inspection and examination

”

Thank You

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