FAQ: FCRA

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Introduction

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> **Got questions about FCRA or FCRR?** Ask them on the forum, or browse other FCRA-related questions here.

Q.1 What is the purpose of FCRA, 2010?

FCRA, 2010 has been enacted by the Parliament to consolidate the law to regulate the acceptance and utilization of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilization of foreign contribution or foreign hospitality for any activities detrimental to national interest and for matters connected therewith or incidental thereto.

Q.2 What are the various acts/rules/guidelines which regulate the flow of foreign contribution to India?

The flow of foreign contribution to India is regulated under the Foreign Contribution (Regulation) Act,2010 and the Foreign Contribution (Regulation) Rules, 2011 (FCRR 2011) read with other notifications/orders etc., as issued thereunder from time to time. These are available at the website https://fcraonline.nic.in.

Q.3 What is the status of the FCRA, 1976 after coming into force of FCRA,2010?

It has been repealed.

Q.4 Who is FCRA, 2010 applicable for?

As per Section 1(2) of FCRA, 2010, the provisions of the act shall apply to:

- Whole of India
- Citizens of India outside India; and
- Associate Branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India

Key Definitions and Concepts under FCRA, 2010

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A. Foreign Contribution

Q1. What is foreign contribution?

As defined in Section 2(1)(h) of FCRA, 2010, "foreign contribution" means the donation, delivery or transfer made by any foreign source −

(i) of any article, not being an article given to a person* as a gift for his personal use, if the market value, in India, of such an article, on the date of such gift is not more than such sum as may be specified from time to time by the Central Government by the rules made by it on this behalf.

(ii) of any currency, whether Indian or foreign;

(iii) of any security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and includes any foreign security as defined in clause (o) of Section 2 of the Foreign Exchange Management Act,1999.

Explanation1–A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through

one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause. Explanation 2 – The interest accrued on the foreign contribution deposited in any bank referred to in sub-section (1) of Section 17 or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution within the meaning of this clause. Explanation3–Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent or a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause.

In terms of FCRA, 2010 "person" includes –

(i) an individual;

(ii) a Hindu undivided family;

(iii) an association;

(iv) a company registered under section 25 of the Companies Act,1956 (now Section 8 of Companies Act, 2013).

Q2. Who can receive foreign contributions?

Any “Person” can receive foreign contribution subject to the following conditions:-

a) It must have a definite cultural, economic, educational, religious or social programme. b) It must obtain the FCRA registration/prior permission from the Central Government

c) It must not be prohibited under Section 3 of FCRA, 2010.

Q3. Who cannot receive foreign contributions?

As defined in Section 3(1) of FCRA, 2010, the following are prohibited to receive foreign contribution:

(a) candidate for election;

(b) Correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;

(c) Public Servant, Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;

(d) Member of any legislature;

(e) Political party or office bearer thereof;

(f) organization of a political nature as may be specified under sub-section (1) of Section 5 by the Central Government.

(g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-section (1) of Section 2 of the Information Technology Act, 2000 or any other mode of mass communication;

(h) Correspondent or columnist, cartoonist, editor, owner of the association or company referred to in point (g).

(i) Individuals or associations who have been prohibited from receiving foreign contributions.

Q4. Can foreign contributions be received in rupees?

Yes. Any donation, delivery or transfer received from a ‘foreign source’ whether in rupees or in foreign currency is construed as ‘foreign contribution’ under FCRA, 2010. Such transactions including interest on foreign contribution or income derived from foreign contribution even in rupees terms are considered as foreign contribution.

Q5. Will interest or any other income earned from foreign contribution (FC) be considered foreign contribution?

Yes. It will become part of F.C. Please see Explanation 2 under Question 1.

Q6. Can interest or any other income earned out of foreign contribution be shown as fresh foreign contribution receipt during that year?

No. The interest or any other income earned out of foreign contribution should be shown against Column 2(i)(b) in the annual return (Form FC-4) during the year in which it is earned. Such interest or income would be considered as F.C.

Q7. Whether earnings from foreign client(s) by a person in lieu of goods sold or a service rendered by it is treated as foreign contribution?

No. As clarified at Explanation 3 under section 2(1)(h), foreign contribution excludes earnings from foreign client(s) by a person in lieu of goods sold or services rendered by it as this is a transaction of commercial nature/quid pro quo in the normal course of business trade etc within or outside India.

Q8. Can donations given by Non-Resident Indians (NRIs) be treated as ‘foreign contribution’?

Contributions made by a citizen of India living in another country (i.e., Non-Resident Indian), from his personal savings, through the normal banking channels, are not treated as foreign contributions. However, while accepting any donations from such NRI, it is advisable to obtain his/her passport details to ascertain that he/she is actually an Indian citizen.

Q9. Can donation given by an individual of Indian origin and having foreign nationality be treated as ‘foreign contribution’?

Yes. Donations from an Indian origin person who has acquired foreign citizenship is treated as foreign contribution. This will also apply to PIO / OCI cardholders. They are foreigners. However, this will not apply to 'Non-resident Indians', who still hold Indian citizenship as they are not foreigners.

Q10. Can foreign remittances received from a relative be treated as foreign contribution as per FCRA, 2010?

No. As per section 4(e) of FCRA,2010 and Rule 6 of FCRR ,2011, even the persons prohibited under section 3, i.e., persons not permitted to accept foreign contribution, are allowed to accept foreign contribution from their relatives. However, in terms of Rule 6 of FCRR, 2011, any person receiving foreign contribution in excess of ten lakh rupees or equivalent thereto in a financial year from any of his relatives shall inform the Central Government in electronic Form FC-1 within three months from the date of receipt of such contribution. This form may be filled online on the website: https://fcraonline.nic.in

Q11. Can individuals not covered under Section 3 or a HUF accept foreign contributions freely for the purposes listed in section 4 of FCRA, 2010?

Yes. Since, subject to the provisions of Section 10, even the persons specified under section 3, i.e., persons not permitted to accept foreign contribution, are allowed to receive foreign contribution for the purposes listed in section 4, it is obvious that Individuals in general and a HUF are permitted to accept foreign contribution without permission for the purposes listed in section 4. However, it should be borne in mind that the monetary limit for acceptance of foreign contribution in the form of any article given as gift to a person for his personal use has been specified as Rs. one lakh video FCR Amendment Rules, 2019.

Q12. Can fees paid by foreign delegates/participants attending/participating in a conference/seminar etc. be termed as foreign contribution and thus require permission from FCRA?

No. “Delegate/participation Fees” paid by foreign delegates/participants for participation in a conference/seminar and which is utilized for the purpose of meeting the expenditure of hosting the conference/seminar is not treated as foreign contribution and as such no permission under FCRA is required by the recipient.

Q13. Section 2(c)(i) of repealed FCRA, 1976 defined foreign contribution as the donation, delivery or transfer made by any foreign source of any article, not given to a person as a gift for personal use, if the market value, in India, of such article exceeds one thousand rupees.
What limit has been prescribed in FCRA,2010 in respect of such articles?

The limit has been specified as Rs. One lakh through insertion of the following Rule 6A in FCRR, 2011 vide the Foreign Contribution (Regulation) (Second Amendment) Rules, 2019 [G.S.R. 659 (E) dated 16th September, 2019]: "6A. When articles gifted for personal use do not amount to foreign contribution. - Any article gifted to a person for his personal use whose market value in India on the date of such gift does not exceed rupees one lakh shall not be a foreign contribution within the meaning of sub-clause (i) of clause (h) of sub-section (1) of section (2).

B. Foreign Source

Q14. What is a foreign source?

Foreign source, as defined in Section 2(1) (j) of FCRA, 2010 includes:-

(i) the Government of any foreign country or territory and any agency of such Government;

(ii) any international agency, not being the United Nations or any of its specialized agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify in this behalf;

(iii) a foreign company;

(iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;

(v) a multinational corporation referred to in sub-clause (iv) of clause (g) of section 2 of FCRA,2010;
• (vi) a company within the meaning of the Companies Act, 1956, and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:- a. the Government of a foreign country or territory; b.the citizens of a foreign country or territory; c. corporations incorporated in a foreign country or territory; d. trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory; e. foreign company; provided that where the nominal value of share capital is within the limits specified for foreign investment under the Foreign Exchange Management Act, 1999, or the rules or regulations made thereunder, then, notwithstanding the nominal value of share capital of a company being more than one-half of such value at the time of making the contribution, such company shall not be a foreign source.

(vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;

(viii) a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;

(ix) a society, club or other association or individuals formed or registered outside India;

(x) a citizen of a foreign country;”

NOTE – A few bodies/ organizations of the United Nations, World Bank and some other International agencies/multilateral organizations are exempted from this definition, and are not treated as foreign sources. Hence, the funds received from them are not considered as foreign contributions. List of such bodies / organizations, which are not treated as ‘foreign source’, are available on the website https://fcraonline.nic.in.

Q15. Can an Individual of Indian Origin who has acquired foreign nationality be treated as foreign source?

Yes. The contribution received from all the non- Indian Passport Holders is treated as “Foreign Source.”

Q16. What is a foreign company?

Please see section 2(1)(g) of FCRA, 2010. Foreign company means any company or association or body of individuals incorporated outside India and includes-

a) a foreign company within the meaning of Section 379 of the Companies Act,2013

b) a company which is a subsidiary of a foreign company

c) the registered office or principal place of business of a foreign company referred to in sub-clause (i) or company referred to in sub-clause(ii);

d) a multinational corporation

Q17. What is a Multinational Corporation?

As per explanation given under clause (g) of sub-section 1 of Section 2 of FCRA, 2010 a corporation incorporated in a foreign country or territory shall be deemed to be a multinational corporation if such corporation,-

(a) has a subsidiary or a branch or a place of business in two or more countries or territories; or

(b) carries on business, or otherwise operates, in two or more countries or territories;

Q18. Can a company incorporated in India under the Companies Act, 2013 having its operations in 2 or more countries be treated as a MNC under FCRA, 2010?

No.

C. Other Key Definitions and Concepts

Q19. What is a candidate for election?

A candidate for election means a person who has been duly nominated as a candidate for election to any legislature with effect from the date of his such nomination.

Q20. What is a registered newspaper?

“registered newspaper” means a newspaper registered under the Press and Registration of Books Act, 1867.

Q21. What is a political party?

Please see section 2(1)(4) of FCRA, 2010. “Political party” means –

(i) an association or body of individual citizens of India –

- to be registered with the Election Commission of India as a political party under section 29A of the Representation of the People Act, 1951; or
- which has setup candidates for election to any Legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order, 1968;

(ii) a political party mentioned in column 2 of Table 1 and Table 2 to the notification of the Election

Commission of India No. 56/J&K/02, dated the 8th August, 2002, as in force for the time being;

Registration and Prior Permission

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Q1. How does a person obtain permission to accept Foreign Contribution?

There are two modes of obtaining permission to accept foreign contribution according to FCRA, 2010:

- Registration
- Prior Permission

A. Eligibility

Q2. What is the eligibility criteria for granting registration?

For grant of registration under FCRA, 2010, the association should:

(i) be registered under an existing statute like the Societies Registration Act, 1860 or the Indian Trusts

Act, 1882 or section 25 of the Companies Act, 1956 (Now Section8 of Companies Act, 2013) etc;

(ii) be in existence for at least three years and have undertaken reasonable activity in its chosen field for the benefit of the society for which the foreign contribution is proposed to be utilized. The applicant NGO/association will be free to choose its items of expenditure (excluding the administrative expenditure as defined in Rule 5 of FCRR, 2011) to become eligible for the minimum threshold of Rs. 15.00 lakh spent during the last three years. If the association wants inclusion of its capital investment in assets like land, building, other permanent structures, vehicles, equipments etc, then the Chief Functionary shall have to give an undertaking that these assets shall be utilized only for the FCRA activities and they will not be diverted for any other purpose till FCRA registration of the NGO holds.

Q3. What is the eligibility criteria for grant of prior permission?

An organization in the formative stage is not eligible for a certificate of registration. Such organizations may apply for grant of prior permission under FCRA, 2010. Prior permission is granted for receipt of a specific amount from specific donors/donors for carrying out specific activities/projects. For this purpose, the association should meet following criteria:

(I) be registered under an existing statute like the Societies Registration Act, 1860 or the Indian Trusts Act, 1882 or section 25 of the Companies Act, 1956 etc;

(II) submit a specific commitment letter from the donor indicating the amount of foreign contribution and the purpose for which it is proposed to be given; and

(III)For Indian recipient organizations and foreign donor organizations having common members, FCRA Prior Permission shall be granted to the Indian recipient organizations subject to its satisfying the following:

i) The Chief Functionary of the recipient Indian organization should not be a part of the donor organization.

ii) At least 75% of the office-bearers/ members of the Governing body of the Indian recipient organization should not be members/employees of the foreign donor organization.

iii) In case of foreign donor organization being a single person/individual that person should not be the Chief Functionary or office bearer of the recipient Indian organization.

iv) In case of a single foreign donor, at least 75% office bearers/members of the governing body of the recipient organization should not be the family members and close relatives of the donor.

Q4. What are the conditions that need to be met for the grant of registration and prior permission?

In terms of Sec.12 (4) of FCRA, 2010, the following shall be the conditions for the grant of registration and prior permission:

(a) The 'person' making an application for registration or grant of prior permission-

i. is not fictitious or benami;

ii. has not been prosecuted or convicted for indulging in activities aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another;

iii. has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country;

iv. has not been found guilty of diversion or mis-utilization of its funds;

v. is not engaged or likely to engage in propagation of sedition or advocate violent methods to achieve its ends;

vi. is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes;

vii. has not contravened any of the provisions of this Act;

viii. has not been prohibited from accepting foreign contribution;

ix. the person being an individual, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offense is pending against him.

x. the person being other than an individual, any of its directors or office bearers has neither been convicted under any law for the time being in force nor any prosecution for any offense

is pending against him.

(b) the acceptance of foreign contribution by the association/ person is not likely to affect prejudicially–

i. the sovereignty and integrity of India;

ii. the security, strategic, scientific or economic interest of the State;

iii. the public interest;

iv. freedom or fairness of election to any Legislature;

v. friendly relation with any foreign State;

vi. harmony between religious, racial, social, linguistic, regional groups, castes or communities.

(c) the acceptance of foreign contribution-

i. shall not lead to incitement of an offence;

ii. shall not endanger the life or physical safety of any person.

Q5. Can a private limited company or a partnership firm get registration or prior permission under FCRA, 2010?

Yes, a private limited company too may seek prior permission/registration for receiving foreign funds in case they wish to do some work useful/beneficial to society.

Q6. Can an individual or a Hindu Undivided Family (HUF) be given registration or prior permission to accept foreign contributions in terms of section 11 of FCRA, 2010?

Yes. The definition of the ‘person’ under section 2(1)(m) in the Foreign Contribution (Regulation) Act,2010 includes any individual and a ‘Hindu Undivided Family’ among others. As such an

Individual or an HUF is also eligible to apply for certificate of registration or prior permission to accept foreign contributions.

Q7. Can organizations under Central/State Governments be required to obtain registration or prior permission under FCRA, 2010 for accepting foreign contributions?

Yes. However all organizations (not being a political party), constituted or established by or under a Central Act or a State Act or by any administrative or executive order of the Central Government or any State Government and wholly owned by the respective Government and required to have their accounts compulsorily audited by the Comptroller and Auditor General of India (CAG) or any of the agencies of the CAG, are exempted from the operation of all the provisions of FCRA, 2010.

B. Executive Committee

Q8. Can foreigners be appointed as Executive Committee members of an association seeking registration or prior permission?

Organizations having foreign nationals, other than of Indian origin, as members of their executive committees or governing bodies are generally NOT permitted to receive foreign contributions. However, foreigners may be allowed to be associated with such associations in an ex-officio capacity, if they are representing multilateral bodies, foreign contribution from whom is exempted from the purview of the Foreign Contribution (Regulation) Act, 2010, or in a purely honorary capacity depending upon the person’s stature in his/her field of activity.

Relaxation may be considered on case to case basis by an authority higher than the competent authority, if any of the following grounds is met:

i. the foreigner is married to an Indian citizen;

ii. the foreigner has been living and working in India for at least five years;

iii. the foreigner has made available his/her specialized knowledge, especially in the medical and health related fields on a voluntary basis in India, in the past;

iv. the foreigner is a part of the Board of Trustees/Executive Committee in term so the provisions in an inter-governmental agreement;

v. the foreigner is part of the Board of Trustees/Executive Committee, in an ex-officio capacity representing a multilateral body which is exempted from the definition of foreign source.

Q9. Can Government servants, Judges and employees of a Government owned/controlled company/body be on the executive committees/boards of an association?

Yes. The legal entity of a 'person' under FCRA, 2010 is distinct from an individual person. Therefore, individuals who cannot receive foreign contributions may happen to be on the executive committees/boards of such an association.

C. How to apply

Q10. How can one submit an application for the grant of registration/prior permission?

Application for grant of registration and prior permission is to be submitted online in form FC-3 A and FC-3 B respectively on the website- https://fcraonline.nic.in.

Q11. If an application for registration or prior permission is submitted online by an association, does one need to submit the same application in physical form too?

No. All requisite documents are to be uploaded with the application online only and no physical copies shall be accepted by MHA under any circumstances. All physical documents, even if received, shall be returned to the sender immediately.

D. Filling of online form

Q12. How can one fill an online form for filing an application for grant of registration / prior permission?

The online application form FC-3A for registration / FC-3B for prior permission has been designed in an easy to fill format. The applicant will find instructions on each web page of the online form while filing the application.

Q13. How can one rectify an error in the application for registration or prior permission that has already been submitted online?

No rectification of error is allowed after the application has been finally submitted online. In case of error, please Contact the Support Centre/ Help Desk of FCRA.

E. Required documents

Q14. Are Aadhar Number and Darpan ID mandatory for all members and NGOs respectively?

For all FCRA services provided through online portal, Aadhar Number & Darpan ID are mandatory.

Q15. What are the documents to be uploaded with the application for grant of registration?

The applicant should be ready with the scanned copies of the following documents before filing the application online:

(A) Registration

(i) jpg file of signature of the chief functionary (size: 50kb)

(ii) self-certified copy of registration certificate/Trust deed etc., of the association (size:1mb) [if not in English/ Hindi, please also upload copy translated into English/Hindi].

(iii) self-certified copy of relevant pages of Memorandum of Association/Article of Association showing aim and objectives of the association. (size :5mb) [if MOA/Article of Association is not in English/Hindi, please also upload copy translated into English/Hindi]

(iv) Activity Report indicating details of activities during the last three years ;(size :3mb)

(v) Copies of relevant audited statement of accounts for the past three years (Assets and Liabilities, Receipt and Payment, Income and Expenditure) clearly reflecting expenditure incurred on aims and objects of the association and on administrative expenditure; (size:5mb)

(vi) Fee of Rs. 10,000/- is to be paid online through payment gateway.

(vii) Affidavit from each office bearer in Proforma AA.

(B) Prior Permission

(i) jpg file of signature of the chief functionary(size:50 kb)

(ii) self-certified copy of registration certificate/Trust deed etc., of the association (size:1mb) [if not in English/ Hindi, please also upload copy translated into English/Hindi].

(iii) duly signed Commitment Letter from Donor. (size:5mb)

(iv)If functioning as editor, owner, printer or publisher of a publication registered under the Press and Registration of Books Act, 1867, a certificate from the Registrar of Newspapers for India that the publication is not a newspaper in terms of section 1(1) of the said Act.

(v) Fee of Rs. 5000/- is to be paid online through payment gateway. • (vi) Project Report for which FC will be received. (size:3mb)

(vii) Affidavit from each office bearer in Proforma AA.

Note: Please ensure that documents are scanned in proper resolution so that these are legible.

Q16. Are all pages of MoA to be uploaded in the online forms FC-3A, FC-3B, FC-3C?

A Memorandum of Association (MOA) is a legal document prepared in the formation and registration process of a limited liability company to define its relationship with shareholders. The MOA is accessible to the public and describes the company’s name, physical address of registered office, names of shareholders and the distribution of shares, The MOA and the Articles of Association serve as the constitution of the company.

Q17. What is the form of Audited Statements which are to be uploaded with the FC-3A, FC-3B, FC-3C Forms?

An Audited statement of accounts for the past three years (Assets and Liabilities, Receipt and Payment, Income and Expenditure) clearly reflecting expenditure incurred on aims and objects of the association and on administration, duly signed by the chartered Accountant with his membership number.

Q18. What are the limits of file sizes for uploading?

The applicant will find instructions attached regarding the uploading limit of File size on the web page of online form while filing the application.

Q19. Is the recommendation of District Collector or Deputy Commissioner or District Magistrate mandatory for submission of an application for registration or prior permission?

No. Submission of verification certificate from the District Collector or Deputy Commissioner or District Magistrate is not mandatory.

Q20. The office bearers mentioned in FC-3A/3B/3C are different from MOA/trust deeds. Do I need to submit supporting documents?

You have to upload resolutions/ any other supporting document as proof of appointment of such members who are not in MOA/trust deed.

F. Payment of fee

Q21. What are the fees for grant of registration and prior permission and renewal?

For registration the association is required to pay a fee of Rs. 10,000/-. For prior permission, the fee is Rs. 5,000/- and for renewal, the fee is Rs 5000/- only.

Q22. How does one make the payment?

The fee is to be paid while filling online forms through the payment gateway. No Bank draft/cheque is accepted.

G. Status of Online Form

Q23. How does one find the status of a pending application for registration/prior permission/renewal?

Status of pending applications for grant of registration/prior permission/renewal may be checked on-line at FCRA online services using user ID and password created at the time of filing application. Application status can also be tracked on website https://fcraonline.nic.in.

Acceptance and Utilization of Foreign Contribution

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A. Acceptance

Q1. From which association registered/granted prior permission under FCRA, 2010 can one accept the foreign contribution?

Associations registered or granted prior permission under FCRA, 2010 should ensure that they received foreign contribution only from a legitimate foreign source and for activities as prescribed under the Act.

Q2. Is it mandatory for existing NGOs to open an ‘FCRA account’ in SBI, Sansad marg, Main branch, New Delhi? How does one do this?

FCRA registered NGO shall have to open an ‘FCRA account’ in SBI, Sansad marg, Main branch, New Delhi for receipt of foreign contribution. Organizations located anywhere in India can open and maintain a designated FCRA account at SBI, Main branch, New Delhi without visiting physically to New Delhi. In this regard, a detailed SOP of State Bank of India is available in public domain on the portal of SBI & FCRA.

Q3. Can existing bank accounts other than SBI receive foreign contributions?

No, as per amendment under FCRA, 2010, no organization shall receive foreign contribution in any bank/ branch account other than SBI, Main branch, New Delhi.

Q4. Are there any banned organizations from which foreign contributions cannot be accepted?

Yes. FCRA is meant to ensure that foreign contribution is received from legitimate sources and utilized for legitimate purposes by any person.

Q5. Can the amount of foreign contribution for which prior permission has been granted be received by an association in instalments?

Yes. There is no bar on receiving such foreign contributions in installments. However, the aggregate amount should not exceed the specified total amount for which prior permission has been granted. The association shall have to submit the mandatory online return in FC-4 form for receipt and utilization of the foreign contribution on a yearly basis, till the amount of foreign contribution is fully utilized. Even if no transaction takes place during a year, a NIL return should be submitted.

B. Administrative Expenses

Q6. What are the administrative expenses as per FCRA,2010?

Rule 5 of FCRR, 2011 defines that administrative expenses include the following:

(i) Salaries, wages, travel expenses or any remuneration realized by the Members of the Executive Committee or Governing Council of the person;

(ii) all expenses towards hiring of personnel for management of the activities of the person and salaries, wages or any kind of remuneration paid, including cost of travel, to such personnel;

(iii) all expenses related to consumables like electricity and water charges, telephone charges, postal charges, repairs to premise(s) from where the organization or Association is functioning, stationery and printing charges, transport and travel charges by the Members of the Executive Committee or Governing Council and expenditure on office equipment;

(iv) cost of accounting for and administering funds;

(v) expenses towards running and maintenance of vehicles;

(vi) cost of writing and filing reports;

(vii) legal and professional charges; and

(viii) rent of premises, repairs to premises and expenses on other utilities; Provided that the expenditure incurred on salaries or remuneration of personnel engaged in training or for collection or analysis of field data of an association primarily engaged in research or training shall not be counted towards administrative expenses: Provided further that the expenses incurred directly in furtherance of the stated objectives of the welfare-oriented organization shall be excluded from the administrative expenses such as salaries to doctors of hospital, salaries to teachers of school etc.

C. Utilisation of funds

Q7. Can foreign contributions be invested in Mutual Funds or other speculative investments?

No. Speculative activities have been defined in Rule 4 of FCRR, 2011 as under:-

> (a) any activity or investment that has an element of risk of appreciation or depreciation of the original investment, linked to market forces, including investment in mutual funds or in shares;
>
> (b) participation in any scheme that promises high returns like investment in chits or land or similar assets not directly linked to the declared aims and objectives of the organization or association.

Every association shall maintain a separate register of investments. Every such register of investments maintained under sub-rule (3) shall be submitted for audit.

Q8. Can capital assets purchased with the help of foreign contributions be acquired in the name of the office bearers of the association?

No. Every asset purchased with foreign contribution should be acquired and possessed in the name of the association since an association has a separate legal entity distinct from its members.

Q9. Can an association invest the foreign contribution received by it in profitable ventures and proceeds can be utilized for welfare activities?

No. The associations are granted registration/Prior Permission under the FCRA Act 2010 for receiving FC for certain purposes/objectives. Accordingly FC should be utilized for the purpose only for which it is granted registration or prior permission.

Q10. Can foreign contributions be received in and utilized from multiple bank accounts?

The foreign contribution should be received only in the exclusive single “FCRA account” of New Delhi Main Branch of SBI (also called designated FC account), as mentioned in the order for registration or prior permission granted and shall be independently maintained by the associations. Besides this “FCRA Account”, the association may also open “another FCRA Account” in any scheduled bank of its choice & link these accounts for transfer of foreign contribution.

Also, one or more accounts (called Utilization Account) in one or more scheduled banks may be opened by the association for ‘utilizing’ the foreign contribution after it has been received in the designated FCRA bank account, provided that no fund other than foreign contribution shall be received or deposited in such account or accounts and in all cases of any change, intimation in FC-6D is to be given online within 45 days of opening of such account.

D. Transfer of Foreign Contribution

Q11. Can an association having registration or prior permission transfer the FC received by it to another organization? If yes, then what is the process to do so? Is there any restriction on transfer of funds to other organizations?

Under the amended FCRA, 2010, no foreign contribution can be transferred by the recipient to any other NGO/person.

E. Maintenance of Accounts

Q12. Can foreign contributions be mixed with local receipts?

No. Accounts and records relating to receiving and utilization of foreign contributions are to be maintained exclusively/ separately.

Filing of Annual Returns

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Q1. Is online submission of annual returns mandatory?

Yes, Annual returns are to be filed online at https://fcraonline.nic.in. No hard copy of the returns shall be accepted in the FCRA Wing of the Ministry of Home Affairs.

Q2. What is the last date for online filing of returns?

The return is to be filed online for every financial year (1st April to 31st March) within a period of nine months from the closure of the year i.e. by 31st December each year.

Q3. What is the procedure for filing Annual Returns?

The Annual return is to be submitted online at https://fcraonline.nic.in in prescribed Form FC-4, duly accompanied by balance sheet and statement of receipt and payment, which is certified by a Chartered Accountant. Submission of a 'NIL' return, even if there is no receipt/utilization of foreign contribution during the year, is also mandatory.

However, in such a case, a certificate from Chartered Accountant, audited statement of accounts is not required to be uploaded.

Annual Return are to be filed online at https://fcraonline.nic.in.

For further details, please refer to Rule 17 of the foreign contribution (Regulation) Rules, 2011 (FCRR, 2011).

Q4. For how many years should an association (which has been granted prior permission to receive foreign contributions) file the mandatory annual return?

The association should file the mandatory annual return on a yearly basis, till the amount of foreign contribution is fully utilized. Even if no transaction takes place during a year, a NIL return should be submitted.

Q5. What are the consequences of not filing the annual returns on time?

An association not filing annual return on time may face the following consequences:

- Imposition of penalty for late submission of return.
- Cancellation of registration
- Prosecution for violation of provisions of FCRA, 2010.

Banks and Banking related issues

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Q1. Are there any specified banks for the purpose of FCRA,2010?

The “FCRA Account” under Section 17(1) of the Act can be opened only in the New Delhi Main Branch of SBI. “Another FCRA Account” and utilization account/accounts can be opened in any scheduled bank. It should be a PFMS integrated Bank.

Q2. Does an association need to open an exclusive FC account before submission of an application for registration or prior permission?

Yes. Since the FCRA account through which foreign contribution is proposed to be received and utilized is to be mentioned in the application seeking registration or prior permission, as the case may be, the association has to open such an exclusive “FCRA Account” in the New Delhi Main Branch of SBI. This A/c number would be mentioned in the letter granting registration or prior permission to the association.

Q3. Can banks allow an association which is applying for registration or prior permission under FCRA, 2010 to open an FCRA account with

INR?

Yes. However, New Delhi Main Branch of SBI shall not allow any foreign inward remittance in that A/c till such time the association is granted registration or prior permission, as the case may be.

Q4. Should the Banks report transactions pertaining to foreign contributions which are returned to the remitter by the beneficiary Association for want of registration/prior permission from MHA?

It is not necessary for the bank to report such foreign contribution that is returned to the donor without crediting in the account of the recipient.

Q5. What is the Minimum Balance requirement in FC Accounts?

There is no such requirement under FCRA, 2010.

Change in Name, Address, Objectives, FC Account details etc.

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Q1. What is the procedure for intimating change in the name and aims and objectives of an association registered under FCRA?

Intimation for change in the name/address of the association, intimation is to be given online in Form FC-6A within 45 days and self certified copy of amendment approved by local/relevant authority is to be uploaded and similarly, for aims and objects form FC-6B is available online.

Q2. What is the procedure for Change of Utilization Bank Account?

For change of the utilization account, an intimation is to be given online in Form FC-6 D within 45 days of such change with uploading of certificates from the concerned banks regarding the change.

Q3. Does an intimation regarding the change of Members of the Executive Committee/Governing Council of the association need to be given to the Government?

Yes. If at any point of time, such change causes replacement of original Members of the Executive Committee/Governing Council of the association, intimation is to be given online in Form FC-6 E to MHA within 45 days of such change.

Renewal of registration

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Q1. Whether the certificate of registration is to be renewed?

Yes, As per Section 16 of FCRA, 2010 every person who has been granted a certificate of registration under Section 12 thereof shall have such certificate renewed within six months before the expiry of the period of the certificate.

Q2. What is the process for renewal of registration?

Associations which desire to renew their registration certificate shall apply online only in Form FC3C within 6 months before the expiry of their existing registration certificate. After successful payment of fees only, the application is deemed to have been completed.

Q3. When should an Association which has been granted registration under FCRA 2010 apply for renewal of registration?

In terms of Rule 12 (2) of FCRR, 2011, an Association registered under FCRA should apply in Form FC-3C for renewal of its registration six months before the date of expiry of the certificate of registration.

Q4. What are the requirements by the applicant for renewal of registration?

Darpan id, verification of aadhaar number of each member, details of FCRA account of SBI, Main Branch New Delhi, signature of Chief Functionary, seal of the association, registration certificate of the association, Memorandum of Association/ Trust Deed, FCRA Registration Certificate of association issued by MHA and affidavit in prescribed proforma AA to be executed by each member individually on Non- Judicial Stamp Paper of Rs. 10 attested by Notary Public or 1st Class Magistrate are to be uploaded for renewal of registration.

Q5. What happens if the association does not apply for renewal of registration?

The existing registration under FCRA, 2010, will cease from the date of completion of the period of five years from the date of grant of registration and will not be eligible for receipt & utilization of foreign contribution. In such a case, the association has to apply afresh for grant of registration.

Q6. What are the Statutory Compliances before seeking renewal of registration?

The person/associations must have filed all previous ARs, Darpan ID, aadhaar number of each member and designated “FCRA Account” in SBI, Main Branch New Delhi. Filing of AR is mandatory for even ‘NIL’ FC receipt.

Revision of an order under section 32 of the FCRA, 2010

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Got questions about FCRA or FCRR? Ask them on the forum, or browse other FCRA-related questions here.

Q1. Who is eligible to submit a revision application?

Any person who is registered under the Foreign Contribution (Regulation) Act, 2010 (FCRA 2010) and rules made thereunder and is aggrieved of an order of the Central Government may prefer revision application in terms of section 32 of the FCRA 2010 and rule 20 of the Foreign Contribution (Regulation) Rules, 2011 (FCRR 2011).

Q2. How can an association file an application for revision of an order passed by the competent authority under FCRA, 2010?

An application for revision of an order shall be made to the Secretary, Ministry of Home Affairs, Government of India, New Delhi in electronic form only.

Q3. Can revision applications be sent through physical mode (on paper mode)?

No. With effect from 1st September 2022, applications are acceptable only in electronic mode.

Q4. What is the procedure for an association to file an application for revision of an order passed by the competent authority under FCRA, 2010?

Any organization who wants to file an application for revision of an order passed by the competent authority may upload a scanned copy of its application on the FCRA web portal (https://fcraonline.nic.in/) under main heading “Services under FCRA”, Subheading “Revision Application against Section 32, FCRA 2010”.

Q5. Is one required to send a physical copy of an electronically filed revision application to the Ministry of Home Affairs (MHA)?

There is no need to send a physical copy of the revision application or any related document to MHA.

Q6. Is there any format of the revision application?

No. Scanned copy of duly signed application in plain paper is acceptable.

Q7. Is the applicant required to submit justification for revision of Order?

Yes. Justification for revision of Order must be submitted online along with the supporting documents, if any.

Q8. What is the fee for making an application for revision of an order passed by the competent authority under FCRA, 2010?

A fee of Rs.3000/- (Three Thousand only) must be paid through the payment gateway specified by the Central Government.

Q9. What is the time limit for making an application for revision of an order passed by the competent authority under FCRA, 2010?

The application must be made within one year from the date on which the order in question was communicated or the date on which it otherwise came to know of it, whichever is earlier.

Offences and Penalties and Compounding of certain offences

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Got questions about FCRA or FCRR? Ask them on the forum, or browse other FCRA-related questions here.

Q1. What are the offences and penalties under FCRA, 2010?

Ans. Under section 41, the government has issued a gazette notification dated 01.07.2022 which is highlighted as below:

Sr No.	Offence	Amount of Penalty
1.	Offence punishable under section 35 for accepting any hospitality in contravention of section 6 of the Act.	Ten thousand rupees

2.	Offence punishable under section 37 for transferring any foreign contribution to any other person in contravention of section 7 of the Act or any rule made thereunder: Provided that transfer of foreign contribution (inclusive of more than one instance of transfer, if any) shall be compoundable only once.	One lakh rupees or ten % of such transferred foreign contribu whichever is higher.
3.	Offence punishable under section 37 for defraying of foreign contribution beyond twenty percent of the contribution received for administrative expenses in contravention of section 8 of the Act.	One lakh rupees or five per cent of such foreign contribution beyond the permissible limit, whichever is higher.

4.	Offence punishable under section 35 for accepting foreign contribution in contravention of section 11 of the Act.	One lakh rupees or thirty per cent. of the foreign contributior whichever is higher.

5.	Offences punishable under section 37 read with section 17 of the Act for- 1. receiving foreign contribution in any account other than specified account in his application for grant of certificate; 2. non-reporting the prescribed amount of foreign remittance or source and manner of such remittance by banks and authorised person	One lakh rupees or five per cent of the foreign contribution re such account, whichever is higher; One lakh rupees or three per cent of the foreign contribution deposited in such an account, whichever is higher. One lakh rupees or two per cent. of such deposit, whichever

6.	Offence punishable under section 37 for non furnishing of intimation of the amount of each foreign contribution received and the source from which and in the manner in which, such foreign contribution is received as required under section 18 of the Act.	One lakh rupees or five per cent of the foreign contribution re during the period of non submission, whichever is higher.
7.	Offence punishable under section 37 for not maintaining the account and records of foreign contribution received and manner of its utilisation as required section 19 of the Act.	One lakh rupees or five per cent of the foreign contribution re during the relevant period of non maintenance of accounts, w higher.

8.	Offence punishable under sections 3, 11 and 35 of the Act read with rule 6 for failure to intimate about receipt of foreign contribution within the prescribed time limit.	Five per cent of such foreign contributions are received in a f year.
9.	Offence punishable under section 37, section 17 and section 19 of the Act read with clause (e) of sub-rule (1) of rule 9 for failure to intimate about opening of account or accounts within the prescribed time.	Ten thousand rupees per utilisation account for failure to inti the prescribed time.

10.	Offence punishable under section 37, section 17 and section 19 of the Act read with clause (e) of sub-rule (2) of rule 9 for failure to intimate about opening of account or accounts within the prescribed time.	Ten thousand rupees per utilisation account for failure to inti the prescribed time.
11.	Offence punishable under section 37, section 11 and section 17 of the Act read with rule 17A, for failure to intimate details within the prescribed time.	Ten thousand rupees for each violation of failure to intimate prescribed time.
12.	Offence punishable under section 37 and section 19 of the Act read with rule 13, for failure to place on website as prescribed in clause (a) of rule 13 within the prescribed time.	Ten thousand rupees for each violation.

Note: The amount of penalty computed under column (3) of the Table in respect of any offence or offences referred to in column (2) thereof shall not be more than the value of the foreign contribution received.

Q2. How does one apply for compounding of an offence under FCRA, 2010?

Application for compounding of an offence under Section 41 of FCRA, 2010 shall be made in electronic form on website – https://fcraonline.nic.in with a fee of Rs.3000/- (Rupees three thousand only) to the Secretary, Ministry of Home Affairs, New Delhi. The fee will be paid through the payment gateway specified by the Central Government.

Q3. What happens if the person is unwilling or unable to pay the penalty imposed?

In the event of failure to pay the penalty, for whatever reason, necessary action for prosecution of the person shall be initiated.

Q4. Which are the investigating agencies for investigating and prosecuting a person for violation of FCRA?

The Central Bureau of Investigation or the investigating agencies (Crime Branch) of the State Governments/ UTs in which the cause of offence arises are the designated agencies for investigating and prosecuting a person for violation of FCRA.

Suspension, Cancellation and Surrender of Registration

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> **Got questions about FCRA or FCRR?** Ask them on the forum, or browse other FCRA-related questions here.

A. Suspension/ Cancellation

Q1. Can the Government cancel the certificate of registration granted to a person under FCRA?

Yes. The Central Government may cancel the certificate as per the provisions of section 14 of the FCRA, 2010.

NOTE – Any person whose certificate has been cancelled under this section shall not be eligible for registration or grant of prior permission for a period of three years from the date of cancellation of such certificate.

Q2. Can the Government suspend the certificate of registration granted to persons under FCRA?

Yes. The Central Government may suspend the certificate as per the provisions of section 13 of the FCRA, 2010 for a period not exceeding one hundred and eighty days and extend the suspension

period for another one hundred and eighty days.

Q3. What are the consequences of suspension of the registration certificate granted to a person under FCRA?

A person whose FCRA registration certificate has been suspended shall:-

(a) not receive any foreign contribution during the period of suspension of certificate; provided that the Central Government specifically approves it on a case to case basis.

(b) not utilise the unutilized FC in his custody without the prior approval of the Central Government. Even in this case, only upto twenty-five percent of the unutilized amount may be spent, with the prior approval of the Central Government, for the declared aims and objects for which the foreign contribution was received. The remaining seventy- five percent of the unutilized foreign contribution shall be utilised only after revocation of suspension of the certificate of registration.

B. Surrender of Certificate of Registration

Q4. How can any person surrender the Certificate granted?

Any organisation who wants to forgo/ foreclose its FCRA registration due to its own reasons may surrender the certificate by uploading application online in form FC-7 on the website https://fcraonline.nic.in

Q.5 What will be the ultimate status of assets created by foreign contributions and unutilized amounts lying in bank accounts in the event of surrender/ cancellation/ ceasing of certificate?

In the event that any person who was permitted to accept foreign contribution ceases to exist/ cancelled/ wishes to surrender, all the physical assets and unutilized foreign contribution in bank of such person shall be disposed off in accordance with the law.

Foreign Hospitality

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> **Got questions about FCRA or FCRR?** Ask them on the forum, or browse other FCRA-related questions here.

Q1. What is foreign hospitality?

Foreign Hospitality means any offer, not being a purely casual one, made in cash or kind by a foreign source for providing a person with the costs of travel to any foreign country or territory or with free board, lodging, transport or medical treatment.

Q2. Who requires prior approval from the Ministry of Home Affairs before accepting Foreign Hospitality?

The following categories of persons require prior approval from Ministry of Home Affairs before accepting Foreign Hospitality:-

a) Members of a Legislature

b) office bearers of political parties

c) Judges

d) Government servants, Public Servants

e) Employees of any corporation or any other body owned or controlled by the Government. Provided that it shall not be necessary to obtain any such permission for an emergent

medical aid needed on account of sudden illness contracted during a visit outside India. But, where such foreign hospitality has been received, the person receiving such hospitality shall give an intimation to the Central Government as to the receipt of such hospitality within one month from the date of receipt of such hospitality, and the source from which, and the manner in which, such hospitality was received.

Q3. In which cases do applications not be submitted to MHA for grant of permission to accept foreign hospitality ?

1. Where the entire expenditure on the proposed foreign visit is being met by the Central/State Government or any Central/State PSU Etc.
2. Where the proposed foreign visit is being undertaken by a person in his/her personal capacity and the entire expenditure thereon is being met by the person concerned.
3. Where the foreign hospitality is being provided by an Indian national living in a foreign country or territory.
4. Cases involving acceptance of an assignment on salary, fee or remuneration etc.
5. Cases involving funding offered by an agency/organisation mentioned in list of agencies of the United Nations and other International Organisations, which are not treated as "foreign source" (available on website https://fcraonline.nic.in
6. Cases involving visits undertaken by the Members of an Indian Parliamentary delegation under bilateral exchange.
7. Cases involving visits undertaken in pursuance of a bilateral agreement between the Government of India and the Government of the country concerned, approved by the Ministry of Finance (Department of Economic Affairs)
8. Cases involving long term/short term foreign training courses approved by the Ministry of Personnel, Training and Public Grievances

Q4. How can one seek permission from the Government for receiving foreign hospitality?

The applicant should submit an application in electronic form in Form FC-2 on website - https://fcraonline.nic.in.

Q5. What documents are to be uploaded with FC-2 form for seeking prior permission for Foreign Hospitality?

Following documents are to be uploaded with FC-2 form (as mentioned under Rule 7 of FCRR, 2011)

(i) Signature of the applicant (maximum 50 KB allowed in JPG/ JPEG format)

(ii) An invitation letter from the host or the host country, as the case may be (maximum 1 MB allowed in PDF format)

(iii) Administrative clearance of the Ministry or department concerned in case of visits sponsored by a Ministry or department of the Government (maximum 1 MB allowed in PDF format).

Q6. When should the application for filing the FC-2 form be filled?

The application for grant of permission to accept foreign hospitality should be filed online ordinarily two weeks before the proposed date of onward journey. In case of emergent medical aid needed on account of sudden illness during a visit abroad, the acceptance of foreign hospitality shall be required to be intimated to the Central Government within one month of such receipt giving full details including the source, approximate value in Indian Rupees, and the purpose for which and the manner in which it was utilised.