

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 Section 8 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>.

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