

# **Frequently Asked Questions (FAQs) for NPOs on FCRA**



**Professional Development Committee**  
**The Institute of Chartered Accountants of India**  
(Set up by an Act of Parliament)  
**New Delhi**

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First Edition : February, 2014

Second Edition : January, 2022

Committee/Department : Professional Development Committee

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Website : [www.icai.org](http://www.icai.org)

Price : ₹ 150/-

ISBN No. : 978-81-8441-000-0

Typeset by : Elite-Art, New Delhi

Published by : The Publication Department on behalf of the Institute of Chartered Accountants of India, ICAI Bhawan, Post Box No. 7100, Indraprastha Marg, New Delhi - 110 002.

Printed by : TAN Prints India Pvt. Ltd.  
District - Jhajjar – 124 501 (Haryana)  
January | 2022 | P0000 (Revised)

## Foreword

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Dear Professional Colleagues,

The need to regulate foreign contributions coming into India was felt with the increased inflow of foreign contributions to a large number of NGOs. The Foreign Contribution (Regulation) Act of 1976 (FCRA) was enacted with the primary objective to regulate the acceptance and utilisation of foreign contributions and foreign hospitality by individuals and organizations operating in important areas of national life. As it was felt that the Act has outlived its utility, new Foreign Contribution (Regulation) Act, 2010 was enacted replacing the 1976 Act.

Over the last decade since the new Act came into force in 2010, the annual inflow of foreign contribution received in India has nearly doubled. In this backdrop in September 2020, the Foreign Contribution (Regulation) Act, 2020 was introduced to further enhance the transparency and accountability in the matter of receipt and utilisation of foreign contributions as well as to facilitate the non-Government organisations which are working for the welfare of the society. Our members can play a crucial role in ensuring the compliances required and guiding the NGOs for enhanced financial discipline and better governance.

I am pleased to note that the Professional Development Committee of the Institute has come up with the revised publication on Frequently Asked Questions (FAQs) on the law relating to foreign contribution regulation. I would like to take this opportunity to express my thanks to CA. Babu Abraham Kallivayalil, Chairman, PDC, CA. Satish Kumar Gupta, Vice-Chairman, PDC and other members of the Committee for bringing out this revised edition of this publication.

I am confident that, our members dealing with foreign contributions will find this publication useful and will take full benefit of the same.

January 27, 2022  
New Delhi

**CA. Nihar N. Jambusaria**  
President, ICAI



## Preface

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Non-profitable organizations, also referred to as not for profit organisations, have always played a vital role in the development of the economy of the country. They have reached out to the marginalized communities in far of and remote areas of India. Even during the COVID-19 pandemic the relief work done by these organizations has been commendable.

Contribution received from abroad is the major source of revenue for these organizations to carry out their activities. These funds need to be regulated to ensure that they are used for the intended purpose within the framework set by the Government. Therefore, extreme care and caution is required in ensuring proper utilization of these foreign funds.

This publication will help the Chartered Accountants and other stake holders to familiarize themselves with the latest changes in the FCRA, 2010, the Foreign Contribution (Regulation) Rules, 2011 (FCRR, 2011) and the amendments and notifications issued from time to time.

I am happy to share this revised book on Frequently Asked Questions (FAQs) for NPOs on FCRA and confident that it will help to bring clarity on FCRA provisions.

My special thanks to CA. Nihar N. Jambusaria, President, ICAI and CA. (Dr.) Debashis Mitra, Vice President, ICAI for their able guidance and support in bringing out this publication.

My compliments to the members of the Professional Development Committee for their valuable inputs.

I would like to take the opportunity to place on record my deep gratitude to CA. Sanjay Agarwal and CA. Aditya Agarwal for providing key inputs for the revision of this publication and Ms Seema Gerotra, Secretary and Ms. Parul Goel, Assistant Secretary, PDC for effective coordination in planning this publication.

Me and other members of the PDC are confident that this publication will be of immense help to ICAI members and others interested in this subject.

January 27, 2022  
New Delhi

**CA. Babu Abraham Kallivayalil**  
Chairman, PDC



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# Chapter 1

## MHA\*-Frequently Asked Questions On FCRA<sup>1</sup>

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### Introduction

In this Chapter, 97 FAQs as provided by the FCRA Department have been reproduced. In some FAQs there is need for additional clarity and in some FAQs, there is statutory inconsistency which have been discussed in the next Chapter with suitable references under such FAQ.

### Introduction to FCRA, 2010

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

**Ans.** FCRA, 2010 has been enacted by the Parliament to consolidate the law to regulate the acceptance and utilisation 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?**

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

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

**Ans.** It has been repealed.

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\*Ministry of Home Affairs

<sup>1</sup> Source: [https://fcraonline.nic.in/home/PDF\\_Doc/fc\\_faq\\_16112020.pdf](https://fcraonline.nic.in/home/PDF_Doc/fc_faq_16112020.pdf)

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### Q.4. To whom is FCRA, 2010 applicable?

**Ans.** As per section 1(2) of FCRA ,2010, the provisions of the Act shall apply to:

1. Whole of India
2. Citizens of India outside India; and
3. Associate Branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India

## Key Definitions and Concepts under FCRA, 2010

### A. Foreign Contribution

#### Q.1. What is foreign contribution?

**Ans.** 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 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 rules made by it in 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.

*Explanation 1*—A donation, delivery or transfer or 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

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\* Source : [https://fcraonline.nic.in/home/PDF\\_Doc/fc\\_faq\\_16112020.pdf](https://fcraonline.nic.in/home/PDF_Doc/fc_faq_16112020.pdf).

\*\* In terms of FCRA, 2010 “person” includes (i) an individual; (ii) a Hindu undivided family; (iii) an association; and (iv) a company registered under section 25 of the Companies Act, 1956 (now section 8 of the Companies Act, 2013).

\*\*\* The sum, as stated at (i) above, has been specified as Rs. 1,00,000/- vide the Foreign Contribution (Regulation) (Second Amendment) Rules, 2019 [G.S.R. 659 (E) dated 16th September, 2019].

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one or more persons, shall also be deemed to be foreign contribution with 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.

*Explanation 3*—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.

### **Q.2. Who can receive foreign contribution?**

**Ans.** Any “person” can receive foreign contribution subject to the following conditions:

1. It must have a definite cultural, economic, educational, religious or social programme.
2. It must obtain the FCRA registration/ prior permission from the Central Government
3. It must not be prohibited under section 3 of FCRA, 2010.

### **Q.3. Who cannot receive foreign contribution?**

**Ans.** As defined in section 3(1) of FCRA, 2010, foreign contribution cannot be accepted by any:

- (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;

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- (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 clause (g).
- (i) individuals or associations that have been prohibited from receiving foreign contribution.

### **Q.4. Can foreign contribution be received in rupees?**

**Ans.** 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 on income derived from foreign contribution even in rupees term are considered as foreign contribution.

### **Q.5. Will interest or any other income earned from foreign contribution (FC) be considered as foreign contribution?**

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

### **Q.6. Whether interest or any other income earned out of foreign contribution be shown as fresh foreign contribution receipt during that year or not?**

**Ans.** 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.

### **Q.7. 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?**

**Ans.** No. As clarified at Explanation 3 under section 2(1)(h), foreign contribution excludes earnings from foreign client(s) by a person in

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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.

**Q.8. Whether donation given by non-resident Indians (NRIs) is treated as 'foreign contribution'?**

**Ans.** Contributions made by a citizen of India living in another country (i.e., non-resident Indian), from his personal savings, through normal banking channels, cannot be treated as foreign contribution. However, while accepting any donations from such NRI, it is advisable to obtain his passport details to ascertain that he/she is actually an Indian citizen.

**Q.9. Whether donation given by an individual of Indian origin and having foreign nationality is treated as 'foreign contribution'?**

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

**Q.10. Whether foreign remittances received from a relative are to be treated as foreign contribution as per FCRA, 2010?**

**Ans.** 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 one lakh rupees or equivalent thereto in a financial year from any of his relatives shall inform the Central Government in Form FC-1 within thirty days from the date of receipt of such contribution. This form is available on the website: [fcraonline.nic.in](http://fcraonline.nic.in).

**Q.11. Whether individuals not covered under section 3 or a HUF can accept foreign contribution freely for the purposes listed in section 4 of FCRA 2010?**

**Ans.** 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

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purposes listed in section 4, it is obvious that individuals in general and HUFs 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 rupees one lakh vide FCR (Amendment) Rules, 2019.

**Q.12. Can the fee paid by the foreign delegates/participants attending/participating in a conference/seminar, etc. be termed as foreign contribution and thus require permission under FCRA?**

**Ans.** 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.

**Q.13. Section 2(c)(I) of repealed FCRA, 1976 *inter alia* 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?**

**Ans.** The limit has been specified as Rupees 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**

**Q.1. What is a foreign source?**

**Ans.** 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;



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- (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 multi-national 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, (1 of 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 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;

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- (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/organisations of the United Nations, World Bank and some other international agencies/ multi-lateral organisations are exempted from this definition and are not treated as foreign source. Hence, the funds received from them are not considered as foreign contribution. List of such bodies/organisations, which are not treated as ‘foreign source’, are available on the website [fcraonline.nic.in](http://fcraonline.nic.in)

**Q.2. Whether an individual of Indian origin who has acquired foreign nationality is treated as foreign source?**

**Ans.** Yes. The contributions received from all the non-Indian Passport holders are treated as contributions from “foreign source”.

**Q.3. What is a foreign company?**

**Ans.** 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) 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 multi-national corporation

**Q.4. What is a multinational corporation?**

**Ans.** As per the 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 multi-national 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;

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**Q.5. Whether a company incorporated in India under the companies Act, 2013 having its operations in two or more countries is to be treated as a MNC under FCRA, 2010?**

**Ans.** No

### **C. Other Key Definitions and Concepts**

**Q.1. What is meant by “candidate for election”?**

**Ans.** 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 nomination.

**Q.2. What is a registered newspaper?**

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

**Q.3. What is a political party?**

**Ans.** See section 2(1)(n) of FCRA, 2010. “political party” means –

- (i) an association or body of individual citizens of India –
  - A. 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
  - B. which has set up 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**

**Q.1. How does a person obtain permission to accept foreign contribution?**

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

- (i) Registration
- (ii) Prior permission

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### **A. Eligibility**

#### **Q.2. What are the eligibility criteria for grant of registration ?**

**Ans.** 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) Normally be in existence for at least three years and has undertaken reasonable activities 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 lac spent during the last three years. If the association wants inclusion of its capital investment in assets like land, building, other permanent structures, vehicles, equipment 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 subsists.

#### **Q.3. What are the eligibility criteria for grant of prior permission ?**

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

- (i) It must 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 /section 8 of Companies Act,2013 etc.
- (ii) It should 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.
- (iii) For Indian recipient organizations and foreign donor organizations having common members, FCRA prior

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permission shall be granted subject to it satisfying the following conditions:

- i) The Chief Functionary of the recipient Indian organization should not be a part of the donor organization.
- ii) At least 75 per cent 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 per cent office bearers/members of the governing body of the recipient organization should not be the family members and close relatives of the donor.

**Q.4. What are the conditions to be met for the grant of registration and prior permission?**

**Ans.** In terms of section 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;

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- (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, has neither been convicted under any law for the time being in force nor any prosecution for any offence 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 offence 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.

**Q.5. Can a private limited company or a partnership firm get registration or prior permission under FCRA, 2010?**

**Ans.** 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 the society.

## **MHA-Frequently Asked Questions (FAQs) On FCRA**

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**Q.6. Whether an individual or a Hindu Undivided Family (HUF) can be given registration or prior permission to accept foreign contribution in terms of section 11 of FCRA, 2010??**

**Ans.** Yes. The definition of '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 a certificate of registration or prior permission to accept foreign contribution.

**Q.7. Whether organizations under Central/State Governments are required to obtain registration or prior permission under FCRA, 2010 for accepting foreign contribution?**

**Ans.** 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**

**Q.1. Whether foreigners can be appointed as executive committee members of an association seeking registration or prior permission?**

**Ans.** Organizations having foreign nationals, other than persons of Indian origin, as members of their executive committees or governing bodies are generally NOT permitted to receive foreign contribution. 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;

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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- (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 terms of 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.

**Q.2. Whether Government servants, judges and employees of a Government owned/controlled company/body can be on the executive committees/boards of an association?**

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

**Q.3. Whether the registration certificate or prior permission granted under the repealed FCRA, 1976 shall remain valid when FCRA, 2010 has come into force?**

**Ans.** Yes. An association granted prior permission or registration under the repealed FCRA, 1976 shall be deemed to have been registered or granted prior permission, as the case may be, under FCRA, 2010. Registration granted under FCRA, 1976 remained valid for a period of 5 years from the 1st May, 2011, i.e., up to the 30th April, 2016 and if it was renewed, then for a further period of five years.

**Q.4. Whether prior permission granted under FCRA, 1976 would also remain valid for the next 5 years from 1st May, 2011, i.e., the date when FCRA, 2010 came into force?**

**Ans.** No. Prior permission granted under FCRA, 1976 remains valid under FCRA, 2010 till receipt and full utilization of the amount of FC for which the permission was granted.



### **C. How to Apply**

**Q.1. How to submit application for grant of registration/prior permission?**

**Ans.** Application for grant of registration or prior permission is to be submitted online in Form FC-3 (A) or FC-3 (B) at the website- [fcraonline.nic.in](http://fcraonline.nic.in)

**Q.2. If an application for registration or prior permission is submitted online by an association, does it need to submit that application in physical form also?**

**Ans.** 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**

**Q.3. How to fill online application form for grant of registration/prior permission?**

**Ans.** The online application Form FC-3 (A) for registration/FC-3 (B) 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 filling the application.

**Q.4. How to rectify an error in the application for registration or prior permission that has already been submitted online?**

**Ans.** 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 the FCRA Wing of MHA.

### **E. Required Documents**

**Q.1. Is Aadhaar number / Darpan ID mandatory for members/ NGOs respectively?**

**Ans.** For all FCRA services provided through online portal, Aadhaar Number & Darpan ID are mandatory now.

**Q.2. What are the documents to be uploaded with the application for grant of registration?**

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

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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### **(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)
- (iii) Self-certified copy of relevant pages of Memorandum of Association/ Article of Association showing aim and objects of the association. (Size:5mb)
- (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

### **(B) Prior Permission**

- (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)
- (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)

### **Q.3. What pages of MoA are to be uploaded in the online Form FC-3?**

**Ans.** 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

## **MHA-Frequently Asked Questions (FAQs) On FCRA**

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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. Author to Check. Precise answer to the question posed is not found

**Q.4. What audited statements are to be uploaded with the FC3 form?**

**Ans.** 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 is required to be uploaded with Form FC3.

**Q.5. What are the limits of file sizes for uploading?**

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

**Q.6. Is the recommendation of District Collector or Deputy Commissioner or District Magistrate mandatory for submission of an application for registration or prior permission ?**

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

### **F. Payment of Fee**

**Q.1. What is the amount of fee for grant of registration and prior permission and renewal?**

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

**Q.2. How to make payment of fee. Can the fee be paid through Bank draft/cheque etc.**

**Ans.** The fee is to be paid while filling online form through payment gateway. No Bank draft/cheque is accepted.

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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**Q.3. Is recommendation of District Collector or Deputy Commissioner or District Magistrate mandatory for submission of an application for registration or prior permission?**

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

### **G. Status of Online Form**

**Q.1. How to find the status of pending application for registration /prior permission/ renewal?**

**Ans.** Status of pending applications for grant of registration/prior permission/renewal may be checked online at FCRA online services using user ID and password created at the time of filing application.

## **Acceptance and Utilisation of Foreign Contribution**

### **A. Acceptance**

**Q.1. From whom an association registered/granted prior permission under FCRA, 2010 can accept foreign contribution?**

**Ans.** 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.

**Q.2. Is it mandatory for existing NGOs also to open 'FCRA account' in SBI, Sansad Marg, Main branch, New Delhi. If yes how?**

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

**Q.3. Can an existing bank account other than SBI receive foreign contribution?**

**Ans.** As per the amendment under FCRA, 2010, no organization shall receive foreign contribution in any other bank/ branch account other than SBI, Main Branch, New Delhi.

## **MHA-Frequently Asked Questions (FAQs) On FCRA**

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**Q.4. Are there any banned organizations from whom foreign contribution should not be accepted?**

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

**Q.5. Whether the amount of foreign contribution for which prior permission has been granted can be received by an association in installments?**

**Ans.** Yes. There is no bar on receiving such foreign contribution 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 Form FC-4 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**

**Q.6. What are the administrative expenses as per FCRA, 2010?**

**Ans.** Rule 5 of FCRR, 2011 provides 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 incurred by the Members of the Executive Committee or Governing Council and expenditure on office equipment;
- (iv) Cost of accounting for and administering the funds;

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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- (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 the 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 at school etc.

### **C. Utilisation of Funds**

#### **Q.7. Can foreign contributions be invested in mutual funds or other speculative investments?**

**Ans.** 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.

#### **Q.8. Can capital assets purchased with the help of foreign contributions be acquired in the name of the office bearers of the association?**

**Ans.** 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.

## **MHA-Frequently Asked Questions (FAQs) On FCRA**

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**Q.9. Can an association invest the foreign contribution received by it in profitable ventures and proceeds can be utilized for welfare activities?**

**Ans.** No. The associations are granted registration/prior permission under the FCRA 2010 for receiving foreign contribution for certain purpose/objectives. Accordingly, the foreign contribution should be utilized only for the purpose for which it is granted registration or prior permission.

**Q.10. Can foreign contribution be received in and utilized from multiple Bank Accounts?**

**Ans.** 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 association. 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 case of any change, intimation in Form FC-6D is to be given online within 15 days of opening of such account.

**Q.11. Can an association transfer foreign contribution from one utilization account to another utilization account?**

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

### **Transfer of Foreign Contribution**

**Q.1. 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?**

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

## Frequently Asked Questions (FAQs) for NPOs on FCRA

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### Maintenance of Accounts

**Q.1. Can foreign contribution be mixed with local receipts?**

**Ans.** No. Accounts and records relating to receipt and utilization of foreign contribution are to be maintained exclusively/separately.

### Filing of Annual Return

**Q.1. Is online submission of annual return mandatory?**

**Ans.** Yes, annual return is to be filed online at [fcraonlineservice.nic.in](http://fcraonlineservice.nic.in). No hard copy of the returns shall be accepted in FCRA Wing of Ministry of Home Affairs.

**Q.2. What is the last date for online filing of returns?**

**Ans.** 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.

**Q.3. What is the procedure for filing the annual return?**

**Ans.** The annual return is to be submitted online at [fcraonline.nic.in](http://fcraonline.nic.in) in the 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 case, certificate from Chartered Accountant, audited statement of accounts is not required to be uploaded.

Annual return is to be filed online at [fcraonline.nic.in](http://fcraonline.nic.in)

For further details, refer rule 17 of the Foreign Contribution (Regulation) Rules, 2011 (FCRR, 2011)

**Q.4. For how many years an association which has been granted prior permission to receive foreign contribution should file the mandatory annual return?**

**Ans.** The association should fill 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.



## **MHA-Frequently Asked Questions (FAQs) On FCRA**

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**Q.5. What are the consequences of not filling the annual return on time?**

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

- (1) Imposition of penalty for late submission of the return.
- (2) Cancellation of registration.
- (3) Prosecution for violation of the provisions of FCRA, 2010.

### **Banks and Banking Related Issues**

**Q.1. Are there any specified banks for the purpose of FCRA, 2010?**

**Ans.** 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. List of banks integrated with PFMS is available at [https://fcraonline.nic.in/fc\\_bank\\_list.aspx](https://fcraonline.nic.in/fc_bank_list.aspx)

**Q.2. Whether an association needs to open an exclusive FC A/c before submission of an application for registration or prior permission?**

**Ans.** Yes. Since the FC A/c 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.

**Q.3. Whether Banks should allow an association which is applying for registration or prior permission under FCRA, 2010 to open an FC A/c with INR?**

**Ans.** 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.

**Q.4. Should the Banks report transactions pertaining to foreign contributions which are returned to the remitter by the**

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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**beneficiary Association for want of registration/prior permission from MHA?**

**Ans.** 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.

**Q.5. Is there any minimum balance requirements in FC Accounts?**

**Ans.** There is no such requirement under FCRA, 2010.

### **Change in Name, Address, Objectives, FC Account Details, Etc.**

**Q.1. What is the procedure for seeking change in the name and aims and objects of an association registered under FCRA?**

**Ans.** For seeking change in the name/address of the association, intimation is to be given online in Form FC-6A within 15 days and self-certified copy of the amendment approved by the local/relevant authority is to be uploaded; similarly, for aims and objects Form FC-6B is available online.

**Q.2. What is the procedure for change of utilization Bank account?**

**Ans.** For change of the utilization account, an intimation is to be given online in Form FC-6D within 15 days of such change with uploading of certificates from the concerned banks regarding the change.

**Q.3. Whether intimation regarding the change of Members of the Executive Committee/Governing Council of the association is to be given to the Government?**

**Ans.** 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-6E to the MHA within 15 days of such change.

### **Renewal of Registration.**

**Q.1. Whether the certificate of registration is to be renewed?**

**Ans.** 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.

## **MHA-Frequently Asked Questions (FAQs) On FCRA**

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**Q.2. What is the process for renewal of registration?**

**Ans.** Associations which desire to renew their registration certificate shall apply online only in Form FC-3C 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.

**Q.3. When should an association which has been granted registration under FCRA 2010 apply for renewal of registration?**

**Ans.** 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.

**Q.4. What are the requirements to be satisfied by the applicant for renewal of registration?**

**Ans.** Darpan ID, 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 are to be uploaded for renewal of registration.

**Q.5. What happens if the association does not apply for renewal of registration?**

**Ans.** 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 the association will not be eligible for receipt & utilization of foreign contribution. In such a case, the association has to apply afresh for grant of registration.

**Q.6. What are the statutory compliances before seeking renewal of registration?**

**Ans.** The person/associations must have filed all previous ARs, Darpan ID and designated "FCRA Account" in SBI, Main Branch New Delhi. Filing of AR is mandatory even for 'NIL' FC receipt.

### **Offences, Penalties and Compounding of Certain Offences**

**Q.1. What are the offences and penalties under FCRA, 2010?**

**Ans.** Under section 41, the Government has issued Gazette Notifications

### Frequently Asked Questions (FAQs) for NPOs on FCRA

dated 5.06.2018 and 27.07.2018, which are highlighted in the following Table: :

Sr.No.	Offence	Amount of Penalty
(1)	(2)	(3)
1.	Offence punishable under section 35 for accepting any hospitality in contravention of section 6 of the Act.	Rs. 10, 000/-
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.	Rs. 1, 00, 000/- or 10% of such transferred foreign contribution, whichever is higher.
3.	Offence punishable under section 37 for defraying of foreign contribution beyond fifty per cent of the contribution received for administrative expenses in contravention of section 8 of the Act.	Rs. 1, 00, 000/- or 5% of such foreign contribution so defrayed 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.	Rs. 1, 00, 000/- or 10% of the foreign contribution, received, whichever is higher;
5.	Offences punishable under section 37 read with section 17 of the Act for – (a) receiving foreign contribution in an account not specified in his application for grant of certificate;	Rs. 1, 00, 000/- or 5% of the foreign contribution received in such account, whichever is higher;

**MHA-Frequently Asked Questions (FAQs) On FCRA**

<b>Sr.No.</b>	<b>Offence</b>	<b>Amount of Penalty</b>
	(b) non-reporting the prescribed amount of foreign contribution or source and manner of such remittance by banks and authorized persons.	Rs. 1, 00, 000/- or 3% of the foreign contribution received or deposited in such account, whichever is higher;
	(c) receiving & depositing any fund other than foreign contribution in the account or accounts opened for receiving foreign contribution or for utilizing the foreign contribution.	Rs. 1, 00, 000/- or 2% of such deposit, whichever is higher;
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.	Rs. 1, 00, 000/- or 5% of the foreign contribution received 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 utilization as required by section 19 of the Act.	Rs. 1, 00, 000/- or 5% of the foreign contribution during the relevant period of non-maintenance of accounts, whichever is higher.

“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 involved.”

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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### **Q.2. How to apply for compounding of an offence under FCRA, 2010?**

**Ans.** An application for the compounding of an offence under section 41 of FCRA, 2010 is to be made to the Secretary, Ministry of Home Affairs, New Delhi on a plain paper along with a fee of Rs.3000/- (Three Thousand only) in the form of a demand draft or a banker's cheque in favor of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.

### **Q.3. What if the person is unwilling or unable to pay the penalty imposed?**

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

### **Q.4. Which are the investigating agencies for investigating and prosecuting a person for violation of FCRA?**

**Ans.** The Central Bureau of Investigation or the investigating agencies (Crime Branch) of the State Governments, cause of action of which arises in the respective States, are the designated agencies for investigating and prosecuting a person for violation of FCRA.

## **Suspension, Cancellations and Surrender of Registration**

### **A. Suspension/Cancellation**

#### **Q.1. Can the Government cancel the certificate of registration granted to a person under FCRA?**

**Ans.** 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.

#### **Q.2. Can the Government suspend the certificate of registration granted to a person under FCRA?**

**Ans.** 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 another additional period of one hundred and eighty days.

## **MHA-Frequently Asked Questions (FAQs) On FCRA**

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**Q.3. What are the consequences for suspension of the registration certificate granted to a person under FCRA?**

**Ans.** 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-by-case basis
- (b) not utilize the unutilized FC in his custody without the prior approval of the Central Government. Even in this case, only up to 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 utilized only after revocation of suspension of the certificate of registration.

### **B. Surrender**

**Q.1. How can any person surrender the certificate granted?**

**Ans.** Any organization which wants to forgo/ foreclose its FCRA registration due to its own reasons, may surrender the certificate by uploading the application in Form FC-7 on the web porta of FCRA Wing of MHA.I

**Q.2. What will be ultimate status of assets created by foreign contribution and unutilized amount lying in bank account in the event of surrender/ cancellation/ ceasing of certificate?**

**Ans.** If any person who was permitted to accept foreign contribution, ceases to exist or its registration is cancelled or wishes to surrender, all the physical assets and unutilized foreign contribution in bank of such person shall be disposed of in accordance with the law.

### **Foreign Hospitality**

**Q.1. What is foreign hospitality?**

**Ans.** 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.

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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**Q.2. Who requires prior approval from Ministry of Home Affairs before accepting foreign hospitality?**

**Ans.** The following categories of persons require prior approval from the 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<sup>2</sup>
- 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 aide 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.

**Q.3. Whether approval of the Ministry of Home Affairs is required in cases 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?**

**Ans.** No.

**Q.4. How can one seek permission of the Government for receiving foreign hospitality?**

**Ans.** The applicant should submit application in Form FC-2 online.

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<sup>2</sup> Though the FCRA Department's FAQ lists public servants here, under law they are restricted only from accepting foreign contribution (section 3), and not from accepting foreign hospitality (sectopn. 6). – Ed.



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## MHA-Frequently Asked Questions (FAQs) On FCRA

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**Q.5. What documents are to be uploaded with Form FC-2 for seeking prior permission for foreign hospitality?**

**Ans.** Following documents are to be uploaded with Form FC-2 (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 1MB allowed in PDF format).

**Q.6. When and how should the application in Form FC-2 be filled?**

**Ans.** 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 sixty days<sup>3</sup> 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 utilized.

Provided that no such intimation is required if the value of such hospitality in emergent medical aid is up to one lakh rupees or equivalent thereto.

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<sup>3</sup> This time limit has been revised to one month w.e.f. 16.9.2019. Rule 7(4). – Ed.

## Chapter 2

# MHA-Dos and Don'ts on FCRA<sup>4</sup>

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### DOs on FCRA

#### For seeking FCRA services [registration, prior permission and renewal]

The applicant must do the following:

- Obtain Darpan ID from Darpan portal of NITI AYOJ
- Upload documents electronically
- Pay application fee electronically
- Have a definite cultural, economic, educational, religious or social programme
- Have undertaken reasonable activity in its chosen field for the benefit of the society for which the foreign contribution is proposed to be utilized
- Open a dedicated FCRA Account in the State Bank of India, New Delhi Main Branch
- Intimate opening of additional dedicated Foreign Contribution Utilization Bank Account(s)
- Place the audited statement of accounts electronically on receipts and utilization of the foreign contribution, including income and expenditure statement, receipt and payment account and balance sheet for every financial year beginning from the first day of April within nine months of the closure of the financial year in case of receipt of foreign contribution
- Maintain a separate set of accounts and records, exclusively, for the foreign contribution received and utilized and for which the registration is sought
- Apply to the Central Government six months before the date of expiry of certificate of registration, for its renewal
- Intimate any change in the designated bank account / utilization bank

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<sup>4</sup> Source: [https://fcraonline.nic.in/home/PDF\\_Doc/DOs\\_25112021.pdf](https://fcraonline.nic.in/home/PDF_Doc/DOs_25112021.pdf)

## **MHA-Dos and Don'ts on FCRA**

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account / name / address / aims / objectives / key members in respect of association granted registration / prior permission under the FCRA, 2010.

### **For seeking hospitality under FCRA, 2010**

- Submit signed or digitally signed application electronically on [fcraonline.nic.in](http://fcraonline.nic.in) two weeks before the proposed date of onward journey
- The invitation letter from the host or the host country and administrative clearance of the Ministry or Department concerned in case of visits sponsored by a Ministry or Department of the Government
- In case of emergent medical aid needed on account of sudden illness during a visit abroad, for the acceptance of foreign hospitality intimate 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 utilized

### **For seeking other services under FCRA, 2010**

- Intimate within thirty days from date of receipt of foreign contribution in excess of one lakh rupees or equivalent thereto in a financial year from any of his relatives
- Furnish within forty-five days of receipt of foreign contribution by a candidate for election from the date on which he is duly nominated as a candidate for election

## **Don'ts On FCRA<sup>5</sup>**

### **Do not mix Foreign Contribution with Domestic Receipts**

- Bank accounts must be separate (obviously)
- Do not transfer funds from FC Bank to non-FC (even direct bank transfer)
- Books of Accounts must be separate.
- Keep separate cash box (it shows good cash control system)

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<sup>5</sup> Source: [https://fcraonline.nic.in/home/PDF\\_Doc/Dont\\_22122021.pdf](https://fcraonline.nic.in/home/PDF_Doc/Dont_22122021.pdf)

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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### **Do not approach middlemen**

- Any middleman, Government employee, CA, other organization's person, or anybody who claims as consultant for getting FCRA work done must be avoided.
- For any query, you can approach directly FCRA Wing of MHA

### **Do not deviate from the purpose of the grant**

- Make sure while getting FC funds that the purpose is crystal clear for what purpose it is received.
- Make sure that you used these funds for the very specific purpose.
- Care should be taken to ensure that, this specific purpose is reflected in the books of accounts, FC annual returns and annual reports.

### **Do not use ATM or Debit Cards**

- Mostly, Bank is not providing any ATM or Debit Cards for FC Bank Account.
- However, if you have such card for FC Bank Account, do not use for cash withdrawals or for online payments.

### **Do not encourage cash withdrawals**

- Cash is most suspicious area. Avoid cash payments.
- This requires extra efforts on the part of the organization to develop financial control system in such a way to encourage payments through "Account Payee" cheques only.
- Also note that cash expenses and withdrawals limit is Rs.2,000<sup>6</sup>/-

### **Do not invest FC funds in mutual funds or speculative investments**

- Be safe, invest only in fixed deposits.
- Mutual funds, shares, speculative investments must be avoided.

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<sup>6</sup> At two other places, this limit is given as Rs. 20,000. See *FCRA Circular 'F.No.II/21022/58(136)/2014-FCRA(MU)' dated 21-Oct-2014* available at <https://fcraonline.nic.in> and *Annexure: Good practice Guidelines to the Non-Profit Organizations (NPOs) to ensure compliance with FATF requirements.* on page 53.

**Do not accept foreign hospitality while visiting abroad (Section6)**

- You cannot accept foreign hospitality without prior permission of the Central Government except for an emergent medical aid needed on account of sudden illness contracted during a visit outside India.

**Do not transfer FC funds to other Associations (Section7)**

- One can make payments from FC funds to other persons for services rendered by them.

**Do not utilize foreign contribution for administrative purpose (Section8)**

- Avoid as far as possible more than 20 per cent of foreign contribution, received in a particular financial year on administrative expenses. Provided further that administrative expenses exceeding 20 per cent of such contribution may be defrayed with prior permission of the Central Government.

**Do not accept foreign contribution without prior permission or having a certificate of FCRA Registration (Section11)**

- No association/NGO/Society having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution unless it obtains prior permission or a certificate of registration under FCRA from the Central Government

**Do not receive or utilize foreign contribution if certificate of registration has expired and has not been renewed**

- Do not receive or utilize the foreign contribution in the FCRA Account or utilization FC account if the validity of the certificate of registration has expired and is not renewed.

**Do not accept foreign contribution during suspension of FCRA registration (Section13)**

- No association/NGO/Society, whose certificate of FCRA registration has been suspended, shall receive any foreign contribution during the period of suspension of the certificate without prior permission of the Central Government.
- Association/NGO/Society, whose certificate of FCRA registration has been suspended, shall utilize in the prescribed manner, the foreign contribution in its custody only with prior approval of the Central Government.

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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### **Do not accept foreign contribution during cancellation of FCRA registration (Section14)**

- No association/NGO/Society, whose certificate of FCRA registration has been cancelled under section 14, shall apply afresh for grant of FCRA registration or prior permission to receive foreign contribution before a period of three years from the date of cancellation of its certificate.

### **Do not accept foreign contribution in undisclosed bank account(s) (Section17)**

- Do not receive foreign contribution in any foreign contribution designated account(s) other than the FCRA Account in the State Bank of India, New Delhi Main Branch.
- Do not receive foreign contribution directly in the utilization account(s) of the association/NGO/Society.
- Do not mix foreign contribution with domestic funds.
- Do not hide amount, source and manner in which the foreign contribution/remittance was received.

### **Do not avoid filing mandatory FC annual return in electronic form (Section18)**

- No association/NGO/Society, which has been granted prior permission or certificate of FCRA registration, should avoid filing mandatory FC annual return in electronic form.

### **Do not indulge in making of false statement, declaration or delivering false accounts (Section33)**

- No association/NGO/Society, subject to this Act shall knowingly give false intimation under clause (c) of section 9 or section 18 or seek prior permission or registration by means of fraud, false representation or concealment of material fact.

### **Do not deliver any article or currency or security obtained in contravention of section 10 (Section34)**

- No association/NGO/Society, upon whom any prohibitory order has been served under section 10, shall transfer or otherwise deal with, in any manner whatsoever, any article or currency or security, whether Indian or foreign in contravention of such prohibitory order.

**Do not act in contravention of any provision of the FCRA, 2010  
(Section35)**

- No association/NGO/Society, should accept, or assist any person, political party or organization in accepting, any foreign contribution or any currency or security from a foreign source in contravention of any provision of this Act or any rule or order made thereunder.

## Chapter 3

# MHA Charters

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### A. Charter for Associations Applying for Grant of Prior Permission /Registration under the Foreign Contribution (Regulation) Act, 2010<sup>7</sup>

- With a view to streamlining the procedures and ensuring effective enforcement and compliance, the Foreign Contribution (Regulation) Act, 2010 has been further amended on 28<sup>th</sup> September, 2020. Accordingly, the FAQs have been updated on the official website: [fcraonline.nic.in](http://fcraonline.nic.in). One of the major amendments mandates compulsory opening of an FCRA account in the State Bank of India (SBI), Main Branch located at Sansad Marg, New Delhi by each NGO/association registered or given prior permission under FCRA 2010. Each new applicant for registration or for prior permission would also have to comply with the same. This “FCRA account” of the NGO would act as the first exclusive port of receipt of foreign contribution in India.
- Application for grant of registration and prior permission is to be made online in the amended Form FC-3A and Form FC-3B respectively on the FCRA web portal: [fcraonline.nic.in](http://fcraonline.nic.in).
- Every applicant for registration/prior permission shall obtain a unique Darpan ID from the Darpan Portal of NITI Aayog.
- Any association wishing to receive foreign contribution (FC) must have a definite cultural, economic, educational, religious or social programme for the benefit of the society.
- The NGO shall neither receive nor utilize any FC without obtaining either prior permission or registration from the Central Government.
- Detailed qualifying criterion for registration or prior permission are enumerated in rule 9(1)(f) and 9(2)(f) for seeking registration and prior permission respectively.

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<sup>7</sup> Source: [https://fcraonline.nic.in/home/PDF\\_Doc/fc\\_notice\\_29012021.pdf](https://fcraonline.nic.in/home/PDF_Doc/fc_notice_29012021.pdf)



- No foreign national other than one of Indian origin can be an office bearer or a trustee including the Chief Functionary of an organization/NGO. Foreigners can, however, be, allowed to be associated with such associations in 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 a case-to-case basis, if any of the following grounds is met:
  - a) the foreigner is married to an Indian citizen;
  - b) the foreigner has been living and working in India for at least five years;
  - c) 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;
  - d) the foreigner is a part of the Board of Trustees/Executive Committee in terms of the provisions of an inter-Governmental agreement.
  - e) 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.
- All associations seeking registration or prior permission under FCRA, 2010 shall be required to give affidavits signed by all members/trustees and an undertaking for adherence to good practice guidelines of Financial Action Task Force (FATF) as at Annexure.
- The application should be complete in all respects with no field left blank and no concealment of any earlier application for Registration/Prior Permission under FCRA, 2010.
- Request for prior permission should be sent for receiving a specific amount, for a specific purpose/project and from a specific donor.
- Following documents are to be uploaded with the online application for grant of registration:
  - a) Certified copy of registration certificate of the association or

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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Trust deed, memorandum of association or such other document, as the case may be.

- b) Details of activities during the last three years.
- c) Copies of audited statement of accounts for the past three years (Asset and Liabilities, Receipt and Payment, Income and Expenditure).
- d) Affidavit executed by each office bearer and key functionary and member (in Proforma 'AA') as mandated under Gazette Notification No. G.S.R. 659(E) dated 16 September, 2019.

It may be noted that a fee of Rs. 10, 000/- is required to be paid through the online payment gateway.

- Following documents are required to be uploaded with the online application for grant of prior permission:
  - a) Certified copy of registration certificate of the association or Trust deed or other such document, as the case may be.
  - b) Commitment letter from foreign donor specifying the amount of foreign contribution.
  - c) Copy of the project report for which foreign contribution is solicited/being offered.
  - d) Affidavit executed by each office bearer and key functionary and member (in Proforma 'AA') as mandated under Gazette Notification No. G.S.R. 659(E), dated 16<sup>th</sup> September, 2019.

It may be noted that a fee of Rs. 5000/- is required to be paid through online payment gateway.

**Note:** FCRA, 2010, FCRR, 2011, FAQs thereon and all other related information and Forms FC-3A and FC-3B as also link to FCRA online services are available at the website of the Ministry of Home Affairs at <http://fcraonline.nic.in>.

**Annexure:** *Good practice Guidelines to the Non-Profit Organizations (NPOs) to ensure compliance with FATF requirements.*

- Wherever necessary, the NPO shall inform the MHA (FCRA Wing) about the suspicious activities of the customer, without waiting for annual returns.

## MHA Charters

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- The Board of Directors/Chief Functionary of NPO shall issue directions regarding duties of the official who shall be required to enforce these guidelines and other rules of FCRA, 2010 read with FCRR, 2011.
- The NPO shall disclose its goals, objectives and activities on its website.
- The NPO shall upload the details of key persons associated with NPO's activities on its website.
- The NPO shall take due diligence of its employees at the time of recruitment.
- The NPO shall collect the information of beneficiaries of funds and to upload on its website and monitor the activities of the beneficiaries. Wherever a beneficiary is a legal person, the details of beneficial owner shall also be uploaded.
- The NPO shall ensure that the financial transactions involving more than Rs.20, 000<sup>8</sup>/- are routed through Banking channels only.
- The Board of Directors/Trustees of NPOs must ensure utilization of funds consistent with objectives as approved by MHA.
- The Board of Directors/Trustee of NPO's shall conduct meeting atleast once in six months to review the working of these instructions and shall record the minutes of these meetings.
- The NPO shall train its staff on the FCRA and about the application of these guidelines.
- When any transaction is under investigation by any authority, the MHA shall be informed by such NPO.

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<sup>8</sup> See *Do not encourage cash withdrawals*

At page 48, which specifies the limit as Rs. 2,000. At two other places, this limit is given as Rs. 20,000. See FCRA Circular 'F.No.II/21022/58(136)/2014-FCRA(MU)' dated 21-Oct-2014 available at <https://fcraonline.nic.in> and guideline 7 of Annexure: Good practice Guidelines to the Non-Profit Organizations (NPOs) to ensure compliance with FATF requirements.

## Frequently Asked Questions (FAQs) for NPOs on FCRA

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### **B. Charter for Associations who have been granted Prior-Permission or Registration under FCRA<sup>9</sup>**

- Registration and prior permission is granted for a definite cultural, economic, educational, religious or social programme under sections 11 and 12 of the FCRA, 2010. An association is granted registration for five years. The prior permission is granted for a specific purpose/project for a specific amount from a specific source.
- Every certificate of registration shall have to be renewed before the date of expiry of its validity. The application for renewal is to be made online in Form FC-3C along with the prescribed fee to be paid through online payment gateway, six months before the date of expiry of the certificate of registration. In case, no application for renewal of registration is received or such application is not finally submitted accompanied by the requisite fee through the prescribed mode, the validity of the certificate of registration shall be deemed to have ceased from the date of completion of the period of five years from the date of the grant of registration. Such “deemed to have ceased” associations are not permitted to either receive or utilize foreign contribution anymore.
- An association granted prior permission or registration under the FCRA, 2010 should initially receive the foreign contribution only in the FCRA account at SBI, Main Branch located at Sansad Marg, New Delhi. This account number would be the same as has been intimated by the organization in their application for prior permission/registration or intimated through Form FC-6C. Deposit of any local fund/domestic contribution in this bank account is not allowed. One or more accounts in any PFMS enabled scheduled bank may be opened for utilizing the foreign contribution. For more clarity, section 17 of the FCRA, 2010 is reproduced as below:

*‘17(1) Every person who has been granted certificate or prior permission under section 12 shall receive foreign contribution only in an account designated as “FCRA Account” by the bank, which shall be opened by him for the purpose of remittances of foreign contribution in such branch of the State Bank of India at New Delhi, as the Central Government may, by notification, specify in this behalf:*

*Provided that such person may also open another “FCRA Account” in*

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<sup>9</sup> Source: [https://fcraonline.nic.in/home/PDF\\_Doc/fc\\_notice\\_29012021\\_1.pdf](https://fcraonline.nic.in/home/PDF_Doc/fc_notice_29012021_1.pdf).

*any of the scheduled banks of his choice for the purpose of keeping or utilizing the foreign contribution which has been received from his "FCRA Account" in the specified branch of State Bank of India at New Delhi:*

*Provided further that such person may also open one or more accounts in one or more scheduled banks of his choice to which he may transfer for utilizing any foreign contribution received by him in his "FCRA Account" in the specified branch of the State Bank of India at New Delhi or kept by him in another "FCRA Account" in a scheduled bank of his choice:*

*Provided also that no funds other than foreign contribution shall be received or deposited in any such account.*

*(2) The specified branch of the State Bank of India at New Delhi or the branch of the scheduled bank where the person referred to in sub-section (1) has opened his foreign contribution account or the authorized person in foreign exchange, shall report to such authority as may be specified, —*

- (a) the prescribed amount of foreign remittance;*
- (b) the source and manner in which the foreign remittance was received; and*
- (c) other particulars,*

*in such form and manner as may be prescribed.*

- Foreign contribution cannot be mixed with local/domestic funds being handled by the organization.
- An association granted prior permission or registration is required to carry out the activities, for which the foreign contribution is received, in India only and the amount should not be utilized for purposes other than that for which it is received.
- The FC received by the association shall not be transferred to any other association for any other purpose.
- Any fixed asset acquired out of the foreign contribution and any article received in kind from the foreign source should be in the name of the association and not in the name of any individual in the association.

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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- Not more than 20 per cent of the foreign contribution shall be defrayed to meet administrative expenses of the association. 'Administrative expenses' has been defined in rule 5 of the Foreign Contribution (Regulation) Rules, 2011 (FCRR, 2011).
- Any foreign contribution or any income (interest, rent, enterprise or FD etc.) arising out of utilization of FC shall not be used for "speculative business". 'Speculative business' has been defined in rule 4 of FCRR, 2011.
- An association granted prior permission or registration shall maintain a separate set of accounts, assets and records, exclusively for foreign contribution received and utilized. If the foreign contribution relates only to articles/ foreign securities, the intimation shall be submitted online in Form FC-1 and such articles/ securities shall be reflected in online annual report FC-4.
- Every account giving details of the receipt and purpose-wise utilization of the FC, including the interest earned on the FC amount, should be maintained on an yearly basis, commencing on the 1<sup>st</sup> day of April each year, and every such yearly account is to be uploaded online only, in the prescribed Form FC- 4 and uploaded with the income and expenditure statement, balance sheet and statement of receipt and payment, duly certified by a chartered accountant, within nine months of the closure of the year, i.e., before 31<sup>st</sup> December on [www.fcraonline.nic.in](http://www.fcraonline.nic.in). A copy of a statement of account from the FCRA account in SBI, New Delhi Main Branch and utilization accounts in any scheduled bank duly certified by an officer of such bank should also be uploaded. The cash book and ledger account are to be maintained on double entry basis, where the FC relates to currency received and utilized.
- An online annual return in Form FC-4 shall reflect the foreign contribution received in the FCRA account at SBI, New Delhi Main Branch and include the details in respect of other FCRA bank accounts, if any, for utilization. No physical copy of annual return is accepted.
- The accounting statements shall have to be preserved by the NGO/association for a period of six years.
- Even if no FC is received during a year, a 'Nil' return is required to be filed online in Form FC-4 within the prescribed time limit. However,

certificate from Chartered Accountant or income & expenditure statement or R&P account or balance sheet is not required to be uploaded.

- Intimation for change of name, address, registration, nature of activities or aims and objectives of an association, bank and/or bank account number and opening of bank account for utilization of foreign contribution should be intimated online only in Form FC-6 (A to E) and the requisite documents should be uploaded within 15 days of effecting the change.
- For any change (addition/deletion) of any functionary or member, the associations shall apply online through Form FC-6E and seek approval from Central Government.
- All associations granted registration or prior permission under FCRA, 2010 shall be required to adhere to good practice guidelines of Financial Action Task Force (FATF) as at Annexure.

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***Annexure***

*Good practice Guidelines to the NPOs to ensure compliance with FATF requirements.*

1. Wherever necessary, NPO shall inform the MHA (FCRA Wing) about the suspicious activities of the customer, without waiting for annual returns.
2. The Board of Directors/Chief Functionary of NPO shall issue directions regarding duties of official who shall be required to enforce these guidelines and other rules of FCRA, 2010 read with FCRR, 2011 as amended from time to time.
3. The NPO shall disclose its goals, objectives and activities on its website.
4. The NPO shall upload the details of key persons associated with NPO's activities on its website.
5. The NPO shall take due diligence of its employees at the time of recruitment.
6. The NPO shall maintain the information of beneficiaries of funds and upload on its website and monitor the activities of

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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the beneficiaries. Wherever a beneficiary is a legal person, the details of beneficial owner shall also be uploaded.

7. The NPO shall ensure that the financial transactions involving more than Rs.20, 000/- are routed through banking channels only.
8. The Board of Directors/Trustees of NPOs must ensure utilization of funds consistent with the objectives as approved by the MHA.
9. The Board of Directors/Trustee of NPO's shall conduct meeting atleast once in six months to review the working of these instructions and shall record the minutes of these meetings.
10. The NPO shall train its staff on the FCRA about the application of these guidelines.
11. When any transaction is under investigation by any authority, the MHA shall be informed by such NPO.

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### **C. Charter for Chartered Accountants<sup>10</sup>**

1. Since the Foreign Contribution (Regulation) Act, 2010 (FCRA, 2010) is dealing with national security, associations are required to exercise extreme care and caution in utilizing foreign contribution.
2. Chartered Accountants (CAs) examine and audit all relevant books of accounts and bills and vouchers of FCRA associations and then present audited accounts which are submitted/uploaded online to the Government. Therefore, they are obliged to conduct performance as well as forensic audits to ensure that receipt and utilization of foreign contribution have been within the four corners of law.<sup>11</sup> Hence, they are expected to provide proper guidance to the associations in maintaining proper accounts and utilizing foreign contribution only as provided under the FCRA and FCRR .

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<sup>10</sup> Source: [https://fcraonline.nic.in/home/PDF\\_Doc/fc\\_notice\\_05022021.pdf](https://fcraonline.nic.in/home/PDF_Doc/fc_notice_05022021.pdf)

<sup>11</sup> The terms and scope of audit do not cover these aspects. Members may consider giving a suitable disclaimer in the audit certificate if they have not undertaken a program audit or forensic audit and deem it necessary to draw the attention of users to this fact. – Ed.



3. Chartered Accountants are requested to get themselves thoroughly familiarized with FCRA, 2010, the Foreign Contribution (Regulation) Rules, 2011 (FCRR, 2011), and amendments and notifications issued from time to time so that they can help and guide the associations and their office bearers. Attention of CAs is especially drawn to the provisions of sections 18, 19, 20, 21, 22, 23 and 24 of the FCRA, 2010 and to Rules 4, 5, 9, 11, 13 and 17 of the FCRR, 2011. CAs may take note and advise and assist the associations/NGOs accordingly. They may help/guide NGOs:
- To verify whether the associations are eligible to receive foreign contribution.
  - To ensure that the association receives and utilizes the foreign contribution (FC) through its bank account exclusively opened for the purpose in accordance with the amended provisions of FCRA, 2010 and FCRR, 2011 and that foreign contribution is not deposited in or utilized from the bank account being used for domestic funds.
  - To assist in the proper preparation and maintenance of prescribed books of accounts in accordance with the provisions of FCRA, 2010 and FCRR, 2011;<sup>12</sup>
  - To ensure that the annual return of the association/NGO has been prepared and uploaded in accordance with the provisions of FCRA, 2010 and FCRR, 2011 as amended from time to time.

**Note:** Statutory Form FC-4 for annual return stipulates that CA shall certify that the association has utilized foreign contribution received for the purposes(s) for which it is registered /granted prior permission by the Government.

**D. Charter for Banks<sup>13</sup>**

1. The Foreign Contribution (Regulation) Act, 2010 (FCRA, 2010) assigns a very crucial role to banks. All foreign contributions (FCs) received from any “foreign source” (FS) must be necessarily received

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<sup>12</sup> Auditors cannot maintain account books which they audit. This expectation should be ignored by auditors. – Ed.

<sup>13</sup> Source: [https://fcraonline.nic.in/home/PDF\\_Doc/fc\\_notice\\_29012021\\_2.pdf](https://fcraonline.nic.in/home/PDF_Doc/fc_notice_29012021_2.pdf).

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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only in a bank account and must be routed and spent only through bank accounts. Therefore, the competent authorities in the banks are expected to scrupulously follow various provisions of the FCRA, 2010 and Foreign Contribution (Regulation) Rules, 2011 (FCRR, 2011). They are available on the FCRA website [fcraonline.nic.in](http://fcraonline.nic.in)

2. The Parliament amended the FCRA, 2010 in September, 2020. One of the major amendments mandates compulsory opening of an FCRA account in the State Bank of India (SBI), Main Branch located at Sansad Marg, New Delhi by each NGO/association registered or given prior permission under FCRA 2010. Each existing FCRA registration holder as well as new applicant for registration or for prior permission would also have to comply with the same. This “FCRA account” of the NGO would be the first exclusive port of receipt of its FC in India.

3. Amended section 17 of the FCRA, 2010 provides as under:-

*“17. (1) Every person who has been granted certificate or prior permission under section 12 shall receive foreign contribution only in an account designated as "FCRA Account" by the bank, which shall be opened by him for the purpose of remittances of foreign contribution in such branch of the State Bank of India at New Delhi, as the Central Government may, by notification, specify in this behalf:*

Provided that such person may also open another “FCRA Account” in any of the scheduled bank of his choice for the purpose of keeping or utilizing the foreign contribution which has been received from his “FCRA Account” in the specified branch of State Bank of India at New Delhi:

Provided further that such person may also open one or more accounts in one or more scheduled banks of his choice to which he may transfer for utilizing any foreign contribution received by him in his “FCRA Account” in the specified branch of the State Bank of India at New Delhi or kept by him in another “FCRA Account” in a scheduled bank of his choice:

Provided also that no funds other than foreign contribution shall be received or deposited in any such account.

- (2) The specified branch of the State Bank of India at New Delhi or the branch of the scheduled bank where the person referred to in sub-

section (1) has opened his foreign contribution account or the authorized person in foreign exchange, shall report to such authority as may be specified, —

- (a) the prescribed amount of foreign remittance;
- (b) the source and manner in which the foreign remittance was received; and
- (c) other particulars,

in such form and manner as may be prescribed.”

4. The relevant rule 16 of the FCRR, 2011 is reproduced below:-

*“16. Reporting by banks of receipt of foreign contribution:- The bank shall report to the Central Government within forty-eight hours any transaction in respect of receipt or utilization of any foreign contribution by any person whether or not such person is registered or granted prior permission under the Act.”*

5. The scheme of the amended FCRA, 2010 is clear. Foreign contribution shall be received for the first time in India only in an account opened in the SBI, Main Branch, Sansad Marg, New Delhi. However, the NGO/association can open another FCRA account in any PFMS branch of a scheduled bank of its choice anywhere in the country and also, if it so decides, open as many FCRA utilization accounts in bank branches of its choice as it decides. The authorities of SBI, Main Branch, Sansad Marg, New Delhi shall transfer any foreign contribution received by any NGO/association to their other FCRA account or utilization account or both as per the choice/decision of that NGO/association. These details may be read with SOP already published on the website [fcraonline.nic.in](http://fcraonline.nic.in) regarding opening of bank account in the SBI, Main Branch, Sansad Marg, New Delhi.
6. It is again clarified that each NGO/association had to open its exclusive FCRA account in the SBI, Main Branch, Sansad Marg, New Delhi by 31<sup>st</sup> March, 2021. If it was not done by that time, then no foreign contribution shall be credited by any bank branch in the account of such NGO/association w.e.f. 01/04/2021.
7. It may be noted that foreign contribution has to be received only through banking channels and it has to be accounted for in the

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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- manner prescribed. Any violation by the NGO or by the bank may attract the penal provisions of FCRA, 2010.
8. Bankers are requested to refer to the definition of “foreign contribution” (FC) provided in section 2(1)(h) and definition of “foreign source” in section 2(1)(j) of the FCRA, 2010. For any contribution to constitute FC, it must emanate from a “foreign source” even if that foreign source is located within India and even if that donation is in Indian rupees or cash etc.
  9. Attention is also drawn to the provisions of section 2(1)(h) – Explanation 2 & Explanation 3. Any kind of interest or income that is derived from the foreign contribution or interest again becomes part of foreign contribution. Therefore, it will be credited back into the foreign contribution account to be utilized strictly as per the provisions of FCRA, 2010.
  10. Banks are expected to go through all the provisions of the amended FCRA 2010 as well as amended FCRR, 2011. Various public notices to facilitate smooth transition to the new FCRA regime have also been posted on the website along with the SOP (standard operating procedure) for opening of the “FCRA account” in the SBI Main Branch, Sansad Marg, New Delhi.
  11. The following is an illustrative (but not exhaustive) list of such contributions which are foreign contributions as defined under FCRA, 2010:
    - (i) Donations given in Indian rupees (INR) by any foreigner/foreign source including foreigners of Indian origin like OCI or PIO cardholders (in SBI, New Delhi Main Branch).
    - (ii) Donations received in Indian rupees (INR) from any ‘foreign source’ even if that source is located in India at the time of such donation (in SBI, New Delhi Main Branch).
    - (iii) FC received in cash/local cheque/demand draft or through overseas bank transfers in any currency including Indian rupees from any “foreign source” (in SBI, New Delhi Main Branch).
    - (iv) All interest that accrues on the FC received in any bank account including interest on FDs (in any Bank Branch).

## **MHA Charters**

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- (v) Any income generated in India from assets created by spending the funds from FC. This includes proceeds from sales of such assets which have been credited even partly by spending the FC (in any Bank Branch).
- (vi) Proceeds from sale of FC received in kind or in the form of securities (in any Bank Branch).
- (vii) Re-depositing the unutilized FC which might have been drawn out as advance for any purpose by the NGO/association. Such a re-deposit, however, must be backed by matching withdrawal entries and relevant records to establish that it was unutilized/unspent FC amount. This would include any refund received on account of cancellation of any services/tickets etc. sought to be taken by utilizing FC (in any bank branch).

## Chapter 4

# SOP for SBI NDMB Account<sup>14</sup>

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The Standard Operating Procedure (SOP) to open and operate the “FCRA Account” as provided under section 17(1) of the amended Foreign Contribution (Regulation) Act, 2010 with SBI, New Delhi Main Branch in terms of FCRA (Amendment), 2020 has been explained in the following paragraphs.

1. The amended Foreign Contribution (Regulation) Act, 2010 mandates that every person/NGO/ Association (hereinafter referred to as an “entity”) that has been granted FCRA certificate of registration or prior permission under section 12 of the Act shall open an “FCRA Account” at specified branch of State Bank of India in New Delhi. The Central Government vide notification dated 07.10.2020 has notified New Delhi Main Branch (henceforth NDMB) of SBI, 11, Sansad Marg, New Delhi-110001 as the specified branch.
2. There are approximately 23,000 entities which have got a certificate of registration or prior permission to receive foreign contribution. They had to open a "FCRA Account" for inward remittance of any foreign contribution at the aforementioned specified branch (i.e., NDMB) before 31.03.2021. From the date of opening of “FCRA Account” in NDMB or from 31.03.2021, whichever is earlier, no inward remittance will be allowed in any account other than that opened in NDMB.
3. The following steps and procedure will be followed so as to ensure hassle-free opening and operation of "FCRA Account" by entities making requests for fresh FCRA registration/prior permission as well as existing FCRA registration/prior permission holders having FCRA accounts in any Branch or Bank other than NDMB Branch of SBI.

### **A. SOP FOR ACCOUNT OPENING**

- i) Any entity which seeks to receive foreign contribution may approach either the nearest SBI Branch or any other SBI Branch of their choice for submitting the completed account opening form (AOF) for KYC/photo/signature verification, scanning and forwarding through mail as well as sending hard copy of their AOF for opening of “FCRA Account” at NDMB.

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<sup>14</sup> Source: [https://fcraonline.nic.in/home/PDF\\_Doc/fc\\_sop\\_20112020.pdf](https://fcraonline.nic.in/home/PDF_Doc/fc_sop_20112020.pdf).

## SOP for SBI NDMB Account

- ii) The applicant shall collect the account opening form (AOF) physically or download the same from the website of SBI and submit the duly filled up form along with mandatory KYC documents, for scrutiny/verification. Mandatory documents should include KYCs of signatories and Controlling Person/Beneficial Owner (in terms of guidelines issued by RBI).
- iii) The applicant shall receive an acknowledgement in this regard from the AOF accepting Branch.
- iv) The AOF accepting branch of SBI would scrutinize the AOF and KYC documents and email the verified documents to SBI, NDMB within 3 working days from the date of receipt of completed documents. SBI, NDMB shall confirm to the applicant entity through an email regarding receipt of AOF and other documents within 1 working day of its receipt.
- v) The NDMB will intimate to the applicant entity the details of "FCRA Account" so opened within 3 working days from the date of receipt of duly verified scanned copies of complete set of AOF and KYC documents from e-mail ID of the receiving branch. The intimation will be sent by registered email ID as well as through SMS.
- vi) An "entity" can maintain its existing FCRA Accounts for keeping or utilization purposes of the FC..
- vii) The complete details of the specified branch i.e., SBI NDMB are as under:

<b>Name of the Branch</b>	<b>State Bank of India, New Delhi Main Branch (NDMB).</b>
Address of the FCRA Cell at NDMB	FCRA Cell, 1st Floor, 11, Sansad Marg, New Delhi-110001
Branch Code	00691
IFSC Code	SBIN0000691
SWIFT CODE	SBININBB104
e-Mail ID	<a href="mailto:fcra.00691@sbi.co.in">fcra.00691@sbi.co.in</a>
Telephone No.	011-23374392, 23374390, 23374143, 23374213

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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### **B. Process flow after opening of “FCRA Account” in case of persons / entities already in possession of a registration certificate or prior permission of Central Govt. to receive foreign contribution through SWIFT mode.**

- i) The NDMB will allow receipt of foreign contribution only in the “FCRA Account” opened in NDMB after confirming that the MHA has already granted a certificate or prior permission under section 12 of FCRA, 2010. The foreign inward remittance received should invariably contain the following details:
  - “FCRA Account” Number of the beneficiary in the NDMB of SBI
  - SWIFT Code of NDMB (SBININBB104)
  - Name of the beneficiary
  - Name of the donor/ remitter
  - Account number of the donor/remitter
  - Donor/Remitter's address
  - Donor/Remitter's country of residence
- ii) In case of fresh applicant/entity, the NDMB shall open the “FCRA Account” and then wait for MHA's decision on the application of the entities/persons for grant of prior permission or registration certificate. As soon as the MHA approval for such registration or prior permission is conveyed to NDMB through an e-mail, NDMB shall allow inflow of foreign contribution into the relevant account from that date.
- iii) SBI, NDMB shall intimate the customers, through an e-mail and SMS regarding receipt of foreign contribution.
- iv) The customers will be required to submit an undertaking detailing the purpose of the receipt of funds as per FEMA declaration and RBI guidelines to the SBI Branch, where it had initially submitted the AOF. The Branch shall then forward duly scrutinized copies to New Delhi Main Branch on the designated email id [fcra.00691\(@sbi.co.in\)](mailto:fcra.00691@sbi.co.in).
- v) Standard Forex conversion rate as permitted under the FEMA guidelines and RBI instructions to be applied on the inflow of foreign currency. It shall be duly intimated to the account holder through an email.



- vi) The "FCRA Account" holder shall have complete freedom to transfer the foreign contribution (FC) received in "FCRA Account" opened in NDMB to another "FCRA Account", if any, of his choice opened in any branch of any Scheduled Commercial Bank as per its convenience for keeping or utilization. It may also avail internet banking facility (with full transaction rights) with the NDMB.
- vii) NDMB will not levy any charges/fee etc. on any transfer of foreign contribution from the "FCRA Account" to "another FCRA Account", if any, and to utilization account, if any, of the entity. For each such transfer, the "FCRA Account" holder to be informed through an e-mail as well as SMS immediately.

**C. GRIEVANCE REDRESSAL MECHANISM**

If the FCRA account holder raises any grievance while opening of "FCRA Account" or while operating it, the following redressal mechanism shall be available:

- i) The "FCRA Account" holder or the applicant entity may send e-mail on [fcracomplaints.00691@sbi.co.in](mailto:fcracomplaints.00691@sbi.co.in). The NDMB shall create an FCRA Cell to handle all such e-mails.
- ii) The applicant person/entity or the FCRA account holder may also register complaints/grievances/ suggestion on 011-23374392, 23374143, 23374213.
- iii) If the grievance is not redressed after accessing the aforementioned mechanism, it may be escalated through an e-mail to [sbi.00691@sbi.co.in](mailto:sbi.00691@sbi.co.in). The DGM of NDMB will handle this matter.
- iv) The escalation matrix for grievance redressal is given in the paragraph C(i), C(ii) and C(iii) above. However, if the applicant person/entity is not satisfied with the grievance redressal provided, then the grievance may be escalated to DGM (IBD-II) [e-Mail: [dgmibd2.ibg@sbi.co.in](mailto:dgmibd2.ibg@sbi.co.in)] who is the apex grievance redressal authority.

## Chapter 5

# FATF Compliance Checklist<sup>15</sup>

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The Financial Action Task Force is an inter-governmental body, based in Paris. It was set up in 1989 to tackle laundering of drug money. From 2001 onwards, it has taken on the additional role as a watchdog over misuse of charities for moving terror funds across countries. Membership of FATF makes it easier to attract international investment - there are 39 members at present, including two regional organizations. India became an observer in 2006 and was admitted as a member in 2010. It has committed to ensure proper oversight over all forms and instruments of money laundering.

The increasing control over foreign funds received by NGOs is partly attributed to this. The FCRA Department now routinely asks NGOs to commit to following FATF guidelines at the time of giving prior-permission or granting FCRA registration.

### Guidelines

**What do these guidelines say? What do these mean in practice?**

1. ***Wherever necessary, NPO shall inform the MHA (FCRA Wing) about the suspicious activities of the customer, without waiting for annual returns.***

If a donor or client asks you to do something unusual with their funds, then you should inform MHA about this. This could include asking you to pay out cash to some people or to return cash against a donation. It could also mean channelizing FCRA funds for another NGO, politician, Government officer, etc.

2. ***The Board of Directors/Chief Functionary of NPO shall issue directions regarding duties of the official who shall be required to enforce these guidelines and other rules of FCRA read with FCRA.***

You should ask certain officers to ensure that the FATF guidelines

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<sup>15</sup> Source: pp. 406-7, AccountAble Handbook on FCRA 2010 by Sanjay Agarwal (2021 Edition). Reproduced with permission.

and FCRA rules are followed by the NGO. These directions can be part of your finance manual or an office circular. You should then ask for periodic compliance reports from these officers. The compliance report should be reviewed in the Board meeting.

**3. *The NPO shall disclose its goals, objectives and activities on its website.***

If you have a website, then add a section listing your goals and objectives. Also describe the various programs or activities that you are actually doing.

**4. *The NPO shall upload the details of key persons associated with NPO's activities on website.***

Key persons include your Board and senior management. Upload a profile (name, photograph, education, background, other affiliations, experience, designation, role in NGO, etc.) for each person.

**5. *The NPO shall take due diligence of its employees at the time of recruitment.***

Attested documents (resume, educational certificates, photo ID proof, residence proof, employment references) along with interview record, should be kept on file for each employee. Also check whether any employee is actively involved in politics or extremist activities. If you wish, you can ask each employee to sign an undertaking about political activities, use of social media, organization's name, etc.

For employees in senior positions, or those handling sensitive matters (finance, custody of children, women, or other vulnerable beneficiaries), additional background checks should be done. This includes reference check with past employers, and online search of public records/news reports.

**6. *The NPO shall collect the information of beneficiaries of funds and to upload on its website and monitor the activities of the beneficiaries. Wherever a beneficiary is a legal person, the details of beneficial owner shall also be uploaded.***

Most NGOs keep records of people and communities that they work with. If the NGO is maintaining a website, then summary information can be uploaded on the site. If you are supporting an organization

## Frequently Asked Questions (FAQs) for NPOs on FCRA

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(legal person), then the name and details of the beneficial owner/s<sup>16</sup> is/are also expected. If the organization is a charitable entity, then there would be no beneficial owners.

If you are uploading any personal information of beneficiaries/owners that could violate their privacy or dignity, make sure it is partially masked to prevent identification. This may include pictures, Aadhaar number, voter card number, address, case details, phone numbers, etc. Also make sure that this does not violate the provisions of Information Technology Act, 2000<sup>17</sup> or Personal Data Protection Bill, 2019<sup>18</sup> (as and when this becomes law).

**7. *The NPO shall ensure that financial transactions involving more than Rs.20, 000/- are routed through Banking channels only.***

If you are making any payments to beneficiaries, staff or vendors out of FCRA funds, then these should be made by crossed account payee cheques or bank transfer to their account. This covers all kinds of payments — whether as advances, loan, expense or purchase of assets. You can also make vendor payments through personal credit card or debit card where there is no other option. If so, make sure that the settlement is done from FCRA Bank account by crossed account payee cheque or bank transfer.

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<sup>16</sup> Individuals who are ultimate owners of the organization

<sup>17</sup> This Act contains several provisions prohibiting disclosure of information about an individual without his/her consent. Further, Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011 deal with protection of sensitive personal data or information of a person", which includes personal information such as passwords, financial information (such as bank account or credit card or debit card or other payment instrument details), physical, physiological and mental health condition, sexual orientation, medical records and history, and biometric information.

<sup>18</sup> The Bill plans to prohibit processing of sensitive personal data without any clear and lawful purpose. Such data includes financial data, health data, official identifier, sex life, sexual orientation, biometric data, genetic data., transgender status, intersex status, caste or tribe, religious or political belief or affiliation, or any other data categorised as sensitive personal data by the authority and the sectoral regulator concerned.

The limit on cash payments has been revised downwards to Rs. 10,000 under the Income Tax Act. You should follow the same limit for FCRA transactions also.<sup>19</sup>

**8. *The Board of Directors/Trustees of NPOs must ensure utilization of funds consistent with the objectives as approved by MHA.***

This refers to the purpose or objectives for which an organization has been registered under FCRA. It means that your FCRA registration is not a catch-all registration. It is given only for specific purposes. Therefore, you cannot accept or use foreign contribution for purposes which you did not list at the time of FCRA registration.

There are two layers of interpreting the purpose of registration. First is the general classification of cultural, religious, economic, educational, and social. This implies (for example) that organizations registered for educational purposes alone cannot accept or spend money on social purposes. The second layer is the specific activities that were listed in Form FC-3A etc. at the time of applying for registration. This is also emphasized when you file your Form FC-4.<sup>20</sup>

**9. *The Board of Directors/Trustee of NPOs shall conduct meeting atleast once in six months to review the working of these instructions and record the minutes of meetings.***

This clause is meant to make sure that the NGO is actually following these practices. A note on implementation of the FATF guidelines should be prepared and presented to the Board once every six months. This should be discussed and recorded in the minutes. Any lapse or non-compliance should be corrected.

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<sup>19</sup> See *Do not encourage cash withdrawals*

on page 48, which specifies the limit as Rs. 2,000. At two other places, this limit is given as Rs. 20,000. See *FCRA Circular 'F.No.II/21022/58(136)/2014-FCRA(MU)' dated 21-Oct-2014* available at <https://fcraonline.nic.in> and *Annexure: Good practice Guidelines to the Non-Profit Organizations (NPOs) to ensure compliance with FATF requirements.*

<sup>20</sup> Form FC-4 has a declaration at the end which says: "I also affirm that ...the foreign contribution was utilized for the purpose(s) for which the association was granted registration/ prior permission by the Central Government."

## Frequently Asked Questions (FAQs) for NPOs on FCRA

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- 10. *The NPO shall train its staff on the FCRA and about the application of these guidelines.***

You should make sure that all the staff involved in accounting, programs, management and fund-raising have a working knowledge of FCRA provisions and the FATF guidelines. For this, you can organize internal training or register them for outside trainings. Keep a note of the FCRA trainings on each person's HR file.

- 11. *When any transaction is under investigation by any authority, the MHA shall be informed by such NPO.***

If the Income Tax Department (or any other regulatory agency) launches an investigation against your organization with regard to foreign contribution, then you should send an email to FCRA Department about this. Normal assessment proceedings or scrutiny does not count for this purpose.

### **Non-compliance**

What happens if you fail to comply with any of the guidelines after giving an undertaking? It appears that the FCRA Department could invoke section 35 of FCRA in addition to other provisions. This section provides for imprisonment, fine or both. While this may or may not hold up in court, it would be a good idea to ensure that the guidelines are followed in letter and spirit.

**1. Foreign Contribution Regulation Act, 2010**  
(42 of 2010)<sup>21</sup>  
**[AS AMENDED BY FOREIGN CONTRIBUTION (REGULATION)  
AMENDMENT ACT, 2020]**

An Act 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 the national interest and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows: —

**Chapter I: Preliminary**

**1. Short title, extent, application and commencement.**

- (1) This Act may be called the Foreign Contribution (Regulation) Act, 2010.
- (2) It extends to the whole of India, and it shall also apply to: -
  - a. citizens of India outside India; and
  - b. associate branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint<sup>22</sup>:

*Provided* that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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<sup>21</sup> Dated 26-9-2010.

<sup>22</sup> Notified vide S.O. 909(E), dated 29-4-2011 - In exercise of the powers conferred by sub-section (3) of section 1 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010), the Central Government hereby appoints the 1st day of May, 2011 as the date on which the provisions of the said Act shall come into force.

## Frequently Asked Questions (FAQs) for NPOs on FCRA

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### 2. **Definitions.**

- (1) In this Act, unless the context otherwise requires, —
- (a) “association” means an association of individuals, whether incorporated or not, having an office in India and includes a society, whether registered under the Societies Registration Act, 1860 (21 of 1860), or not, and any other organization, by whatever name called;
  - (b) “authorized person in foreign exchange” means an authorized person referred to in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);
  - (c) “bank” means a banking company as referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);
  - (d) “candidate for election” means a person who has been duly nominated as a candidate for election to any Legislature;
  - (e) “Certificate” means certificate of registration granted under sub-section (3) of section 12;
  - (f) “Company” shall have the meaning assigned to it under clause (17) of section 2 of the Income-tax Act, 1961 (43 of 1961);
  - (g) “Foreign company” means any company or association or body of individuals incorporated outside India and includes: —
    - (i) a foreign company within the meaning of section 591 of the Companies Act, 1956 (1 of 1956)<sup>23</sup>;
    - (ii) a company which is a subsidiary of a foreign company;
    - (iii) 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);
    - (iv) a multi-national corporation.

*Explanation.* — For the purposes of this sub-clause, a corporation incorporated in a foreign country or territory shall be deemed to be a multi-national corporation if such corporation, —

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<sup>23</sup> Now sections 2(42) and 379 of the Companies Act, 2013 (18 of 2013).



## Foreign Contribution Regulation Act, 2010

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- (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;
- (h) “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 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 in 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 (42 of 1956) and includes any foreign security as defined in clause (o) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).

*Explanation 1.* — 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.

*Explanation 3.* — 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 of a foreign source

## Frequently Asked Questions (FAQs) for NPOs on FCRA

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towards such fee or cost, shall be excluded from the definition of foreign contribution within the meaning of this clause;

- (i) “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 boarding, lodging, transport or medical treatment;
- (j) “foreign source” 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 multi-national corporation referred to in sub-clause (iv) of clause (g);
  - (vi) a company within the meaning of the Companies Act, 1956 (1 of 1956)<sup>24</sup>, 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;

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<sup>24</sup> Now Companies Act, 2013 (18 of 2013).

## Foreign Contribution Regulation Act, 2010

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[*Provided* that where the nominal value of share capital is within the limits specified for foreign investment under the Foreign Exchange Management Act, 1999 (42 of 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;]<sup>25</sup>

- (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 of individuals formed or registered outside India;
- (x) a citizen of a foreign country;
- (k) “Legislature” means —
  - (A) either House of Parliament;
  - (B) the Legislative Assembly of a State, or in the case of a State having a Legislative Council, either House of the Legislature of that State;
  - (C) Legislative Assembly of a Union Territory constituted under the Government of Union Territories Act, 1963 (20 of 1963);
  - (D) Legislative Assembly for the National Capital Territory of Delhi referred to in the Government of National Capital Territory of Delhi Act, 1991 (1 of 1992);
  - (E) Municipality as defined in clause (e) of Article 243P of the Constitution;
  - (F) District Councils and Regional Councils in the

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<sup>25</sup> Inserted by Finance Act, 2016, w.r.e.f. 26-9-2010.

## **Frequently Asked Questions (FAQs) for NPOs on FCRA**

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- States of Assam, Meghalaya, Tripura and Mizoram as provided in the Sixth Schedule to the Constitution;
- (G) Panchayat as defined in clause (d) of Article 243 of the Constitution; or
- (H) any other elective body as may be notified by the Central Government;
- (I) “notification” means notification published in the Official Gazette and the expression “notify” shall be construed accordingly;
- (m) “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 (1 of 1956);
- (n) “political party” means—
- (i) an association or body of individual citizens of India—
    - (A) to be registered with the Election Commission of India as a political party under section 29A of the Representation of the People Act, 1951 (43 of 1951); or
    - (B) which has set up 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;
- (o) “prescribed” means prescribed by rules made under this Act;

## **Foreign Contribution Regulation Act, 2010**

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- (p) “prescribed authority” means an authority specified as such by rules made by the Central Government under this Act;
  - (q) “registered newspaper” means a newspaper registered under the Press and Registration of Books Act, 1867 (25 of 1867);
  - (r) “relative” has the meaning assigned to it in clause (41) of section 2 of the Companies Act, 1956<sup>26</sup>;
  - (s) “scheduled bank” shall have the meaning assigned to it under clause (e) of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934);
  - (t) “subsidiary” and “associate” shall have the meanings, respectively assigned to them in the Companies Act, 1956 (1 of 1956)<sup>27</sup>;
  - (u) “trade union” means a trade union registered under the Trade Unions Act, 1926 (16 of 1926);
- (2) Words and expressions used herein and not defined in this Act but defined in the Representation of the People Act, 1950 (43 of 1950) or the Representation of the People Act, 1951 (43 of 1951) or the Foreign Exchange Management Act, 1999 (42 of 1999) shall have the meanings respectively assigned to them in those Acts.

## **Chapter II: Regulation of Foreign Contribution and Foreign Hospitality**

### ***3. Prohibition to accept foreign contribution.***

- (1) No foreign contribution shall be accepted by any—
- (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

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<sup>26</sup> Now section 2 (77) of the Companies Act, 2013 (18 of 2013).

<sup>27</sup> Now Companies Act, 2013.

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Government;]<sup>28</sup>

- (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 programs 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 (21 of 2000) or any other mode of mass communication;
- (h) correspondent or columnist, cartoonist, editor, owner of the association or company referred to in clause (g).

[*Explanation 1.*—For the purpose of clause (c), "public servant" means a public servant as defined in section 21 of the Indian Penal Code (45 of 1860).

*Explanation 2.*—In clause (c) and section 6, the expression "corporation" means a corporation owned or controlled by the Government and includes a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013).]<sup>29</sup>

- (2) (a) No person, resident in India, and no citizen of India resident outside India, shall accept any foreign contribution, or acquire or agree to acquire any currency from a foreign source, on behalf of any political party, or any person referred to in sub-section (1), or both.
- (b) No person, resident in India, shall deliver any currency, whether Indian or foreign, which has been accepted from any

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<sup>28</sup> Substituted by The Foreign Contribution (Regulation) (Amendment) Act, 2020 w.e.f. 29-Sep-2020. Prior to its substitution, clause (c) read: "(c) Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;"

<sup>29</sup> *Explanations 1 and 2 substituted for Explanation, ibid.* Prior to its substitution, *Explanation* read as under:

*'Explanation-* In clause (c) and section 6, the expression "corporation" means a corporation owned or controlled by the Government and includes a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).'

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foreign source to any person if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to any political party or any person referred to in sub-section (1), or both.

- (c) No citizen of India resident outside India shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to—
  - (i) any political party or any person referred to in sub-section (1), or both; or
  - (ii) any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a political party or to any person referred to in sub-section (1), or both.
- (3) No person receiving any currency, whether Indian or foreign, from a foreign source on behalf of any person or class of persons, referred to in section 9, shall deliver such currency —
  - (a) to any person other than a person for which it was received, or
  - (b) to any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a person other than the person for which such currency was received.

#### **4. Persons to whom section 3 shall not apply.**

Nothing contained in section 3 shall apply to the acceptance, by any person specified in that section, of any foreign contribution where such contribution is accepted by him, subject to the provisions of section 10, —

- (a) by way of salary, wages or other remuneration due to him or to any group of persons working under him, from any foreign source or by way of payment in the ordinary course of business transacted in India by such foreign source; or
- (b) by way of payment, in the course of international trade or commerce, or in the ordinary course of business transacted by him outside India; or
- (c) as an agent of a foreign source in relation to any transaction made by such foreign source with the Central Government or State Government; or

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- (d) by way of a gift or presentation made to him as a member of any Indian delegation, provided that such gift or present was accepted in accordance with the rules made by the Central Government with regard to the acceptance or retention of such gift or presentation; or
- (e) from his relative; or
- (f) by way of remittance received, in the ordinary course of business through any official channel, post office, or any authorized person in foreign exchange under the Foreign Exchange Management Act, 1999 (42 of 1999); or
- (g) by way of any scholarship, stipend or any payment of like nature:  
*Provided* that in case any foreign contribution received by any person specified under section 3, for any of the purposes other than those specified under this section, such contribution shall be deemed to have been accepted in contravention of the provisions of section 3.

### **5. Procedure to notify an organization of a political nature.**

- (1) The Central Government may, having regard to the activities of the organization or the ideology propagated by the organization or the programme of the organization or the association of the organizations with the activities of any political party, by an order published in the Official Gazette, specify such organization as an organization of a political nature not being a political party, referred to in clause (f) of sub-section (1) of section 3:  
*Provided* that the Central Government may, by rules made by it, frame the guidelines specifying the ground or grounds on which an organization shall be specified as an organization of a political nature.
- (2) Before making an order under sub-section (1), the Central Government shall give the organization in respect of whom the order is proposed to be made, a notice in writing informing it of the ground or grounds, on which it is proposed to be specified as an organization of political nature under that sub-section:
- (3) The organization to whom a notice has been served under sub-section (2) may, within a period of thirty days from the date of the notice, make a representation to the Central Government giving reasons for not specifying such organization as an organization under sub-section (1):



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*Provided* that the Central Government may entertain the representation after the expiry of the said period of thirty days, if it is satisfied that the organization was prevented by sufficient cause from making the representation within thirty days.

- (4) The Central Government may, if it considers it appropriate, forward the representation referred to in sub-section (3) to any authority to report on such representation.
- (5) The Central Government may, after considering the representation and the report of the authority referred to in sub-section (4), specify such organization as an organization of a political nature not being a political party and make an order under sub-section (1) accordingly.
- (6) Every order under sub-section (1) shall be made within a period of one hundred and twenty days from the date of issue of notice under sub-section (2):

*Provided* that in case no order is made within the said period of one hundred and twenty days, the Central Government shall, after recording the reasons therefor, make an order under sub-section (1) within a period of sixty days from the expiry of the said period of one hundred and twenty days.

### **6. Restriction on acceptance of foreign hospitality.**

No member of a Legislature or office-bearer of a political party or Judge or Government servant or employee of any corporation or any other body owned or controlled by the Government shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality:

*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, within one month from the date of receipt of such hospitality an intimation to the Central Government as to the receipt of such hospitality, and the source from which, and the manner in which, such hospitality was received by him.

### **7. Prohibition to transfer foreign contribution to other person.**

No person who—

- (a) is registered and granted a certificate or has obtained prior permission under this Act; and

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(b) receives any foreign contribution,  
shall transfer such foreign contribution to any other person.]<sup>30</sup>

### **8. Restriction to utilize foreign contribution for administrative purpose.**

(1) Every person, who is registered and granted a certificate or given prior permission under this Act and receives any foreign contribution,

—

(a) shall utilize such contribution for the purposes for which the contribution has been received:

*Provided* that any foreign contribution or any income arising out of it shall not be used for speculative business;

*Provided* further that the Central Government shall, by rules, specify the activities or business which shall be construed as speculative business for the purpose of this section;

(b) shall not defray as far as possible such sum, not exceeding [twenty per cent]<sup>31</sup> of such contribution, received in a financial year, to meet administrative expenses:

*Provided* that administrative expenses exceeding [twenty per cent]<sup>32</sup> of such contribution may be defrayed with prior approval of the Central Government.

(2) The Central Government may prescribe the elements which shall be included in the administrative expenses and the manner in which the administrative expenses referred to in sub-section (1) shall be calculated.

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<sup>30</sup> Substituted by the Foreign Contribution (Regulation) (Amendment) Act, 2020, w.e.f. 29-9-2020. Prior to its substitution, section 7 read as under :

**"7. Prohibition to transfer foreign contribution to other person.** -No person who-

(a) is registered and granted a certificate or has obtained prior permission under this Act; and

(b) receives any foreign contribution, shall transfer such foreign contribution to any other person unless such other person is also registered and had been granted the certificate or obtained the prior permission under this Act:

*Provided* that such person may transfer, with the prior approval of the Central Government, a part of such foreign contribution to any other person who has not been granted a certificate or obtained permission under this Act in accordance with the rules made by the Central Government."

<sup>31</sup> Substituted for "fifty per cent" by the Foreign Contribution (Regulation) (Amendment) Act, 2020, w.e.f. 29-09-2020

<sup>32</sup> Substituted for "fifty per cent" by the Foreign Contribution (Regulation) (Amendment) Act, 2020, w.e.f. 29-09-2020

**9. Power of Central Government to prohibit receipt of foreign contribution, etc., in certain cases.**

The Central Government may—

- (a) prohibit any person or organization not specified in section 3, from accepting any foreign contribution;
- (b) require any person or class of persons, not specified in section 6, to obtain prior permission of the Central Government before accepting any foreign hospitality;
- (c) require any person or class of persons not specified in section 11, to furnish intimation within such time and in such manner as may be prescribed as to the amount of any foreign contribution received by such person or class of persons as the case may be, and the source from which and the manner in which such contribution was received and the purpose for which and the manner in which such foreign contribution was utilized;
- (d) without prejudice to the provisions of sub-section (1) of section 11, require any person or class of persons specified in that sub-section to obtain prior permission of the Central Government before accepting any foreign contribution;
- (e) require any person or class of persons, not specified in section 6, to furnish intimation, within such time and in such manner as may be prescribed, as to the receipt of any foreign hospitality, the source from which and the manner in which such hospitality was received:

*Provided* that no such prohibition or requirement shall be made unless the Central Government is satisfied that the acceptance of foreign contribution by such person or class of persons, as the case may be, or the acceptance of foreign hospitality by such person, is likely to affect prejudicially —

- (i) the sovereignty and integrity of India; or
- (ii) public interest; or
- (iii) freedom or fairness of election to any Legislature; or
- (iv) friendly relations with any foreign State; or
- (v) harmony between religious, racial, social, linguistic or regional groups, castes or communities.

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### **10. Power to prohibit payment of currency received in contravention of the Act.**

Where the Central Government is satisfied, after making such inquiry as it may deem fit, that any person has in his custody or control any article or currency or security, whether Indian or foreign, which has been accepted by such person in contravention of any of the provisions of this Act, it may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing with, in any manner whatsoever, such article or currency or security save in accordance with the written orders of the Central Government and a copy of such order shall be served upon the person so prohibited in the prescribed manner, and thereupon the provisions of sub-sections (2), (3), (4) and (5) of section 7 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) shall, so far as may be, apply to, or in relation to, such article or currency or security and references in the said sub-sections to moneys, securities or credits shall be construed as references to such article or currency or security.

## **Chapter III: Registration**

### **11. Registration of certain persons with Central Government.**

- (1) Save as otherwise provided in this Act, no person having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution unless such person obtains a certificate of registration from the Central Government:

*Provided* that any association registered with the Central Government under section 6 or granted prior permission under that section of the Foreign Contribution (Regulation) Act, 1976 (49 of 1976), as it stood immediately before the commencement of this Act, shall be deemed to have been registered or granted prior permission, as the case may be, under this Act and such registration shall be valid for a period of five years from the date on which this section comes into force.

- (2) Every person referred to in sub-section (1) may, if it is not registered with the Central Government under that sub-section, accept any foreign contribution only after obtaining the prior permission of the Central Government and such prior permission shall be valid for the specific purpose for which it is obtained and from the specific source:

[Provided that the Central Government, on the basis of any information or report, and after holding a summary inquiry, has

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reason to believe that a person who has been granted prior permission has contravened any of the provisions of this Act, it may, pending any further inquiry, direct that such person shall not utilize the unutilized foreign contribution or receive the remaining portion of foreign contribution which has not been received or, as the case may be, any additional foreign contribution, without prior approval of the Central Government:

Provided further that if the person referred to in sub-section (1) or in this sub-section has been found guilty<sup>33</sup> of violation of any of the provisions of this Act or the Foreign Contribution (Regulation) Act, 1976 (49 of 1976), the unutilized or unreceived amount of foreign contribution shall not be utilized or received, as the case may be, without the prior approval of the Central Government.

- (3) Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, specify—
- (i) the person or class of persons who shall obtain its prior permission before accepting the foreign contribution; or
  - (ii) the area or areas in which the foreign contribution shall be accepted and utilized with the prior permission of the Central Government; or
  - (iii) the purpose or purposes for which the foreign contribution shall be utilized with the prior permission of the Central Government; or
  - (iv) the source or sources from which the foreign contribution shall be accepted with the prior permission of the Central Government.

### **12. Grant of certificate of registration.**

- (1) An application by a person, referred to in section 11 for grant of certificate or giving prior permission, shall be made to the Central Government in such form and manner and along with such fee, as may be prescribed.

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<sup>33</sup> Substituted for "Provided that if the person referred to in sub-sections (1) and (2) has been found guilty" by the Foreign Contribution (Regulation) (Amendment) Act, 2020, w.e.f. 29-9-2020.

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- [(1A) Every person who makes an application under sub-section (1) shall be required to open FCRA Account in the manner specified in section 17 and mention details of such account in his application.]<sup>34</sup>
- (2) On receipt of an application under sub-section (1), the Central Government shall, by an order, if the application is not in the prescribed form or does not contain any of the particulars specified in that form, reject the application.
- (3) If on receipt of an application for grant of certificate or giving prior permission and after making such inquiry as the Central Government deems fit, it is of the opinion that the conditions specified in sub-section (4) are satisfied, it may, ordinarily within ninety days from the date of receipt of application under sub-section (1), register such person and grant him a certificate or give him prior permission, as the case may be, subject to such terms and conditions as may be prescribed:
- Provided* that in case the Central Government does not grant, within the said period of ninety days, a certificate or give prior permission, it shall communicate the reasons therefor to the applicant:
- Provided* further that a person shall not be eligible for grant of certificate or giving prior permission, if his certificate has been suspended and such suspension of certificate continues on the date of making application.
- (4) The following shall be the conditions for the purposes of sub-section (3), namely: —
- (a) the person making an application for registration or grant of prior permission under sub-section (1), —
- (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;

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<sup>34</sup> Inserted, *ibid.*

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- (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;
- (b) the person making an application for registration under sub-section (1) has undertaken reasonable activity in its chosen field for the benefit of the society for which the foreign contribution is proposed to be utilized;
- (c) the person making an application for giving prior permission under sub-section (1) has prepared a reasonable project for the benefit of the society for which the foreign contribution is proposed to be utilized;
- (d) in case 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 offence pending against him;
- (e) in case 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 offence is pending against him;
- (f) the acceptance of foreign contribution by the person referred to in the sub-section
- (1) is not likely to affect prejudicially—
- (i) the sovereignty and integrity of India; or
  - (ii) the security, strategic, scientific or economic interest of the State; or
  - (iii) the public interest; or
  - (iv) freedom or fairness of election to any Legislature; or

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- (v) friendly relation with any foreign State; or
- (vi) harmony between religious, racial, social, linguistic, regional groups, castes or communities;
- (g) the acceptance of foreign contribution referred to in sub-section (1), —
  - (i) shall not lead to incitement of an offence;
  - (ii) shall not endanger the life or physical safety of any person.
- (5) Where the Central Government refuses the grant of certificate or does not give prior permission, it shall record in its order the reasons therefor and furnish a copy thereof to the applicant:

*Provided* that the Central Government may not communicate the reasons for refusal for grant of certificate or for not giving prior permission to the applicant under this section in cases where there<sup>35</sup> is no obligation to give any information or documents or records or papers under the Right to Information Act, 2005 (22 of 2005).
- (6) The certificate granted under sub-section (3) shall be valid for a period of five years and the prior permission shall be valid for the specific purpose or specific amount of foreign contribution proposed to be received, as the case may be.

### **[12A. Power of Central Government to require Aadhaar number, etc., as identification document.**

Notwithstanding anything contained in this Act, the Central Government may require that any person who seeks prior permission or prior approval under section 11, or makes an application for grant of certificate under section 12, or, as the case may be, for renewal of certificate under section 16, shall provide as identification document, the Aadhaar number of all its office bearers or Directors or other key functionaries, by whatever name called, issued under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016), or a copy of the Passport or Overseas Citizen of India Card, in case of a foreigner.]<sup>36</sup>

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<sup>35</sup> As corrected by corrigendum to Act No. 45 of 2010

<sup>36</sup> Inserted by The Foreign Contribution (Regulation) (Amendment) Act, 2020 w.e.f. 29-Sep-2020



**13. Suspension of certificate.**

- (1) Where the Central Government, for reasons to be recorded in writing, is satisfied that pending consideration of the question of cancelling the certificate on any of the grounds mentioned in sub-section (1) of section 14, it is necessary so to do, it may, by order in writing, suspend the certificate [for a period of one hundred and eighty days, or such further period, not exceeding one hundred and eighty days, as may be specified.]<sup>37</sup> in the order.
- (2) Every person whose certificate has been suspended shall —
  - (a) not receive any foreign contribution during the period of suspension of certificate:

*Provided* that the Central Government, on an application made by such person, if it considers appropriate, allow receipt of any foreign contribution by such person on such terms and conditions as it may specify;
  - (b) utilize, in the prescribed manner, the foreign contribution in his custody with the prior approval of the Central Government.

**14. Cancellation of certificate.**

- (1) The Central Government may, if it is satisfied after making such inquiry as it may deem fit, by an order, cancel the certificate if —
  - (a) the holder of the certificate has made a statement in, or in relation to, the application for the grant of registration or renewal thereof, which is incorrect or false; or
  - (b) the holder of the certificate has violated any of the terms and conditions of the certificate or renewal thereof; or
  - (c) in the opinion of the Central Government, it is necessary in the public interest to cancel the certificate; or
  - (d) the holder of certificate has violated any of the provisions of this Act or rules or order made thereunder; or
  - (e) if the holder of the certificate has not been engaged in any reasonable activity in its chosen field for the benefit of the society for two consecutive years or has become defunct.

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<sup>37</sup> Substituted for “for such period not exceeding one hundred and eighty days as may be specified”,  
ibid.

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- (2) No order of cancellation of certificate under this section shall be made unless the person concerned has been given a reasonable opportunity of being heard.
- (3) 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.

### **14A. Surrender of certificate.**

On a request being made in this behalf, the Central Government may permit any person to surrender the certificate granted under this Act, if, after making such inquiry as it deems fit, it is satisfied that such person has not contravened any of the provisions of this Act, and the management of foreign contribution and asset, if any, created out of such contribution has been vested in the authority as provided in sub-section (1) of section 15.]<sup>38</sup>

### **15. Management of foreign contribution of person whose certificate has been cancelled [or surrendered]<sup>39</sup>.**

- (1) The foreign contribution and assets created out of the foreign contribution in the custody of every person whose certificate has been cancelled under section 14 [or surrendered under section 14A]<sup>40</sup> shall vest in such authority as may be prescribed.<sup>41</sup>
- (2) The authority referred to in sub-section (1) may, if it considers necessary and in public interest, manage the activities of the person referred to in that sub-section for such period and in such manner, as the Central Government may direct, and such authority may utilize the foreign contribution or dispose of the assets created out of it in case adequate funds are not available for running such activity.

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<sup>38</sup> Inserted by The Foreign Contribution (Regulation) (Amendment) Act, 2020 w.e.f. 29-Sep-2020

<sup>39</sup> Inserted by The Foreign Contribution (Regulation) (Amendment) Act, 2020 w.e.f. 29-Sep-2020

<sup>40</sup> Inserted by The Foreign Contribution (Regulation) (Amendment) Act, 2020 w.e.f. 29-Sep-2020

<sup>41</sup> In exercise of the power conferred by sub-section (1) of section 15 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) (herein after referred to as the said Act), the Central Government hereby prescribes the Additional Chief Secretary or Principal Secretary (Home) of the concerned State Government or Union Territory (where the assets of the person whose registration has been cancelled under section 14 of the said Act are physically located), as competent authority for the purposes of section 15 of the said Act. (F. No. II/21022/23(43)/2018-FCRA-III; S.O. 5650(E), dated 5-Nov-2018)

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- (3) The authority referred to in sub-section (1) shall return the foreign contribution and the assets vested upon it under that sub-section to the person referred to in the said sub-section if such person is subsequently registered under this Act.

### **16. Renewal of certificate.**

- (1) Every person who has been granted a certificate under section 12 shall have such certificate renewed within six months before the expiry of the period of the certificate.

*[Provided that the Central Government may, before renewing the certificate, make such inquiry, as it deems fit, to satisfy itself that such person has fulfilled all conditions specified in sub-section (4) of section 12.]*<sup>42</sup>

- (2) The application for renewal of the certificate shall be made to the Central Government in such form and manner and accompanied by such fee as may be prescribed.

- (3) The Central Government shall renew the certificate, ordinarily within ninety days from the date of receipt of application for renewal of certificate subject to such terms and conditions as it may deem fit and grant a certificate of renewal for a period of five years:

*Provided that in case the Central Government does not renew the certificate within the said period of ninety days, it shall communicate the reasons therefor to the applicant:*

*Provided further that the Central Government may refuse to renew the certificate in case where a person has violated any of the provisions of this Act or rules made thereunder.*

## **Chapter IV: Accounts, Intimation, Audit and Disposal of Assets, etc.**

### **17. Foreign contribution through scheduled bank.**

- (1) Every person who has been granted certificate or prior permission under section 12 shall receive foreign contribution only in an account designated as "FCRA Account" by the bank, which shall be opened by him for the purpose of remittances of foreign contribution in such branch of the State Bank of India at New Delhi, as the Central Government may, by notification, specify in this behalf:

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<sup>42</sup> Inserted by The Foreign Contribution (Regulation) (Amendment) Act, 2020 w.e.f. 29-Sep-2020

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Provided that such person may also open another "FCRA Account" in any of the scheduled bank of his choice for the purpose of keeping or utilizing the foreign contribution which has been received from his "FCRA Account" in the specified branch of State Bank of India at New Delhi:

Provided further that such person may also open one or more accounts in one or more scheduled banks of his choice to which he may transfer for utilizing any foreign contribution received by him in his "FCRA account" in the specified branch of the State Bank of India at New Delhi or kept by him in another "FCRA Account" in a scheduled bank of his choice:

Provided also that no funds other than foreign contribution shall be received or deposited in any such account.

- (2) The specified branch of the State Bank of India at New Delhi or the branch of the scheduled bank where the person referred to in sub-section (1) has opened his foreign contribution account or the authorized person in foreign exchange, shall report to such authority as may be specified, —
- (a) the prescribed amount of foreign remittance;
  - (b) the source and manner in which the foreign remittance was received; and
  - (c) other particulars,
- in such form and manner as may be prescribed.]<sup>43</sup>

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<sup>43</sup> Substituted, *ibid.* Prior to its substitution, section 17 read as under:  
"17. *Foreign contribution through scheduled bank.*—(1) Every person who has been granted a certificate or given prior permission under section 12 shall receive foreign contribution in a single account only through such one of the branches of a bank as he may specify in his application for grant of certificate  
*Provided* that such person may open one or more accounts in one or more banks for utilising the foreign contribution received by him  
*Provided* further that no funds other than foreign contribution shall be received or deposited in such account or accounts.  
(2) Every bank or authorised person in foreign exchange shall report to such authority as may be specified—  
(a) prescribed amount of foreign remittance;  
(b) the source and manner in which the foreign remittance was received; and  
(c) other particulars,  
in such form and manner as may be prescribed."

**18. Intimation.**

- (1) Every person who has been granted a certificate or given prior approval under this Act shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government, and such other authority as may be specified by the Central Government, as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received, and the purposes for which, and the manner in which such foreign contribution was utilized by him.
- (2) Every person receiving foreign contribution shall submit a copy of a statement indicating therein the particulars of foreign contribution received duly certified by officer of the bank or authorized person in foreign exchange and furnish the same to the Central Government along with the intimation under sub-section (1).

**19. Maintenance of accounts.**

Every person who has been granted a certificate or given prior approval under this Act shall maintain, in such form and manner as may be prescribed, —

- (a) an account of any foreign contribution received by him; and
- (b) a record as to the manner in which such contribution has been utilized by him.

**20. Audit of accounts.**

Where any person who has been granted a certificate or given prior permission, fails to furnish any intimation under this Act within the time specified therefor or the intimation so furnished is not in accordance with law or if, after inspection of such intimation, the Central Government has any reasonable cause to believe that any provision of this Act has been, or is being, contravened, the Central Government may, by general or special order, authorize such Gazetted Officer, holding a Group A post under the Central Government or any other officer or authority or organization, as it may think fit, to audit any books of account kept or maintained by such person and thereupon every such officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of auditing the said books of account:

*Provided* that any information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of this Act.

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### ***21. Intimation by candidate for election.***

Every candidate for election, who had received any foreign contribution, at any time within one hundred and eighty days immediately preceding the date on which he is duly nominated as such candidate, shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government or prescribed authority or both as to the amount of foreign contribution received by him, the source from which, and the manner in which, such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilized by him.

### ***22. Disposal of assets created out of foreign contribution.***

Where any person who was permitted to accept foreign contribution under this Act, ceases to exist or has become defunct, all the assets of such person shall be disposed of in accordance with the provisions contained in any law for the time being in force under which the person was registered or incorporated, and in the absence of any such law, the Central Government may, having regard to the nature of assets created out of foreign contribution received under this Act, by notification, specify that all such assets shall be disposed of by such authority, as it may specify, in such manner and procedure as may be prescribed.

## **Chapter V: Inspection, Search and Seizure**

### ***23. Inspection of accounts or records.***

If the Central Government has, for any reason, to be recorded in writing, any ground to suspect that any provision of this Act has been or is being, contravened by—

- (a) any political party; or
- (b) any person; or
- (c) any organization; or
- (d) any association,

it may, by general or special order, authorize such Gazetted Officer, holding a Group A post under the Central Government or such other officer or authority or organization, as it may think fit (hereinafter referred to as the inspecting officer), to inspect any account or record maintained by such political party, person, organization or association, as the case may be, and thereupon every such inspecting officer shall have the right to enter in or

upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of inspecting the said account or record.

**24. Seizure of accounts or records.**

If, after inspection of an account or record referred to in section 23, the inspecting officer has any reasonable cause to believe that any provision of this Act or of any other law relating to foreign exchange has been, or is being, contravened, he may seize such account or record and produce the same before the court, authority or tribunal in which any proceeding is brought for such contravention:

*Provided* that the authorized officer shall return such account or record to the person from whom it was seized if no proceeding is brought within six months from the date of such seizure for the contravention disclosed by such account or record.

**25. Seizure of article or currency or security received in contravention of the Act.**

If any Gazetted Officer, authorized in this behalf by the Central Government by general or special order, has any reason to believe that any person has in his possession or control any article exceeding the value specified in sub-clause (i) of clause (h) of sub-section (1) of section 2 or currency or security whether Indian or foreign, in relation to which any provision of this Act has been or is being, contravened, he may seize such article or currency or security.

**26. Disposal of seized article or currency or security.**

- (1) The Central Government, may, having regard to the value of article or currency or security, their vulnerability to theft or any relevant consideration, by notification, specify such article or currency or security which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner, as the Central Government may, from time to time, determine after following the procedure hereinafter specified.
- (2) The article or currency or security seized shall be forwarded without unnecessary delay to such officer as may be specified.
- (3) Where any article or currency or security has been seized and forwarded to such officer, the officer referred to in sub-section (1), shall prepare an inventory of such article or currency or security containing such details relating to their description, value or such

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other identifying particulars as the officer referred to in that sub-section may consider relevant to the identity of the article or the currency or security and make an application to any Magistrate for the purposes of certifying the correctness of the inventory so prepared.

- (4) Where an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application.
- (5) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872) or the Code of Criminal Procedure, 1973 (2 of 1974), every court trying an offence under this Act, shall treat the inventory, as certified by the Magistrate, as primary evidence in respect of such offence.
- (6) Every officer acting under sub-section (3) shall forthwith report the seizure to the Court of Session or Assistant Sessions Judge having jurisdiction for adjudging the confiscation under section 29.

### **27. Seizure to be made in accordance with Act.**

The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply in so far as they are not inconsistent with the provisions of this Act to all seizures made under this Act.

## **Chapter VI: Adjudication**

### **28. Confiscation of article or currency or security obtained in contravention of the Act.**

Any article or currency or security which is seized under section 25 shall be liable to confiscation if such article or currency or security has been adjudged under section 29 to have been received or obtained in contravention of this Act.

### **29. Adjudication of confiscation.**

- (1) Any confiscation referred to in section 28 may be adjudged—
  - (a) without limit, by the Court of Session within the local limits of whose jurisdiction the seizure was made; and
  - (b) subject to such limits as may be prescribed, by such officer, not below the rank of an Assistant Sessions Judge, as the Central Government may, by notification in the Official Gazette, specify in this behalf.



- (2) When an adjudication under sub-section (1) is concluded by the Court of Session or Assistant Sessions Judge, as the case may be, the Sessions Judge or Assistant Sessions Judge may make such order as he thinks fit for the disposal by confiscation or delivery of seized article or currency or security, as the case may be, to any person claiming to be entitled to possession thereof or otherwise, or which has been used for the commission of any offence under this Act.

**30. Procedure for confiscation.**

No order of adjudication of confiscation shall be made unless a reasonable opportunity of making a representation against such confiscation has been given to the person from whom any article or currency or security has been seized.

**Chapter VII: Appeal and Revision**

**31. Appeal.**

- (1) Any person aggrieved by any order made under section 29 may prefer an appeal, —
- (a) where the order has been made by the Court of Session, to the High Court to which such Court is subordinate; or
  - (b) where the order has been made by any officer specified under clause (b) of sub-section (1) of section 29, to the Court of Session within the local limits of whose jurisdiction such order of adjudication of confiscation was made,

within one month from the date of communication to such person of the order:

*Provided* that the appellate court may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of one month, allow such appeal to be preferred within a further period of one month, but not thereafter.

- (2) Any organization referred to in clause (f) of sub-section (1) of section 3, or any person or association referred to in section 6 or section 9, aggrieved by an order made in pursuance of section 5 or by an order of the Central Government refusing to give permission under this Act, or by any order made by the Central Government under sub-section (2) or sub-section (4) of section 12, or sub-section (1) of section 14, as the case may be, may, within sixty days from the date of such

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order, prefer an appeal against such order to the High Court within the local limits of whose jurisdiction the appellant ordinarily resides or carries on business or personally works for gain, or, where the appellant is an organization or association, the principal office of such organization or association is located.

- (3) Every appeal preferred under this section shall be deemed to be an appeal from an original decree and the provisions of Order XLI of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) , shall, as far as may be, apply thereto as they apply to an appeal from an original decree.

### **32. Revision of orders by Central Government.**

- (1) The Central Government may, either of its own motion or on an application for revision by the person registered under this Act, call for and examine the record of any proceeding under this Act in which any such order has been passed by it and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon as it thinks fit.
- (2) The Central Government shall not of its own motion revise any order under this section if the order has been made more than one year previously.
- (3) In the case of an application for revision under this section by the person referred to in sub-section (1), the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

*Provided* that the Central Government may, if it is satisfied that such person was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

- (4) The Central Government shall not revise any order where an appeal against the order lies but has not been made and the time within which such appeal may be made has not expired or such person has not waived his right of appeal, or an appeal has been filed under this Act.
- (5) Every application by such person for revision under this section shall be accompanied by such fee, as may be prescribed.

*Explanation.* — An order by the Central Government declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to such person.

### **Chapter VIII: Offences and Penalties**

#### **33. Making of false statement, declaration or delivering false accounts.**

Any person, subject to this Act, who knowingly, —

- (a) gives false intimation under<sup>44</sup> sub-section (c) of section 9 or section 18; or
- (b) seeks prior permission or registration by means of fraud, false representation or concealment of material fact,

shall, on conviction by a court, be liable to imprisonment for a term which may extend to six months or with fine or with both.

#### **34. Penalty for article or currency or security obtained in contravention of section 10.**

If any person, on whom any prohibitory order has been served under section 10, pays, delivers, transfers or otherwise deals with, in any manner whatsoever, any article or currency or security, whether Indian or foreign, in contravention of such prohibitory order, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the court trying such contravention may also impose on the person convicted an additional fine equivalent to the market value of the article or the amount of the currency or security in respect of which the prohibitory order has been contravened by him or such part thereof as the court may deem fit.

#### **35. Punishment for contravention of any provision of the Act.**

Whoever accepts, or assists any person, political party or organization in accepting, any foreign contribution or any currency or security from a foreign source, in contravention of any provision of this Act or any rule or order made thereunder, shall be punished with imprisonment for a term which may extend to five years, or with fine, or with both.

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<sup>44</sup> As corrected by corrigendum to Act No. 45 of 2010.

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### ***36. Power to impose additional fine where article or currency or security is not available for confiscation.***

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the court trying a person, who, in relation to any article or currency or security, whether Indian or foreign, does or omits to do any act which act or omission would render such article or currency or security liable to confiscation under this Act, may, in the event of the conviction of such person for the act or omission aforesaid, impose on such person a fine not exceeding five times the value of the article or currency or security or one thousand rupees, whichever is more, if such article or currency or security is not available for confiscation, and the fine so imposed shall be in addition to any other fine which may be imposed on such person under this Act.

### ***37. Penalty for offences where no separate punishment has been provided.***

Whoever fails to comply with any provision of this Act for which no separate penalty has been provided in this Act shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

### ***38. Prohibition of acceptance of foreign contribution.***

Notwithstanding anything contained in this Act, whoever, having been convicted of any offence under section 35 or section 37, in so far as such offence relates to the acceptance or utilization of foreign contribution, is again convicted of such offence shall not accept any foreign contribution for a period of five years from the date of the subsequent conviction.

### ***39. Offences by companies.***

- (1) Where an offence under this Act or any rule or order made thereunder has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

*Provided* that nothing contained in this sub-section shall render such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

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- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or any rule or order made thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. — For the purposes of this section, —

- (a) “company” means anybody corporate and includes a firm, society, trade union or other association of individuals; and
- (b) “director”, in relation to a firm, society, trade union or other association of individuals, means a partner in the firm or a member of the governing body of such society, trade union or other association of individuals.

### **40. Bar on prosecution of offences under the Act.**

No court shall take cognizance of any offence under this Act, except with the previous sanction of the Central Government or any officer authorized by that Government in this behalf.<sup>45</sup>

### **41. Composition of certain offences.**

- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act (whether committed by an individual or association or any officer or employee thereof), not being an offence punishable with imprisonment only, may, before the institution of any prosecution, be compounded by such officers or authorities and for such sums as the Central Government may, by notification in the Official Gazette, specify in this behalf.
- (2) Nothing in sub-section (1) shall apply to an offence committed by an individual or association or its officer or other employee within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

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<sup>45</sup> The Union Home Secretary for offences investigated by CBI; State's Home Secretary for offences investigated by Crime Branch/State Government agencies. S.O. 2445(E), dated 27-Oct-2011

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*Explanation.* — For the purposes of this section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

- (3) Every officer or authority referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Central Government.
- (4) Every application for the compounding of an offence shall be made to the officer or authority referred to in sub-section (1) in such form and manner along with such fee as may be prescribed.
- (5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.
- (6) Every officer or authority referred to in sub-section (1), while dealing with a proposal for the compounding of an offence for a default in compliance with any provision of this Act which requires by an individual or association or its officer or other employee to obtain permission or file or register with, or deliver or send to, the Central Government or any prescribed authority any return, account or other document, may, direct, by order, if he or it thinks fit to do so, any individual or association or its officer or other employee to file or register with, such return, account or other document within such time as may be specified in the order.

### **Chapter IX: Miscellaneous**

#### **42. Power to call for information or document.**

Any inspecting officer referred to in section 23 who is authorized in this behalf by the Central Government may, during the course of any inspection of any account or record maintained by any political party, person, organization or association in connection with the contravention of any provision \_\_\_\_\_ of \_\_\_\_\_ this Act, —

- (a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or rule or order made thereunder;
- (b) require any person to produce or deliver any document or thing useful or relevant to such inspection;

- (c) examine any person acquainted with the facts and circumstances of the case related to the inspection.

**43. Investigation into cases under the Act.**

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act may also be investigated into by such authority as the Central Government may specify in this behalf<sup>46</sup> and the authority so specified shall have all the powers which an officer-in-charge of a police station has, while making an investigation into a cognizable offence.

**44. Returns by prescribed authority to Central Government.**

The prescribed authority shall furnish to the Central Government at such time and in such form and manner such returns and statements as may be prescribed.

**45. Protection of action taken in good faith.**

No suit or other legal proceedings shall lie against the Central Government or the authority referred to in section 44 or any of its officers in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or, any rule or order made thereunder.

**46. Power of Central Government to give directions.**

The Central Government may give such directions as it may deem necessary to any other authority or any person or class of persons regarding the carrying into execution of the provisions of this Act.

**47. Delegation of powers.**

The Central Government may, by notification, direct that any of its powers or functions under this Act, except power to make<sup>47</sup> rules under section 48, shall, in relation to such matters and subject to such conditions, if any, may be specified in the notification, be exercised or discharged also by such authority as may be specified.

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<sup>46</sup> State level agencies for offences arising in States and the amount involved is less than Rs. one crore; CBI for cases given to them by Central Government or where the offence involves an amount of Rs. one crore or more. S.O. 2445(E), dated 27-Oct-2011

<sup>47</sup> As corrected by corrigendum to Act No. 45 of 2010.

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### **48. Power to make rules.**

- (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —
  - (a) the value of the article which may be specified under sub-clause (i) of clause (h) of sub-section (1) of section 2;
  - (b) the authority which may be specified under clause (p) of sub-section (1) of section 2;
  - (c) acceptance or retention of gift or presentation under clause (d) of section 4;
  - (d) guidelines specifying the ground or grounds on which an organization may be specified as an organization of political nature under sub-section (1) of section 5;
  - (e) the activities or business which shall be construed as speculative business under the proviso to clause (a) of sub-section (1) of section 8;
  - (f) the elements and the manner in which the administrative expenses shall be calculated under sub-section (2) of section 8;
  - (g) the time within which and the manner in which any person or class of persons or an association may be required to furnish intimation regarding the amount of foreign contribution received under clause (c) of section 9;
  - (h) the time within which and the manner in which any person or class of persons may be required to furnish intimation regarding foreign hospitality under clause (e) of section 9;
  - (i) the manner in which the copy of the order of the Central Government shall be served upon any person under section 10;
  - (j) the form and manner in which the application for grant of certificate of registration or giving of prior permission under sub-section (1) of section 12;



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- (k) the fee to be accompanied by the application under sub-section (1) of section 12;
- (l) the terms and conditions for granting a certificate or giving prior permission under clause (g) of sub-section (4) of section 12;
- (m) the manner of utilizing the foreign contribution under clause (b) of sub-section (2) of section 13;
- (n) the authority with whom the foreign contribution to be vested under sub-section (1) of section 15;
- (o) the period within which and the manner in which the foreign contribution shall be managed under sub-section (2) of section 15;
- (p) the form and manner in which the application for a renewal of certificate of registration shall be made under sub-section (2) of section 16;
- (q) the fee to be accompanied by the application for renewal of certificate under sub-section (2) of section 16;
- (r) the prescribed amount of foreign remittance, the form and manner in which the foreign remittance received by every bank or authorized person in foreign exchange shall be reported under sub-section (2) of section
- (s) the time within which and the manner in which the person who has been granted certificate of registration or given prior permission under this Act shall give intimation under section 18;
- (t) the form and manner in which account of any foreign contribution and the manner in which such contribution has been utilized shall be maintained under section 19;
- (u) the time within which and the manner in which a candidate for election shall give intimation under section 21;
- (v) the manner and procedure to be followed in disposing of the assets under section 22;
- (w) the limits subject to which any confiscation may be adjudged under clause (b) of sub-section (1) of section 29;
- (x) the fee to be accompanied along with every application for revision under sub-section (5) of section 32;

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- (y) the form and manner for making of an application for compounding of an offence and the fee therefor under sub-section (4) of section 41;
- (z) the form and manner in which and the time within which returns and statements to be furnished by the prescribed authority under section 44;
- (za) any other matter which is required to be, or may be, prescribed.

### **49. Orders and rules to be laid before Parliament.**

Every order made under section 5 and every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or rule or both Houses agree that the order or rule should not be made, the order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order or rule.

### **50. Power to exempt in certain cases.**

If the Central Government is of opinion that it is necessary or expedient in the interests of the general public so to do, it may, by order and subject to such conditions as may be specified in the order, exempt any person or association or organization (not being a political party), or any individual (not being a candidate for election) from the operation of all or any of the provisions of this Act and may, as often as may be necessary, revoke or modify such order.

### **51. Act not to apply to certain Government transactions.**

Nothing contained in this Act shall apply to any transaction between the Government of India and the Government of any foreign country or territory.

### **52. Application of other laws not barred.**

The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

**53. Power to remove difficulties.**

- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

*Provided* that no order shall be made under this section after the expiry of two years from the commencement of this Act.

- (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

**54. Repeal and saving.**

- (1) The Foreign Contribution (Regulation) Act, 1976 (49 of 1976) (hereafter referred to as the repealed Act) is hereby repealed.

- (2) Notwithstanding such repeal, —

- (a) anything done or any action taken or purported to have been done or taken under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;
- (b) Any organization of a political nature, not being a political party, to whom the prior permission was granted under section 5 of the repealed Act, shall continue to be the organization of a political nature, not being a political party, under clause (f) of subsection (1) of section 3 of this Act, till such permission is withdrawn by the Central Government;
- (c) permission to accept foreign hospitality granted under section 9 of the repealed Act shall be deemed to be the permission granted under section 6 of this Act until such permission is withdrawn by the Central Government;
- (d) any association prohibited from accepting any foreign contribution under clause (a) of section 10 of the repealed Act, in so far as it is not inconsistent with the provisions of this Act, shall be deemed to be an association prohibited from accepting any foreign contribution under section 9 of this Act;
- (e) permission obtained under clause (b) of section 10 of the repealed Act shall, in so far as it is not inconsistent with the

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- provisions of this Act, be deemed to be the permission until such permission is withdrawn by the Central Government;
- (f) any order issued under section 12 of the repealed Act shall be deemed to be an order issued under section 10 of this Act;
  - (g) any order issued under section 31 of the repealed Act exempting any association or any individual shall be deemed to be an order under section 50 of this Act till such order is varied or revoked.
- (3) Save as provided in sub-section (2), mention of particular matters in that subsection shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeal.

## **2. Foreign Contribution (Regulation) Rules, 2011**

[As amended till 21-January-2022]

G.S.R. 349(E), dated 29-4-2011: In exercise of the powers conferred by section 48 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010), the Central Government hereby makes the following rules, namely: -

### **1. Short title and commencement**

- (1) These rules may be called the Foreign Contribution (Regulation) Rules, 2011.
- (2) They shall come into force on the date on which the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) shall come into force.

### **2. Definitions**

- (1) In these rules unless the context otherwise requires, -
  - (a) "Act" means the Foreign Contribution (Regulation) Act 2010;
  - [(aa) "bank account" means a bank account in a core banking compliant bank, which is integrated with the Public Financial Management System (PFMS);]<sup>48</sup>

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<sup>48</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2019, w.e.f. 7-3-2019.

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- (b) “chartered accountant” shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949;
  - [(ba) “electronic form” shall have the same meaning assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);]<sup>49</sup>
  - (c) “form” means a form appended to these rules;
  - (d) “section” means section of the Act;
  - (e) “year” means the financial year commencing from the 1st day of April and ending on the 31st day of March of the next calendar year;
  - [(f) “FCRA Account” means the FCRA Account referred to in section 17 of the Act.]<sup>50</sup>
- (2) Words and expressions used and not defined herein but defined in the Act shall have the meaning assigned to them in the Act.

### **3. Guidelines for declaration of an organization to be of a political nature, not being a political party.**

- [(1)]<sup>51</sup> The Central Government may specify any organization as organization of political nature on one or more of the following grounds:-
- (i) organization having avowed political objectives in its Memorandum of Association or bylaws;
  - (ii) any Trade Union whose objectives include activities for promoting political goals;
  - (iii) any voluntary action group with objectives of a political nature or which participates in political activities;
  - (iv) front or mass organizations like Students Unions, Workers’ Unions, Youth Forums and Women’s wing of a political party;

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<sup>49</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020

<sup>50</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020

<sup>51</sup> Renumbered by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020

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- (v) organization of farmers, workers, students, youth based on caste, community, religion, language or otherwise, which is not directly aligned to any political party, but whose objectives, as stated in the Memorandum of Association, or activities gathered through other material evidence, include steps towards advancement of political interests of such groups;
  - (vi) any organization, by whatever name called, which habitually engages itself in or employs common methods of political action like 'bandh' or 'hartal', 'rasta roko', 'rail roko' or 'jail bharo' in support of public causes.
- [(2) The organizations specified under clauses (v) and (vi) of sub-rule (1) shall be considered to be of political nature, if they participate in active politics or party politics, as the case may be.]<sup>52</sup>

### **4. Speculative activities.**

- (1) The following activities shall be treated as speculative activities:-
- (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.
- (2) A debt-based secure investment shall not be treated as speculative investment.
- (3) Every association shall maintain a separate register of investments.
- (4) Every register of investments maintained under sub-rule (3) shall be submitted for audit.

### **5. Administrative expenses.**

The following shall constitute administrative expenses:-

- (i) salaries, wages, travel expenses or any remuneration realized by the

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<sup>52</sup> Inserted by Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020

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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.

### **6. Intimation of receiving foreign contribution from relatives.**

Any person receiving foreign contribution in excess of one lakh rupees or equivalent thereto in a financial year from any of his relatives shall inform the Central Government [regarding the details of the foreign contribution received by him in electronic form]<sup>53</sup> in Form FC-1 within thirty days from the date of receipt of such contribution.

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<sup>53</sup> Substituted for "by uploading details electronically online" by the Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020. Earlier, the quoted words were inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2019, w.e.f. 7-3-2019.

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### **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 [one lakh rupees]<sup>54</sup> shall not be a foreign contribution within the meaning of sub-clause (i) of clause (h) of sub-section (1) of section 2.]<sup>55</sup>

### **7. Receiving foreign hospitality by specified categories of persons.**

- (1) Any person belonging to any of the categories specified in section 6 who wishes to avail of foreign hospitality shall apply [to the Central Government in electronic form]<sup>56</sup> in Form FC-2 for prior permission to accept such foreign hospitality.
- (2) Every application for acceptance of foreign hospitality shall be accompanied by an invitation letter from the host or the host country, as the case may be, and administrative clearance of the Ministry or department concerned in case of visits sponsored by a Ministry or Department of the Government.
- (3) The application for grant of permission to accept foreign hospitality must reach the appropriate authority ordinarily two weeks before the proposed date of onward journey.
- (4) 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]<sup>57</sup> 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 utilized.

Provided that no such intimation is required if the value of such

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<sup>54</sup> Substituted for "rupees twenty-five thousand" by the Foreign Contribution (Regulation) (Second Amendment) Rules, 2019, w.e.f. 16-9-2019.

<sup>55</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2012, w.e.f. 12-4-2012.

<sup>56</sup> Substituted for "electronically online to the Central Government" by the Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020. Earlier, the quoted words were amended by the Foreign Contribution (Regulation) Amendment Rules, 2019, w.e.f. 7-3-2019.

<sup>57</sup> Substituted, for "Sixty days" by the Foreign Contribution (Regulation) (Second Amendment) Rules, 2019 w.e.f. 16-09-2019.



hospitality in emergent medical aid is up to one lakh rupees or equivalent thereto.

**8. Action in respect of article, currency or security received in contravention of the Act.**

- (1) The Central Government may issue a prohibitory order for contravention of the Act in respect of any article, currency or securities.
- (2) The prohibitory order issued under sub-rule (1) shall be served on the person concerned in the following manner-
  - (a) by delivering or tendering it to that person or to his duly authorized agent; or
  - (b) by sending it to him by 'registered post with acknowledgement due' or 'speed post' to the address of his last known place of residence or the place where he carries on, or is known to have last carried on, business or the place where he personally works for gain or is known to have last worked for gain and, in case the person is an organization or an association, to the last known address of the office of such organization or association; or
  - (c) if it cannot be served in any of the manner aforesaid, by affixing it on the outer door or some other conspicuous part of the premises in which that person resides or carries on, or is known to have last carried on, business or personally works for gain, or is known to have last worked personally for gain and, in case the person is an organization or an association, on the outer door or some other conspicuous part of the premises in which the office of that organization or association is located, or is known to have been last located, and the written report whereof should be witnessed by at least two persons.

**9. Application for obtaining 'registration 'or 'prior permission 'to receive foreign contribution.**

- (1)[(a) An application for certificate of registration by a person under sub-section (1) of section 11, for acceptance of foreign contribution shall

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be made [in electronic form]<sup>58</sup> in Form FC-3A [with an affidavit executed by each office bearer and key functionary and member in Proforma 'AA' appended to these rules]<sup>59</sup> and an application for obtaining prior permission by a person under sub-section (2) of section 11, for acceptance of foreign contribution, shall be made [in electronic form]<sup>60</sup> in Form FC-3B [with an affidavit executed by each office bearer and key functionary and member in Proforma 'AA' appended to these rules]<sup>61</sup>;<sup>62</sup>

- [(b) The applicant shall upload the signed or digitally signed application along with scanned documents as specified by the Central Government from time to time]<sup>63</sup>;
- [(d) Any person making an application for registration under clause (a) of sub-rule (1) shall have an FCRA Account.]<sup>64</sup>
- (e) The person may open one or more accounts in one or more banks for

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<sup>58</sup> Substituted for "electronically online" by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020.

<sup>59</sup> Inserted by the Foreign Contribution (Regulation) (Second Amendment) Rules, 2019, w.e.f. 16-9-2019.

<sup>60</sup> Substituted for "electronically online" by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020.

<sup>61</sup> Inserted by the Foreign Contribution (Regulation) (Second Amendment) Rules, 2019, w.e.f. 16-9-2019.

<sup>62</sup> Substituted by the Foreign Contribution (Regulation) Amendment Rules, 2019, w.e.f. 7-3-2019. <sup>62</sup>Prior to its substitution, clause (a), as substituted by the Foreign Contribution (Regulation) Amendment Rules, 2015, w.e.f. 14-12-2015, read as under:

"(a) An application for registration, or an application for obtaining prior permission by a person under section 11, for acceptance of foreign contribution, shall be made electronically online in Form FC-3;"

<sup>63</sup> Clause (b) Substituted for clause (b) and (c) by the Foreign Contribution (Regulation) Amendment Rules, 2015, w.e.f. 14-12-2015. Prior to their substitution, clause (b) and (c) read as under:

"(b) The hard copy of the on-line application referred in clause (a) shall reach the Central Government within thirty days of the submission of the on-line application, failing which the request of the person shall be deemed to have ceased.

(c) Any person whose request has ceased under clause (b) of sub-rule (1) may prefer a fresh on-line application with the Central Government only after six months from the date of cessation of the previous application."

<sup>64</sup> Substituted by Foreign Contribution (Regulation) Amendment Rules, 2020, w.e.f. 10-11-2020. Prior to its substitution, clause (d) read as under:

"(d) A person seeking registration shall be required to open an exclusive bank account to receive the foreign contribution;"

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the purpose of utilizing the foreign contribution after it has been received and, in all such cases, intimation [in electronic form]<sup>65</sup> in form [FC-6D]<sup>66</sup> <sup>67</sup> shall be furnished to the Secretary, Ministry of Home Affairs, New Delhi within fifteen days of the opening of any account.

[(f) A person seeking registration under clause (b) of sub-section (4) of section 12 of the Act shall meet the following conditions, namely:—

(i) it shall be in existence for three years and have spent a minimum amount of rupees fifteen lakh on its core activities for the benefit of society during the last three financial years:

Provided that the Central Government, in exceptional cases or in cases where a person is controlled by the Central Government or a State Government may waive the conditions;

(ii) if the person wants inclusion of its existing capital investment in assets like land, building, other permanent structures, vehicles, equipment in the computation of its spending during last three years, then the chief functionary shall give an undertaking that the assets shall be vested henceforth with the person till the validity of the certificate and they shall be utilized only for the activities covered under the Act and the rules made thereunder and shall not be diverted for any other purpose till the validity of its certificate of registration remains valid.]<sup>68</sup>

[(1A) Every application seeking registration under clause (a) of sub-rule (1), made before the commencement of these rules but not disposed of, shall be considered after furnishing the details of FCRA Account.]<sup>69</sup>

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<sup>65</sup> Substituted for "electronically online" by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020.

<sup>66</sup> Substituted for "FC-6" by the Foreign Contribution (Regulation) (Amendment) Rules, 2019, w.e.f. 7-3-2019.

<sup>67</sup> Substituted for "on Plain Paper" by the Foreign Contribution (Regulation) (Amendment) Rules, 2015, w.e.f. 14-12-2015.

<sup>68</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020

<sup>69</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020

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- [(2)(a) [\*\*\*]
- (b) [\*\*\*]
- (c) [\*\*\*]]<sup>70</sup>
- [(d) Any person making an application for obtaining prior permission under clause (a) of sub-rule (1) shall have an FCRA Account.]<sup>71</sup>
- (e) A person seeking prior permission under this rule may open one or more accounts in one or more banks for the purpose of utilizing the foreign contribution after it has been received and in all such cases intimation [[in electronic form]<sup>72</sup> in Form [FC-6D]<sup>73</sup>]<sup>74</sup> shall be furnished to the Secretary, Ministry of Home Affairs, New Delhi within fifteen days of the opening of any account.
- [(f) A person seeking prior permission for receipt of specific amount from a specific donor for carrying out specific activities or projects mentioned in clause (c) of sub-section (4) of section 12 of the Act shall meet the following criteria, namely:–

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<sup>70</sup> Omitted by the Foreign Contribution (Regulation) (Amendment) Rules, 2015, w.e.f. 14-12-2015. Prior to their omission, clauses (a), (b) and (c) read as under:

"(a) An application under sub-section (2) of section 11 for obtaining prior permission of the Central Government to receive foreign contribution shall be made electronically online in Form FC-4 and shall be followed by forwarding the hard copy of the on-line application duly signed by the Chief Functionary of the Association together with the required documents.

(b) The hard copy of the on-line application shall reach the Central Government within thirty days of filing of the on-line application, failing which the request of the person shall be deemed to have ceased.

(c) Any person whose request has ceased under clause (b) of sub-rule (2) may prefer a fresh on-line application with the Central Government only after six months from the date of cessation of the previous application."

<sup>71</sup> Substituted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020. Prior to its substitution, clause (d) read as under:

"(d) A person seeking prior permission under this rule shall be required to open an exclusive bank account for the receipt of foreign contribution."

<sup>72</sup> Substituted for "electronically online" by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020.

<sup>73</sup> Substituted for "FC-6" by the Foreign Contribution (Regulation) (Amendment) Rules, 2019 w.e.f. 7-3-2019.

<sup>74</sup> Substituted for "on plain paper" by Foreign Contribution (Regulation) Amendment Rules, 2015 w.e.f. 14-12-2015.

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- (i) 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;
  - (ii) for the Indian recipient persons and foreign donor organizations having common members, prior permission shall be granted to the person subject to it satisfying the following conditions, namely:–
    - (A) the chief functionary of the recipient person shall not be a part of the donor organization;
    - (B) seventy-five per cent. of the office-bearers or members of the governing body of the person shall not be members or employees of the foreign donor organization;
    - (C) in case of foreign donor organization being a single individual that individual shall not be the chief functionary or office bearer of the recipient person; and
    - (D) in case of a single foreign donor, seventy-five per cent. of the office bearers or members of the governing body of the recipient person shall not be the family members or close relatives of the donor.]<sup>75</sup>
- [(2A) Every application for obtaining prior permission under clause (a) of sub-rule (1) made before the commencement of these rules but not disposed of, shall be considered after furnishing the details of FCRA Account.]<sup>76</sup>
- (3) No person shall prefer a second application for registration or prior permission within a period of six months after submitting an application either for the grant of prior permission for the same project or for registration.
- (4) [(a) An application made for the grant of prior permission shall be accompanied by a fee of rupees five thousand only, which shall be paid through the payment gateway specified by the Central Government.]<sup>77</sup>

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<sup>75</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020.

<sup>76</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020.

<sup>77</sup> Substituted, by the Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-

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- [(b) An application made for the grant of registration shall be accompanied by a fee of rupees ten thousand only, which shall be paid through the payment gateway specified by the Central Government.]<sup>78</sup>
- (c) The fee may be revised by the Central Government from time to time.
- (d)[\*\*\*]<sup>79</sup>
- (5) Notwithstanding anything contained in sub-rules (1) to (4), every application made for registration or prior permission under the Foreign Contribution (Regulation) Act, 1976 (49 of 1976) but not disposed of before the date of commencement of these rules shall be deemed to be an application for registration or prior permission, as the case may be, under these rules, subject to the condition that the applicant furnishes the prescribed fees for such registration or prior permission, as the case may be.

### 9A. Permission for receipt of foreign contribution in application for obtaining prior permission

If the value of foreign contribution on the date of final disposal of an application for obtaining prior permission under clause (a) of sub-rule (1) of rule 9 is over rupees one crore, the Central Government may permit receipt of foreign contribution in such instalments, as it may deem fit:

*Provided* that the second and subsequent instalment shall be released after submission of proof of utilization of seventy-five per cent. of the foreign

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2020. Prior to its substitution, clause (a), as amendment by the Foreign Contribution (Regulation) (Amendment) Rules, 2019 w.e.f. 7-3-2019, read as under:

“(a) An application made for the grant of prior permission shall be accompanied by a fee of Rs.3000/- (Three Thousand rupees only).”

<sup>78</sup> Substituted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020. Prior to its substitution, clause (b), as amended by the Foreign Contribution(Regulation) Amendment Rules, 2019, w.e.f. 7-3-2019, read as under:

“(b) An application made for the grant of the registration shall be accompanied by a fee of Rs. 5000 (Five Thousand rupees only).”

<sup>79</sup> Omitted, by Foreign Contribution (Regulation) (Amendment) Rules 2020, w.e.f. 10-Nov-2020. Prior to its omission, clause (d), as amended by the Foreign Contribution(Regulation) (Amendment) Rules, 2015 w.e.f. 14-12-2015, read as under:

‘(d) The fee, as applicable, shall be remitted by demand draft or banker’s cheque in favour of the “pay and Accounts Officer, Ministry of Home Affairs”, payable at New Delhi or through online electronic payment gateway as specified by the Central Government.’

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contribution received in the previous instalment and after field inquiry of the utilization of foreign contribution.]<sup>80</sup>

### **10. Validity of certificate.**

[(1)]<sup>81</sup> Every certificate of registration granted to a person under the Act shall be valid for a period of five years from the date of its issue.

[(2) The validity of certificate surrendered under section 14A of the Act shall be deemed to have expired on the date of acceptance of the request by the Central Government.]<sup>82</sup>

### **11. Maintenance of accounts.**

Every person who has been granted registration or prior permission under section 12 shall maintain a separate set of accounts and records, exclusively, for the foreign contribution received and utilized.

### **12. Renewal of registration certificate. -**

(1) Every certificate of registration issued to a person shall be liable to be renewed after the expiry of five years from the date of its issue on proper application.

[(2) An application for renewal of the certificate of registration shall be made to the Central Government in electronic form in Form FC-3C accompanied with an affidavit executed by each office bearer, key functionary and member in Proforma 'AA' appended to these rules within six months [before]<sup>83</sup> the date of expiry of the certificate of registration.]<sup>84</sup>

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<sup>80</sup> Inserted, by the Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020.

<sup>81</sup> Renumbered by Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020.

<sup>82</sup> Inserted, by the Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020.

<sup>83</sup> The word 'from' corrected to 'before' through corrigendum vide GSR 17(E) dated 11-Jan-2021

<sup>84</sup> Substituted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020. Prior to its substitution, sub-rule (2), as amended by the Foreign Contribution (Regulation) (Amendment) Rules, 2015, w.e.f. 14-12-2015, Foreign Contribution (Regulation) (Amendment) Rules, 2019, w.e.f. 7-3-2019 and Foreign Contribution (Regulation) (Second Amendment) Rules, 2019, w.e.f. 16-9-2019, read as under:

"(2) Every person shall apply to the Central Government electronically online in Form FC-3C with an affidavit executed by each office bearer and key functionary and member in Proforma 'AA' appended to these rules, six months before the date of expiry of the certificate of registration, for its renewal."

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- [(2A) Every person seeking renewal of the certificate of registration under section 16 of the Act shall open an FCRA Account and mention details of the account in his application for renewal of registration.
- (2B) Every application for renewal of the certificate of registration made under sub-rule (2) before commencement of these rules, but not disposed of, shall be considered after furnishing the details of FCRA Account.]<sup>85</sup>
- (3) [\*\*\*]<sup>86</sup>
- [(4) An application made for renewal of the certificate of registration shall be accompanied by a fee of rupees five thousand only, which shall be paid through payment gateway specified by the Central Government.]<sup>87</sup>
- [(5) No person whose certificate of registration has ceased to exist shall either receive or utilize the foreign contribution until the certificate is renewed.]<sup>88</sup>
- [(6) If no application for renewal of registration is received or the application is not accompanied by requisite fee before the expiry of the validity of the certificate of registration, the validity of the certificate of registration shall be deemed to have ceased from the date of completion of the period of five years from the date of the grant of certificate of registration.

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<sup>85</sup> Inserted, by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020.

<sup>86</sup> Omitted by the Foreign Contribution (Regulation) Amendment Rules, 2015, w.e.f. 14-12-2015. Prior to its omission, sub-rule (3) read as under:

“(3) A person implementing an ongoing multi-year project shall apply for renewal twelve months before the date of expiry of the certificate of registration.”

<sup>87</sup> Substituted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020. Prior to its substitution, sub-rule (4), as amended by the Foreign Contribution (Regulation) (Amendment) Rules, 2019, w.e.f. 7-3-2019, read as under:

“(4) An application made for renewal of the certificate of registration shall be accompanied by a fee of Rs.1500/- (One Thousand Five Hundred rupees only).”

<sup>88</sup> Substituted, by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020. Prior to its substitution, sub-rules (5), as amended by the Foreign Contribution (Regulation) (Amendment) Rules, 2015, w.e.f. 14-12-2015, read as under:

“(5) The fee for renewal of the certificate of registration shall be remitted by demand draft or banker's cheque in favour of the “Pay and Accounts Officer, Ministry of Home Affairs”, payable at New Delhi or through online electronic payment gateway as specified by the Central Government.”



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**Note 1:** A certificate of registration granted on the 1st January, 2012 shall be valid till the 31st December, 2016 and a request for renewal of certificate of registration shall be submitted in electronic form accompanied by requisite fee after the 30th June, 2016 and within the 31st December, 2016.

**Note 2:** If no application is received or is not accompanied by renewal fee, the validity of the certificate of registration issued on the 1st January 2012 shall be deemed to have ceased after the 31st December, 2016 and the applicant shall neither receive nor utilize the foreign contribution until the certificate of registration is renewed.]<sup>89</sup>

- [(6A) The amount of foreign contribution lying unutilized in the FCRA Account and utilization account of a person whose certificate of registration is deemed to have ceased under sub-rule (6) and assets, if any, created out of the foreign contribution, shall vest with the prescribed authority under the Act until the certificate is renewed or fresh registration is granted by the Central Government.]<sup>90</sup>
- (7) If the validity of the certificate of registration of a person has ceased in accordance with the provisions of these rules, a fresh request for the grant of a certificate of registration may be made by the person to the Central Government as per the provisions of rule 9.
- (8) In case a person provides sufficient grounds, in writing, explaining the reasons for not submitting the certificate of registration for renewal within the stipulated time, his application may be accepted for consideration along with the requisite fee [and with late fee of

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<sup>89</sup> Substituted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020. Prior to its substitution, sub-rule (6) read as under:

“(6) In case no application for renewal of registration is received or such application is not accompanied by the requisite fee, the validity of the certificate of registration of such person shall be deemed to have ceased from the date of completion of the period of five years from the date of the grant of registration.

*Illustration.* - A certificate of registration granted on the 1st January, 2012 shall be valid till the 31st December, 2016. A request for renewal of the registration certificate shall reach the Central Government, accompanied by the requisite fee, by the 30th June, 2016. If no application is received or is not accompanied by the renewal fee, the validity of the registration certificate issued on the 1st January 2012 shall be deemed to have lapsed with effect from the close of the day on 31st December, 2016.”

<sup>90</sup> Inserted, by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020.

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Rs.5000/- (Five Thousand rupees only)]<sup>91</sup>, but not later than [one year]<sup>92</sup> after the expiry of the original certificate of registration.

### **13. Declaration of receipt of foreign contribution**

- (a) A person who has been granted a certificate of registration or prior permission shall place the audited statement of accounts on receipts and utilization of the foreign contribution, including income and expenditure statement, receipt and payment account and balance sheet for every financial year beginning on the first day of April within nine months of the closure of the financial year on its official website or on the website as specified by the Central Government.
- (b) A person receiving foreign contribution in a quarter of the financial year shall place details of foreign contribution received on its official website or on the website as specified by the Central Government within fifteen days following the last day of the quarter in which it has been received clearly indicating the details of donors, amount received and date of receipt.]<sup>93</sup>

### **14. Extent of amount that can be utilized in case of suspension of the certificate of registration.**

The unspent amount that can be utilized in case of suspension of a certificate of registration may be as under: -

- (a) In case the certificate of registration is suspended under sub-section (1) of section 13 of the Act, up to twenty-five per cent 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.

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<sup>91</sup> Inserted, by the Foreign Contribution (Regulation) (Amendment) Rules, 2019. w.e.f. 7-Mar-2019.

<sup>92</sup> Substituted for "four months", by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020.

<sup>93</sup> Substituted by the Foreign Contribution (Regulation) (Amendment) Rules, 2015, w.e.f. 14-12-2015. Prior to its substitution, rules 13 read as under:

*"13. In the event of receipt of foreign contribution in excess of one crore rupees in a financial year . - In case a person who has been granted a certificate of registration or prior permission receives foreign contribution in excess of one crore rupees, or equivalent thereto, in a financial year, he/it shall place the summary data on receipts and utilization of the foreign contribution pertaining to the year of receipt as well as for one year thereafter in the public domain. Besides, the Central Government shall also display or upload the summary data of such persons on its website for information of the general public."*

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- (b) The remaining seventy-five per cent of the unutilized foreign contribution shall be utilized only after revocation of suspension of the certificate of registration.

### **15. Custody of foreign contribution in respect of a person whose certificate has been cancelled.**

If the certificate of registration of a person who has opened an FCRA Account under section 17 is cancelled, the amount of foreign contribution lying unutilized in that Account shall vest with the prescribed authority under the Act.]<sup>94</sup>

#### **15A. Voluntary surrender of certificate.**

Every person who has been granted certificate of registration under section 12 of the Act may make an application in electronic form in Form FC-7 for surrender of the certificate of registration in terms of section 14A of the Act.]<sup>95</sup>

### **16. Reporting by banks of receipt of foreign contribution.**

The bank shall report to the Central Government within forty-eight hours any transaction in respect of receipt or utilization of any foreign contribution by any person whether or not such person is registered or granted prior permission under the Act.]<sup>96</sup>

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<sup>94</sup> Substituted by Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020. Prior to its substitution, rules 15, as amended by the Foreign Contribution (Regulation) (Amendment) Rules, 2012, w.e.f. 12-4-2012:

*"15. Custody of foreign contribution in respect of a person whose certificate has been cancelled. -*

(1) The amount of foreign contribution lying unutilized in the exclusive foreign contribution bank account of a person whose certificate of registration has been cancelled, shall vest with the bank concerned till the Central Government issues further directions in the matter.

(2) If a person whose certificate of registration has been cancelled transfers/has transferred the foreign contribution to any other person, the provisions of sub-rule (1) of this rule shall apply to the person to whom the fund has been transferred."

<sup>95</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020

<sup>96</sup> Substituted by the Foreign Contribution (Regulation) (Amendment) Rules, 2015, w.e.f. 14-12-2015. Prior to its substitution, rule 16 read as under:

*"16. Reporting by banks of receipt of foreign contribution.—* (1) Every bank shall send a report to the Central Government within thirty days of any transaction in respect of receipt of foreign contribution by any person who is required to obtain a certificate of registration or prior permission under the Act, but who was not granted such certificate or prior permission as on the date of receipt of such remittance.

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### 17. Intimation of foreign contribution by the recipient.

- (1) [Every person who receives foreign contribution under the Act, shall submit a signed or digitally signed report [in electronic form]<sup>97</sup> in Form FC-4 with scanned copies of income and expenditure statement, receipt and payment account and balance sheet for every financial year beginning on the 1st day of April within nine months of the closure of the financial year.]<sup>98</sup>
  - (2) The annual return in Form [FC-4]<sup>99</sup> shall reflect the foreign
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(2) The report referred to in sub-rule (1) shall contain the following details:—

Name and address of the donor.

Name and address of the recipient.

Account Number.

Name of the Bank and Branch.

Amount of foreign contribution (in foreign currency as well as Indian rupees).

Date of receipt.

Manner of receipt of foreign contribution (cash/cheque/electronic transfer etc.)

3. The bank shall send a report to the Central Government within thirty days from the date of such last transaction in respect of receipt of any foreign contribution in excess of one crore rupees or equivalent thereto in a single transaction or in transactions within a duration of thirty days, by any person, whether registered or not under the Act and such report shall include the following details:—

Name and address of the donor.

Name and address of the recipient.

Account Number.

Name of the Bank and Branch.

Amount of foreign contribution (in foreign currency as well as Indian rupees).

Date of receipt.

Manner of receipt of foreign contribution (cash/cheque/electronic transfer etc.)

<sup>97</sup> Substituted for "electronically online" by the Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020 .

<sup>98</sup> Substituted by the Foreign Contribution (Regulation) (Amendment) Rules, 2015, w.e.f. 14-12-2015.

Prior to its substitution, sub-rule (1) read as under:. Original text as under:

"(1) Every person who receives foreign contribution under the Act shall submit a report in Form FC-6, accompanied by an income and expenditure statement, receipt and payment account, and balance sheet for every financial year beginning on the 1st day of April within nine months of the closure of the financial year, to the Secretary to the Government of India, Ministry of Home Affairs, New Delhi."

<sup>99</sup> Substituted for "FC-6" by the Foreign Contribution (Regulation) (Amendment) Rules, 2015, w.e.f. 14-Dec-2015.

## **Foreign Contribution Regulation Act, 2010**

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contribution received in the exclusive bank account and include the details in respect of the funds transferred to other bank accounts for utilization.

- (3) If the foreign contribution relates only to articles, the intimation shall be submitted in Form [FC-1]<sup>100</sup>.
- (4) If the foreign contribution relates to foreign securities, the intimation shall be submitted in Form [FC-1]<sup>101</sup>.
- (5) Every report submitted under sub-rules (2) to (4) shall be duly certified by a chartered accountant.
- (6) Every such return in Form [FC-4]<sup>102</sup> shall also be accompanied by a copy of a statement of account from the bank where the exclusive foreign contribution account is maintained by the person, duly certified by an officer of such bank.
- (7) The accounting statements referred to above in the preceding sub-rule shall be preserved by the person for a period of six years.
- (8) A 'NIL' report shall be furnished even if no foreign contribution is received during a financial year

*[Provided that where foreign contribution has not been received or utilized during a financial year, it shall not be required to enclose certificate from Chartered Accountant or income and expenditure statement or receipt and payment account or balance sheet with Form FC-4].*<sup>103</sup>

### **17A. Change of designated bank account, name, address, aims, objectives or key members of the association**

[A person who has been granted a certificate of registration under section 12 or prior permission under section 11 of the Act shall intimate in electronic

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<sup>100</sup> Substituted for "FC-7" by the Foreign Contribution (Regulation) (Amendment) Rules, 2015, w.e.f. 14-Dec-2015.

<sup>101</sup> Substituted for "FC-8" by the Foreign Contribution (Regulation) (Amendment) Rules, 2015, w.e.f. 14-Dec-2015.

<sup>102</sup> Substituted for "FC-6" by the Foreign Contribution (Regulation) (Amendment) Rules, 2015, w.e.f. 14-Dec-2015.

<sup>103</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2015, w.e.f. 14-Dec-2015.

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form within fifteen days of any change in the following, namely:]<sup>104</sup>

- (i) Name of the association and its address within the State for which registration/prior permission has been granted under the Act [in Form FC-6A]<sup>105</sup>;
  - (ii) Its nature, aims and objects and registration with local/relevant authorities [in Form FC-6B]<sup>106</sup>;
  - (iii) Bank and/or branch of the bank and/or designated foreign contribution account number [in Form FC-6C]<sup>107</sup>; [\*\*\*]<sup>108</sup>
  - [(iiiia) bank and/or branch of the bank for the purpose of utilizing the foreign contribution after it has been received in Form FC-6D; and] <sup>109</sup>
  - [(iv) office bearers or key functionaries or members mentioned in the application for grant of registration or prior permission or renewal of registration, as the case may be, in Form FC-6E: ]<sup>110</sup><sup>111</sup>
- [Provided that the change shall be effective only after final approval by the Central Government.]<sup>112</sup>

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<sup>104</sup> Substituted for "A person who has been granted a certificate of registration or prior permission under section 11 of the Act shall intimate electronically online, within fifteen days, of any change in the following, namely " by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020. Earlier, the quoted portion was amended by the Foreign Contribution (Regulation) (Amendment) Rules, 2019, w.e.f. 7-3-2019.

<sup>105</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2019, w.e.f. 7-Mar-2019

<sup>106</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2019, w.e.f. 7-Mar-2019.

<sup>107</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2019, w.e.f. 7-Mar-2019.

<sup>108</sup> Word "and" omitted by the Foreign Contribution (Regulation) (Amendment) Rules, 2019, w.e.f. 7-Mar-2019.

<sup>109</sup> | Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2019, w.e.f. 7-Mar-2019.

<sup>110</sup> Substituted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020 w.e.f. 10-Nov-2020. Prior to its substitution, clause (iv) , as amended by the Foreign Contribution (Regulation) (Amendment) Rules, 2019, w.e.f. 7-3-2019, read as under:

"(iv) Key members of the association - if at any point of time such change causes replacement of fifty percent or more of the original key members as reported in the application for grant of registration/ prior permission/ renewal of registration under the Act in Form FC-6E."

<sup>111</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2015, w.e.f. 14-12-2015.

<sup>112</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020.

**18. Foreign contribution received by a candidate for election.**

Foreign contribution received by a candidate for election, referred to in section 21, shall be furnished in Form [FC-1]<sup>113</sup> [in electronic form]<sup>114</sup> within forty-five days from the date on which he is duly nominated as a candidate for election.

**19. Limit to which a judicial officer, not below the rank of an Assistant Sessions Judge may make adjudication or order confiscation.**

An officer referred in clause (b) of sub-section (1) of section 29 may adjudge confiscation in relation to any article or currency seized under section 25, if the value of such article or the amount of such currency seized does not exceed Rs.10, 00, 000/-(Ten Lakh only).

**20. Revision.**

An application for revision of an order passed by the competent authority under section 32 of the Act shall be made to the Secretary, Ministry of Home Affairs, Government of India, New Delhi on a plain paper and it shall be accompanied by a fee of rupees three thousand only, which shall be paid through the payment gateway specified by the Central Government.]<sup>115</sup>

**21. Compounding of offence.**

An application for compounding of an offence under section 41 may be made to the Secretary, Ministry of Home Affairs, New Delhi in electronic form and shall be accompanied by fee of rupees three thousand only, which shall be paid through the payment gateway specified by the Central Government.]<sup>116</sup>

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<sup>113</sup> Substituted for "FC-9" by the Foreign Contribution (Regulation) Amendment Rules, 2015, w.e.f. 14-12-2015.

<sup>114</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020.

<sup>115</sup> Substituted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020.

Prior to its substitution, rule 20 read as under:

'20. *Revision.* -An application for revision of an order passed by the competent authority under section 32 of the Act shall be made to the Secretary, Ministry of Home Affairs, Government of India, New Delhi on a plain paper. It shall be accompanied by a fee of Rs.1000/- (One Thousand only) in the form of a demand draft or a banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.'

<sup>116</sup> Substituted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020.

Prior to its substitution, rule 20 read as under:

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### **22. Returns by the Investigating Agency to the Central Government.**

The Central Bureau of Investigation or any other Government investigating agency that conducts any investigation under the Act shall furnish reports to the Central Government, on a quarterly basis, indicating the status of each case that was entrusted to it, including information regarding the case number, date of registration, date of filing charge sheet, court before which it has been filed, progress of trial, date of judgment and the conclusion of each case.

### **23. Authority to whom an application or intimation to be sent.**

Any information or intimation about political or speculative activities of a person as mentioned in rule 3 or rule 4, shall be furnished to the Secretary to the Government of India in the Ministry of Home Affairs, New Delhi. Such information or intimation shall be sent by registered post [or in electronic form].<sup>117</sup>

### **24. [\*\*\*]<sup>118</sup>**

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<sup>21</sup>. *Compounding of offence.* -An application for the compounding of an offence under section 41 may be made to the Secretary, Ministry of Home Affairs, New Delhi on a plain paper and shall be accompanied by a fee of Rs.1000/- (One Thousand only) in the form of a demand draft or a banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.'

<sup>117</sup> Inserted by the Foreign Contribution (Regulation) (Amendment) Rules, 2020, w.e.f. 10-Nov-2020.

<sup>118</sup> Omitted, *ibid.* Prior to its omission, rule 24, as substituted by the Foreign Contribution (Regulation) (Amendment) Rules, 2012, w.e.f. 12-4-2012 and subsequently amended by the Foreign Contribution (Regulation) (Amendment) Rules, 2015, w.e.f. 14-12-2015, read as under

"24. *Procedure for transferring foreign contribution to any unregistered person.* - (1) A person who has been granted a certificate of registration or prior permission under section 11 and intends to transfer part of the foreign contribution received by him to a person who has not been granted a certificate of registration or prior permission under the Act, may transfer such foreign contribution to an extent not exceeding ten per cent of the total value thereof and for this purpose, make an application to the Central Government in Form FC-5.

(2) Every application made under sub-rule (1) shall be accompanied by a declaration to the effect that:

(a) the amount proposed to be transferred during the financial year is less than ten per cent of the total value of the foreign contribution received by him during the financial year;

(b) the transferor shall not transfer any amount of foreign contribution until the Central Government approves such transfer.

(3) A person who has been granted a certificate of registration or prior permission under section



### 3. Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Rules, 2012<sup>119</sup>

Ministry of Home Affairs

Notification

New Delhi, the 6<sup>th</sup> June, 2012

**G.S.R.** 150 (E), dated 06-06-2012-In exercise of the powers conferred by clause (c) of sub-section (2) of section 48 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010), the Central Government hereby makes the following rules with regard to the acceptance or retention of foreign contribution by way of gift or presentation made to a member of an Indian delegation, namely:-

#### 1. Short title and commencement –

- (1) These rules may be called the Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Rules, 2012.
- (2) They shall come into force on the date of their publication in the Official Gazette.

#### 2. Definitions.- In these Rules, [...] unless the context otherwise requires,

- (a) "Act" means The Foreign Contribution (Regulation) Act, 2010 (42 of 2010);
- (b) words and expressions used in these rules and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

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11 shall not be required to seek the prior approval of the Central Government for transferring the foreign contribution received by him to another person who has been granted a certificate of registration or prior permission under the Act provided that the recipient has not been proceeded against under any of the provisions of the Act.

(4) Both the transferor and the recipient shall be responsible for ensuring proper utilization of the foreign contribution so transferred and such transfer of foreign contribution shall be reflected in the returns in Form FC-4 to be submitted by both the transferor and the recipient."

<sup>119</sup> Published in the Gazette of India PART II, SEC. 3, SUB-SEC. (i), dated 23-6-2012. pp. 893-95. F. No. II/21022/10(2)/2011-FC-III(P)

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### 3. Manner of acceptance or retention of foreign contribution by way of gifts or presentations.

- (1) Where any foreign contribution by way of gifts or presentation is made to a member of any Indian delegation, such person shall, within a period of thirty days of the receipt of such gift or presentation, furnish the following information in writing to the Secretary to the Government of India in the Ministry or the Department that has sponsored the programme, namely-
  - (i) the fact of having received such gift or presentation;
  - (ii) the foreign source from which such gift or presentation has been received;
  - (iii) the approximate market value of such gift or presentation;
  - (iv) the date and the place of receipt of such gift or presentation;
  - (v) any other details relating thereto, as may be considered appropriate by such person

*Provided* that where the approximate market value of such gift or presentation exceeds the equivalent of five thousand rupees in the opinion of such person, he shall deposit such gift or presentation with the Secretary of such Ministry or Department:

*Provided* further that where more than one gift or presentation is received by such person and the aggregate market value of such gifts or presentations exceed fifteen thousand rupees, he shall deposit all such gifts or presentations with the Secretary of such Ministry or Department.

- (2) Where a person receives any gift or presentation during his or her visit to any foreign country or territory outside India, he or she shall, within a period of 30 days from his or her return to India, furnish the information specified in clauses (i) to (v) of sub-rule (1) in the manner specified therein.
- (3) The Secretary to the Government of India, referred to in sub-rule (1) shall, forward every such gift or presentation deposited with him or her to the Toshakhana in the Ministry of External Affairs for assessment of its market value.

## Foreign Contribution Regulation Act, 2010

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- (4) The assessment referred to in sub-rule (3) shall be made within a period of thirty days from the date of receipt of the gift or presentation in the Toshakhana by a Board consisting of the following members namely:-

Joint Secretary in the Ministry of External Affairs;

Under Secretary or Attaché in the Ministry of External Affairs;

Customs Appraiser, Foreign Port Office, in the Ministry of Finance.

- (5) If any question arises in respect of the assessment made under sub-rule (4), it shall be referred to the Secretary to the Government or India in the Ministry of Home Affairs who shall decide the same.
- (6) The market value of the gift or presentation as assessed under sub-rule (4) or as decided under sub-rule (5) shall be communicated to the person concerned.
- (7) If the Market value of the single gift or presentation as assessed under sub-rule (4) does not exceed five thousand rupees, it shall be returned to the person concerned for retention by him or her

*Provided* that in the case of gift or presentation being more than one, only one of such gifts or presentations of his or her choice shall be returned to such person for retention, if the aggregate of its market value as assessed under sub-rule (4) does not exceed five thousand rupees

*Provided* further that such person shall, within a period of thirty days from the date of receipt of any communication in this regard, have the option to purchase such other gift or presentation of his choice, other than the gift or presentation returned to him for retention, on payment of the difference between the aggregate market value of such gifts or presentations as assessed under sub-rule (4) and five thousand rupees:

*Provided* also that the option so exercised shall be final.