



# FCRA Concept & Practices



## MODULE 1

# CONCEPTS AND DEFINITIONS

# **MODULE 1- CONCEPTS AND DEFINITIONS**

## **1. INTRODUCTION**

The Foreign Contribution (Regulation) Act 2010 and The Foreign Contribution (Regulation) Rules 2011 have been enacted w.e.f. 01.05.2011. The old FCR Act and Rules, 1976 have been repealed. In this Module, we would discuss the background of FCRA, its definitions and related concepts.

## **2. THE SCOPE OF FCRA**

The FCRA, 2010 has a much broader applicability; it is applicable to individuals, Hindu Undivided Family (HUF), Association and section 8 companies. In the old Act, the term person was not defined and generally the Act referred to the term 'Association'. However, now it is very clear that FCRA applies to the above category of persons.

## **DOES FCRA APPLY TO COMMERCIAL OR BUSINESS ORGANISATIONS**

It is worthwhile to note that Section 11(1) of FCRA 2010 provides any 'person' as defined in the Act having a definite cultural economic, educational, religious or social programme shall receive FC only after registration or prior permission. Therefore having a definite programme is a key ingredient of FCRA.

A commercial organisation or a corporate is not included specifically under the definition of 'person' primarily because movement of foreign funds in the normal course of commerce and business is outside the purview of FCRA. Therefore business organisations are not covered by FCRA 2010 as far as commercial transactions are concerned. Such commercial transactions are under the provision of Foreign Exchange Management Act, 1999, which is a financial legislation.

However, if a corporate or commercial organisation receives foreign contribution for a definite cultural economic, educational, religious or social purpose, then it will fall under the purview of FCRA. The term association includes any group of persons registered or unregistered, which is wide enough to cover any organization including commercial organisations.

### 3. WHAT IS FOREIGN CONTRIBUTION

Foreign Contribution includes all kind of transfers from foreign sources. As per the Act, Foreign Contribution includes any kind of transfer, delivery or donation of currency, article or securities. However, Foreign Contribution does not include commercial receipts. In other words, an NGO can receive consultancy or other commercial receipt from foreign sources even without having FC registrations. FC registered NGOs should receive such receipt in their domestic account and the commercial receipt are not required to be reported to the FCRA department. The term ‘foreign contribution’ (hereinafter referred as ‘FC’) has been given a specified definition in FCRA in Section 2(1)(h) which is as follows:

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

Being a specific definition, no item other than those mentioned in the definition can be brought under ‘foreign contribution’.

**The three broad divisions** - As is evident from the definition, the scope of foreign contribution has been broadly divided into three parts i.e. (i) article or gift, (ii) currency both Indian or foreign and (iii) foreign security received from a foreign source.

### **3.1. Article or Gift**

Any kind of Article or gift or intangibles received from foreign sources would be considered as Foreign Contribution as per the above definition.

### **3.2. Currency is not relevant for determination of foreign contribution**

Any amount received from ‘foreign source’ in rupees or foreign currency is construed as ‘foreign contribution’ under law. Such transactions even in rupees term are considered foreign contribution. In this context, it is important to understand that contribution in any form received from foreign source shall be covered under FCRA 2010.

It may be noted that the place of receipt or nature of currency are not relevant. For instance, dollars received from an NRI in New York will not be treated as FC if the NRI is possessing a valid Indian Passport, on the other hand Rupees received in India from a foreigner will be treated as FC.

### **3.3. Foreign Security:**

Any kind of Foreign security received would be termed as Foreign Contribution as per the above definition of Foreign Contribution. The term 'foreign security' has been defined under Section 2(h) of Securities Contract (Regulation) Act, 1956 and section 2(o) of the Foreign Exchange Management Act, 1999 which are provided are under-

Section 2(o) of Foreign Exchange Management Act defines

*“(o) Foreign Security include —*

*The term Foreign Security has been defined to mean any security, in the form of shares, stocks, bonds, debentures or any other instrument denominated or expressed in foreign currency and includes securities expressed in foreign currency but where redemption or any form of return such as interest or dividend is payable in Indian currency.*

Section 2(h) of Securities Contract (Regulation) Act, 1956 defines

*“(h) “Securities” include—*

- *Shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;*

- *Derivative*

- *Units or any other instrument issued by any collective investment scheme to the investors in such schemes;*

- *Security receipt as defined in clause (zg) of section 2 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.*

- *Units or any other such instrument issued to the investors under any mutual fund scheme.*

- *Government securities*

- *such other instruments as may be declared by the Central Government to be securities; and*

- *Rights or interest in securities;*

### **3.4. What is included in foreign contribution:**

FCRA 2010 further clarifies that the following income/receipts shall also be included as a part of foreign contribution:

- **FC received as subsequent receiver:** Any foreign contribution received from any person who has received it from any foreign source, either directly or indirectly shall also be deemed to be foreign contribution. In other words, any foreign contribution received as subsequent receiver shall also be treated as foreign contribution and shall be subject to FCRA.
- **Any Income from FC funds or Assets or Project:** Any interest or income generated from foreign contribution or foreign assets or FC projects shall also be treated as a part of foreign contribution. In other words, all income from FC assets and FC funds should be considered as a part of foreign contribution and be reported accordingly.

### **3.5. What is Excluded from Foreign Contribution:**

Explanation 3 to Section 2(1)(h) of FCRA, 2010 provides that all commercial receipts received from foreign sources shall be excluded from the purview of FCRA. It specifically provides that 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 towards such fee or cost shall be excluded from the definition of foreign contribution.



### **3.6. Who can Receive foreign contribution:**

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

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

### **3.7. Who cannot Receive Foreign Contribution:**

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

- candidate for election;
- correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper
- Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;
- member of any legislature
- political party or office bearer thereof;
- Organization of a political nature as may be specified under sub-section (1) of Section 5 by the Central Government.
- 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;
- Correspondent or columnist, cartoonist, editor, owner of the association or company referred to in point (g).
- Individuals or associations who have been prohibited from receiving foreign contribution.

#### **4. FOREIGN SOURCE:**

##### **4.1. Definition**

As per Section 2(1)(j) of FCRA, 'foreign source' is defined as follows :

*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, 2013, and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:—*

*a) The Government of a foreign country or territory;*

*b) The citizens of a foreign country or territory;*

*c) Corporations incorporated in a foreign country or territory;*

*d) Trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory;*

*e) Foreign company;*

*“Provided that where the nominal value of share capital is within the limits specified for foreign investment under the Foreign Exchange Management Act, 1999, or the rules or regulations made there under, 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;”.(Inserted through Finance Act, 2016).*

*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;*

As it is evident, the term “foreign source” has not been defined precisely or exhaustively. The act has given an inclusive definition of the term ‘foreign source’ and that includes the sources mentioned in clauses (i) to (x).

By virtue of the proviso inserted in clause vi, FCRA law will not apply even if the nominal value of share capital of a company held by foreigners exceeds 50 per cent at the time of making contributions provided the foreign investment is within the limit specified under the Foreign Exchange Management Act, 1999 or the rules or regulations made there under.

Therefore for all practical purposes, Indian Companies where more than 50 percent of shareholding is by a foreign source will be exempted from definition of “Foreign Source” as all Indian Companies have to comply with the limits set by FEMA for foreign investment.

The amended law shall be applicable with retrospective effect from 26th September, 2010. In other words, all donations/grant given by such companies since 26th September, 2010 in violation of FCRA will be condoned.

#### **4.2. Agencies of foreign Government and Exempted organizations:**

Agencies of Foreign Government include their embassies and consulates in India are included within the purview of foreign source. Further, the Central Government has notified in the Official Gazette, the agencies of United Nations and other International Organizations which shall not be treated as ‘foreign source’ for the purposes of this Act. The list of such organization has been provided in Annexure 1

In simpler words, any donations, contribution or grants received from such organization would not be treated as FCRA funds and instead, should be deposited in the local accounts and treated as a local fund.

**4.3. Whether an individual of Indian origin who has acquired foreign nationality is treated as foreign sources**

Yes. The contribution received from all the non- Indian Passport Holders are treated as Foreign Contribution.

**4.4. Money Received from Foreign Source under will or through Nominations**

Any contribution received by individuals from foreign source through WILL or as a legal heir or through nomination under any claim shall not be treated FC unless there is a condition to utilize such money for a definite purpose as defined under section 11(1). However, if the same contribution is received by an institution covered by the FCRA then it would be treated as FC, for example if an NGO receives contribution from foreign source under WILL then because the NGO exists for a definite religious or charitable, it would be treated as FC.

**4.5. Scholarship or stipend Received by Individuals:**

Scholarship or stipend should not be considered as foreign contribution. In fact stipend and scholarship can be received even by the debarred category person under section 4. Therefore, there is no bar on scholarship or stipend received by individuals. Further, as analyzed earlier, individuals can receive FC for personal purposes; they cannot receive foreign contribution for a definite purpose as defined under section 11(1). In our opinion scholarship or stipend cannot be considered as a definite purpose as defined under section 11(1).

**4.6. Contributions by Indian Citizen:**

It may be noted that contribution made by a citizen of India living in another

country, from his personal savings, through the normal banking channels, is not treated as foreign contribution. It is advisable to obtain the passport details of the concerned citizen of India before accepting such contributions. It may be noted that, contribution received in foreign currency from an Indian citizen shall not be treated as foreign contribution whereas; contribution from an Indian who has acquired foreign citizenship is treated as foreign contribution. This will also apply to PIO card holders and to Overseas Citizen of India (OCI).

## **5. FCRA REGISTRATION, PRIOR PERMISSION AND RENEWAL**

Generally, there are two ways in which an association can apply to the Central Government for permission in receiving foreign contribution

- ❖ FCRA Registration
- ❖ Prior Permission

### **5.1. FCRA Registration:**

#### **5.1.1. Introduction**

An organization having a definite cultural, economic, educational, religious or social program shall accept foreign contribution, only after such organization obtains a certificate of registration from the Central Government.

#### **5.1.2. Eligibility Criteria:**

In order to be eligible to apply for proper FCRA registration following minimum requirements must be met with:

- Be registered under the society's registration Act, 1860 or the Indian Trusts Act, 1882 or section 8 of the companies Act, 2013 etc.
- An association should have spent at least Rs.10, 00,000/- over the last 3 years on its aims and objects, excluding administrative expenditure.
- An association should have 12A registration certificate as well as registration certificate also.
- Normally be in existence for at least three years and has undertaken reasonable activity in its chosen field for the benefit of the society for which the foreign contribution is proposed to be utilized.

### **5.1.3. Conditions to be met for the grant of registration:**

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

- (a) The 'person' making an application for registration or grant of prior permission-
- i. Is not fictitious or benami;
  - ii. Has not been prosecuted or convicted for indulging in activities aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another;
  - iii. Has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country;
  - iv. Has not been found guilty of diversion or mis- utilization of its funds;
  - v. Is not engaged or likely to engage in propagation of sedition or advocate violent methods to achieve its ends;
  - vi. Is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes;
  - vii. Has not contravened any of the provisions of this Act;
  - viii. Has not been prohibited from accepting foreign contribution;
  - ix. The person being an individual, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offence 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 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.

#### **5.1.4. Procedure for Registration:**

All registrations applications have to be made online in Form FC-3A. In other words, there is no requirement of sending hard copies to the FCRA department. Earlier some forms were required to be filed online followed by hard copies and some forms were filed in hard copies only. But now all forms have to be submitted online with no provision for sending hard copies.

The applications are required to be digitally signed or the scanned signatures and the seal of the organisation can also be uploaded. All payments can be made online electronically through payment gateway as may be specified by the Central Government.

**5.1.5. Documents Required for FCRA Registration:** Following documents are necessary for the registration under FCRA such as:

- ❖ Registration Certificate of Association.
- ❖ Memorandum of Association/Trust deed.
- ❖ Activity Report for the last three years.
- ❖ Audited Statement of accounts for the last 3 years.
- ❖ Associations have to upload affidavit of each key functionary.
- ❖ Images of Chief Functionary signature and Seal of the Association which are saved in JPG/JPEG format.
- ❖ Bank Details such as Name, Account Number and Address.
- ❖ List of Governing Body.
- ❖ Name of the chief functionary and mobile Number.
- ❖ Copy of PAN Card of the Trust / Society.

## **5.2. Prior Permission under FCRA**

### **5.2.1. Introduction**

Any person, if it is not registered with the Central Government, can accept 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.

### **5.2.2. Eligibility Criteria:**

For this purpose, the association should meet following criteria:

- Be registered under an existing statute like the Societies Registration Act, 1860 or the Indian Trusts Act, 1882 or section 8 of the Companies Act, 2013 etc.
- 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.
- For Indian recipient organizations and foreign donor organizations having common members, FCRA Prior Permission shall be granted to the Indian recipient organizations subject to its satisfying the following:
  - (i) The Chief Functionary of the recipient Indian organization should not be a part of the donor organization.
  - (ii) At least 75% of the office-bearers/ members of the Governing body of the Indian recipient organization should not be members/employees of the foreign donor organization.
  - (iii) In case of foreign donor organization being a single person/individual that person should not be the Chief Functionary or office bearer of the recipient Indian organization.
  - (iv) In case of a single foreign donor, at least 75% office bearers/members of the governing body of the recipient organization should not be the family members and close relatives of the donor.

### **5.2.3. Conditions to be met for the grant of Prior Permission:**

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



- (a) The 'person' making an application for registration or grant of prior permission-
- i. Is not fictitious or benami;
  - ii. Has not been prosecuted or convicted for indulging in activities aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another;
  - iii. Has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country;
  - iv. Has not been found guilty of diversion or mis- utilization of its funds;
  - v. Is not engaged or likely to engage in propagation of sedition or advocate violent methods to achieve its ends;
  - vi. Is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes;
  - vii. Has not contravened any of the provisions of this Act;
  - viii. Has not been prohibited from accepting foreign contribution;
  - ix. The person being an individual, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offence 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 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.

#### **5.2.4. Procedure for Prior Permission:**

All prior permission applications have to be made online in Form FC-3B. In other words, there is no requirement of sending hard copies to the FCRA department. Earlier some forms were required to be filed online followed by hard copies and some forms were filed in hard copies only. But now all forms have to be submitted online with no provision for sending hard copies.

The applications are required to be digitally signed or the scanned signatures and the seal of the organisation can also be uploaded. All payments can be made online electronically through payment gateway as may be specified by the Central Government.

#### **5.2.5. Documents Required for FCRA Prior Permission:**

Following documents are necessary for FCRA prior permission:

- ❖ Signature of the chief functionary
- ❖ Self-certified copy of registration certificate/Trust deed etc., of the association.
- ❖ Duly signed Commitment Letter from Donor.
- ❖ Project Report for which FC will be received.
- ❖ Associations have to upload affidavit of each key functionary.
- ❖ Images of Chief Functionary signature and Seal of the Association which are saved in JPG/JPEG format.
- ❖ Applicant seeking prior permission for foreign contribution for more than Rs.50, 00,000/- (Fifty Lakh rupees) shall enclose audited statements of accounts and activity report of the association for the last three years from the date of submission of application.

### **5.3. FCRA Renewal:**

#### **5.3.1. Introduction:**

- The FCRA 2010 has limited the validity of the registration certificate for a period of 5 years. It may be noted that in the old law FCRA registration was virtually permanent in nature unless it was revoked. FCRA 2010 provides for renewal of registration of organizations after every 5 years.

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

### 5.3.2. Procedure for FCRA Renewal:

Rule 12 provides the procedure for renewal application. All NGOs have to apply in Form FC-3C six months before the due date. All organisations have to file the renewal application electronically in Form FC-3C at the website <https://fcraonline.nic.in>.

In case an NGO fails to apply for renewal within the due date, its registration shall become invalid. However, the department may condone the delay if satisfactory reasons for not submitting the renewal application are provided. A delayed application for renewal can be filed upto 1 year from the date of the expiry of the FCRA Certificate

Rule 12(6) of FC(R) Rules 2011 provides that 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. For example, if no application is received or is not accompanied by the renewal fee, **the validity of the registration certificate issued on the 1<sup>st</sup> November, 2016 shall be deemed to have lapsed with effect from the close of the day on 31<sup>st</sup> October, 2021.**

An application made for the renewal of the registration shall be accompanied by a fee of Rs. 1500 (Fifteen hundred only) and a delayed renewal application shall be accompanied by a fee of Rs. 5000(Five thousand only)

Foreign Contribution (Regulation) (Second Amendment) Rules, 2019 states that every Board Member must submit a sworn and notarised affidavit that the

NGO is complying with the provisions of sec. 12(4). This affidavit is be executed by each office bearer and key functionary and member individually on non-judicial stamp paper of Rs.10/- and attested by a Notary Public or 1st Class Magistrate]

### **5.3.3. Documents Required for FCRA Registration Renewal:**

Following documents are necessary for the renewal of FCRA registration:

- ❖ Image of signature of Chief Functionary
- ❖ Image of seal of the Association.
- ❖ Registration certificate of the Association
- ❖ Memorandum of Association/ Trust Deed.
- ❖ FCRA Registration Certificate of Association issued by MHA.
- ❖ An association has to upload affidavit of each key functionary.

## **To Recapture...**

- ❖ FCRA, 2010 has been enacted by the Parliament to consolidate the law to regulate the acceptance and utilization of foreign contribution and to prohibit acceptance and utilization of foreign contribution or foreign hospitality for any activities detrimental to national interest.
- ❖ FCRA applies to the whole of India including Citizens of India residing outside India and Associate Branches of India outside India. Technically, it is applicable to individuals, Hindu Undivided Family (HUF), Association, section 8 companies and any other association having a definite purpose.
- ❖ Foreign Contribution includes any kind of transfer, delivery or donation of currency, article or securities. However, Foreign Contribution does not include commercial receipts. Further, it also includes
  - FC Received as Subsequent receipt
  - Any income from FCRA Assets
- ❖ Foreign Source shall include Foreign Companies not incorporated in India, Agencies of Foreign Government include their embassies and consulates in India, societies, clubs and foreign citizens. However, the agencies of United Nations and other International Organizations as notified shall not be treated as 'foreign source' for the purposes of this Act.
- ❖ It may be noted that contribution made by a citizen of India living in another country, from his personal savings, through the normal banking channels, is not treated as foreign contribution. This also includes NRIs having valid Indian Passports.
- ❖ Generally, there are two ways in which an association can apply to the Central Government for permission in receiving foreign contribution
  - FCRA Registration
  - Prior Permission

- ❖ An organization having a definite cultural, economic, educational, religious or social program shall accept foreign contribution, only after such organization obtains a certificate of registration from the Central Government.
- ❖ In order to be eligible to apply for proper FCRA registration it should be a 12A Registered entity with at least Rs.10, 00,000/- over the last 3 years on its Programmeexpenditure.
- ❖ All registrations and Prior Permission applications have to be made online in Form FC-3A and FC-3B respectively with scanned signatures, seal of the organizationand online payments.
- ❖ All the FCRA Registration shall be valid for a period of 5 years from the date of FCRA certificate. All NGOs have to apply in Form FC-3C six months before the due date electronically at the website <https://fcraonline.nic.in>.
- ❖ In case an NGO fails to apply for renewal within the due date, its registration shall become invalid.



## **Frequently Asked Questions (FAQs)**

**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 utilization of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilization of foreign contribution or foreign hospitality for any activities detrimental to national interest and for matters connected therewith or incidental thereto.

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

**Ans.** The flow of foreign contribution to India is regulated under Foreign Contribution (Regulation) Act, 2010, Foreign Contribution (Regulation) Rules, 2010 read with and other notification / orders etc., issued there under 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 of FCRA, 2010?

**Ans.** It has been repealed.

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

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

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

**Q.5 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 even in rupees term are considered as foreign contribution.

**Q.6 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 lieu of goods sold or services rendered by it as this is a transaction of commercial nature/quid pro quo.

**Q.7 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 the normal banking channels, is not 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.8 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 cardholders. However, this will not apply to 'Non-resident Indians', who still hold Indian citizenship and they are not foreigners.

**Q.9** 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.10** 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 purposes listed in section 4, it is obvious that Individuals in general and a HUF are permitted to accept foreign contribution without permission for the purposes listed in section 4. However, it should be borne in mind that the monetary limit for acceptance of foreign contribution in the form of any article given as gift to a person for his personal use has been specified as Rs. 1,00,000/ vide FCR Amendment Rules, 2019.

**Q.11** 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 from 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 <https://fcraonline.nic.in> Page 4 of 20 expenditure of hosting the conference/seminar is not treated as foreign contribution and as such no permission under FCRA is required.

Q.12 Whether an Individual of Indian Origin who has acquired foreign nationality is treated as foreign source?

Ans. Yes. The contribution received from all the non- Indian Passport Holders are treated “Foreign Source.” Q.3 What is a foreign company? Ans. As per of FCRA, 2010, Section 2(1) (g) foreign company means any company or association or body of individuals incorporated outside India and includes- • a) a foreign company within the meaning of Section 379 of the Companies Act, 2013 • b) a company which is a subsidiary of a foreign company • c) the registered office or principal place of business of a foreign company referred to in sub-clause (i) or company referred to in sub-clause (ii); • d) a multi-national corporation

Q.13 Whether a Company incorporated in India under the Companies Act, 2013 having its operations in 2 or more countries is to be treated as a MNC under FCRA, 2010?

Ans. No, it will be treated as Local source for the purposes of FCRA, 2010.

Q.14 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 to society at some point of time.

Q.15 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 the ‘person’ 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 prior permission to accept foreign contribution.

Q.16 Whether organisations under Central/State Governments are required to obtain registration or prior permission under FCRA, 2010 for accepting foreign contribution?

Ans. Yes. However, all bodies constituted or established by or under a Central Act or a State act requiring to have their accounts compulsorily audited by Comptroller & Auditor General of India are exempted from the operations of all the provisions of FCRA, 2010.

Q.17 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 shall remain valid for a period of 5 years from the 1st May, 2011, i.e., up to the 30th April, 2016.

Q. 18 Whether prior permission granted under FCRA, 1976 would also remain valid for next 5 years from the 1st May, 2011, i.e., the date when FCRA, 2010 came into force?

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

Q.19 How to rectify an error in the application for registration or PP 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 Support Centre/ Help Desk of the FCRA.

Q.20 What all 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 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.

Q.21 What is the form of Audited Statements which are to be uploaded with the FC3 Form?

Ans. An Audit 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, duly signed by the chartered Accountant with his membership number.

Q.22 What are the limits of File sizes for uploading?

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

Q.23 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 mandatory.

Q.24 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 on-line at fcra online services using user ID and password created at the time of filing application.



## **Annexure 1**

### **I. Secretariat**

1. Office of Internal Oversight Services, New York.
2. Office of Legal Affairs, New York.
3. Department of Political Affairs, New York.
4. Department for Disarmament Affairs, New York.
5. Department of Peacekeeping Operations, New York.
6. Office for the Coordination of Humanitarian Affairs, New York.
7. Department of Economic and Social Affairs, New York.
8. Department for General Assembly Affairs and Conference Services, New York.
9. Department of Public Information, New York.
10. Department of Management, New York.
11. United Nations Office at Geneva.
12. United Nations Office at Vienna.
13. United Nations Office at Nairobi.

### **II. Bodies of the United Nations**

14. International Research and Training Institute for the Advancement of Women (INSTRAW), Santo Domingo, Dominican Republic.
15. Joint United Nations Program on HIV/AIDS (UNAIDS), Geneva.
16. Office of the UN High Commissioner for Human Rights (OHCHR), Geneva.
17. Office of the UN High Commissioner for Refugees (UNHCR), Geneva.
18. United Nations Capital Development Fund (UNCDF), New York.
19. United Nations Conference on Trade and Development (UNCTAD), Geneva.
20. United Nations Development Fund for Women (UNIFEM), New York.
21. United Nations Institute for Disarmament Research (UNIDIR), Geneva.
22. United Nations Institute for Training and Research (UNITAR), Geneva.

23. United Nations Interregional Crime and Justice Research Institute (UNICRI), Rome.
24. United Nations Office for Project Services (UNOPS), New York.
25. United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), Gaza and Amman.
26. United Nations Research Institute for Social Development (UNRISD), Geneva.
27. United Nations University (UNU), Tokyo. 28. United Nations Volunteers (UNV), Bonn.

### **III. Funds and programs**

29. United Nations Children's Fund (UNICEF), New York.
30. United Nations Development program (UNDP), New York.
31. United Nations Environment program (UNEP), Nairobi.
32. United Nations International Drug Control program (UNDCP), Vienna.
33. United Nations Population Fund (UNFPA), New York
34. World Food program (WFP), Rome.

### **IV. Regional commissions**

35. Economic Commission for Africa (ECA), Addis Ababa, Ethiopia.
36. Economic Commission for Asia and the Pacific (ESCAP), Bangkok, Thailand.
37. Economic Commission for Europe (ECE), Geneva.
38. Economic Commission for Latin America and the Caribbean (ECLAC), Santiago, Chile.
39. Economic Commission for Western Asia (ESCWA), Beirut, Lebanon.

### **V. Law of the sea treaty bodies**

40. International Seabed Authority, Kingston

- 41. International Tribunal for the Law of the Sea, Hamburg.
- 42. Commission on the Limits of the Continental Shelf, United Nations Divisions for Ocean Affairs and the Law of the Sea, New York.

## **VI. Environmental bodies**

- 43. Secretariat of the United Nations Framework Convention on Climate Change (UNFCCC), Bonn.
- 44. Intergovernmental Panel on Climate Change (IPCC), Geneva.
- 45. Ozone Secretariat to the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substance that Deplete the Ozone Layer, Nairobi.
- 46. Secretariat of the Convention on Biological Diversity (CBD), Montreal.
- 47. Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Geneva.
- 48. UNEP/CMS Secretariat of the Convention on the Conservation of Migratory Species of Wild Animals (CMS or Bonn Convention), Bonn.
- 49. Secretariat of the Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal, Geneva
- 50. Secretariat of the United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought /or Desertification, especially in Africa (CCD), Bonn.
- 51. Global Environment Facility, Washington D.C. 52. Bureau (Secretariat) of the Convention on Wetlands (Ramsar), Gland, Switzerland.

## **VII. Specialized agencies**

- 53. International Labour Organization (ILO), Geneva.
- 54. Food and Agriculture Organization (FAO), Rome.
- 55. United Nations Educational, Scientific and Cultural Organization (UNESCO), Paris.
- 56. International Civil Aviation Organization (ICAO), Montreal.

57. World Health Organization, Geneva.
58. Universal Postal Union (UPO), Berne, Switzerland.
59. International Telecommunication Union (ITU), Geneva.
60. World Meteorological Organization (WMO), Geneva.
61. International Maritime Organization (IMO), London.
62. World Intellectual Property Organization (WIPO), Geneva.
63. International Fund for Agricultural Development (IFAD), Rome.
64. United Nations Industrial Development Organization (UNIDO), Vienna.

### **VIII. The world bank group**

65. International Bank for Reconstruction and Development (IBRD), Washington D.C.
66. International Development Association (IDA), Washington D.C.
67. International Monetary Fund (IMF) Washington D.C.
68. International Finance Corporation (IFC), Washington D.C.
69. Associated Organizations of World Bank Group:
  - A) International Centre for the settlement of Investment Disputes (ICSID), Washington D.C.
  - B) Multilateral Investment Guarantee Agency (MIGA), Washington D.C.
  - C) Consultative Group on International Agricultural Research (CGIAR), Washington D.C. (It has 16 Research centers)
    - i. International Plant Genetic Resource Institute (IPGRI), Rome.
    - ii. International Wheat and Maize Improvement Centre (CIMMYT), Mexico.
    - iii. International Centre for Living Aquatic Resource Management (ICLARM), Philippines.
    - iv. International Irrigation Management Institute (IIMI), Colombo.
    - v. International Food Policy Research Institute (IFPRI) Washington D.C.
    - vi. International Centre of Research in Agro-forestry (ICRAF), Nairobi.

- i. International Centre for Agricultural Research in Dry Areas (ICARDA), Syria.
- viii. International Centre for Tropical Agriculture (CIAT), Columbia. I
- ix. International livestock Research Institute (ILRI), Nairobi.
- x. West Africa Development Association (WARDA), Abidjan.
- xi. International Service Of National Agricultural Research (ISNAR), The Netherlands.
- xii International Crops Research Institute For the Semi-Arid Tropics (ICRISAT), Hyderabad.
- xiii International Rice Research Institute, Manila, Philippines.
- xiv. International Potato Centre, Peru.
- xv. Centre for International Forestry Research (CIFOR), Indonesia.
- xvi. International Institute of Tropical Agriculture (IITA), Nigeria.

## **IX. Regional development banks**

- 70. African development Bank (ADB), Abidjan.
- 71. Inter-American Development Bank (IDB), Washington D.C.
- 72. Asian Development Bank (ADB), Manila.
- 73. Caribbean Development Bank (CDB), St. Michael, Barbados.

## **X. Other bodies related to United Nations**

- 74. International Atomic Energy Agency (IAEA), Vienna.
- 75. Organization for the Prohibition of Chemical Weapons (OPCW), The Hague.
- 76. Provisional Technical Secretariat (PTS) for the Comprehensive Nuclear Test Ban Treaty Organization (CTBTO), Vienna.
- 77. International Consultative Group on Food Irradiation (ICGFI), Vienna.
- 78. International Narcotics Control Board (INCB), Vienna.
- 79. International Trade Centre UNCTAD/WTO (ITC), Geneva.

80. International Union for the Protection of New Varieties of Plants (UPOV), Geneva.
81. World Tourism Organization (WTO/OMT), Madrid.
82. World Food Council (WFC).
83. United Nations Social defense Research Institute (UNSDRI).
84. United Nations Statistical Office (UNSCO).

## **XI. Other international organizations**

85. United Nations Outer Space Committee.
86. International Sugar Organization, London.
87. Asian Productivity Organization, Tokyo.
88. Asian and Pacific Development Administration, Kuala Lumpur.
89. Asian African Legal Consultative Committee, New Delhi.
90. Asia/Pacific Cultural Centre for UNESCO (ACCU), Japan.
91. Commonwealth Secretariat, London.
92. Afro-Asian Rural Reconstruction Organization (AARRO), New Delhi.
93. Centre on Integrated Rural Development for Asia and the Pacific, (CIRDAP), Dhaka.
94. International Centre for Genetic Engineering and Biotechnology (ICGEB), New Delhi.
95. Asia and Pacific Centre of Transfer of Technology (APCTT), New Delhi.
96. Centre for Science and Technology of the Non-Aligned and Other Developing Countries (NAM S&T Centre). New Delhi.
97. Commonwealth Agricultural Bureau International (CABI), UK.
98. The Asia Pacific Association of Agricultural Research Institution (APAARI), Bangkok
99. The Regional Co-ordination center for Research and Development of coarse Grains, Pulses, Roots and Tuber crops in the Humid Tropics of Asia and the Pacific (CGPRT Centre), Indonesia.



100. The Regional Network for Agriculture Machinery (RNAM), Bangkok.
101. Commission on Genetic Resources for Food and Agriculture (CGRFA), Rome.
102. The International Seeds Testing Association (ISTA), Zurich.
103. International Water Management Institute (IMI), Sri Lanka.
- (Notified in the Gazette of India, Extraordinary, and Part II-Section 3- Sub (section (ii) vide S.O. No. 1014 (E) dated the 13th November, 2000).
104. World Trade Organization (WTO), Geneva, Switzerland
105. International Organization for Standardization (ISO), Geneva, Switzerland
106. Common Fund for Commodities (CFC), Amsterdam, Netherlands
107. International Cotton Advisory Committee, Washington, USA
108. The Global Fund to Fight Aids, Tuberculosis and Malaria, Geneva, Switzerland.
- (Added vide Gazette of India, Extraordinary, Part II-Section 3- Sub-section (ii) vide S.O. No. 1133 (E) dated the 1st May, 2009).
109. Global Development Network (GDN) (Added vide Gazette of India, Extraordinary, Part II-Section 3- Sub-section (ii) vide S.O. No.1433 (E) dated the 20th June, 2011).

\*\*\*



---

CPA Services Pvt. Ltd.  
A-5, Sector 26, NOIDA 201301  
Ph: 0120-4773225  
[ordinator@fmsflearningsystems.org](mailto:ordinator@fmsflearningsystems.org)  
[www.cpaschooloflearning.org](http://www.cpaschooloflearning.org)