



FCRA Concept & Practices



MODULE 2

KEY ISSUES UNDER FCRA

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1. Method of Accounting:

FCRA 2010 and FCRA, 2011 do not prescribe any specific method of accounting. Therefore, technically speaking, any legally consistent and otherwise acceptable method of accounting can be used for maintaining books of account for FCRA purposes.

Earlier, filing of Income and Expenditure account was not necessary which implied that FCRA reporting was strictly on cash basis. However, with the inclusion of Income and Expenditure account it is clear that under accounting under FCRA need not necessarily be on cash basis.

However, looking at the current structure and the requirements of the revised FC-4 form, it is always advisable that cash basis of accounting should be followed while filing the FCRA Annual returns since information such as Administrative expenditures, Transfers to other association etc needs to be filed on cash basis only.

Summarizing the above concepts, FCRA does not prescribe any method of accounting, and hence, any method of accounting (Cash, accrual or hybrid basis) may be followed in the FCRA books of accounts. However, FC-4 should be filed only on cash basis because of the structure and the requirements of the revised FC-4 form.

2. Maintenance of Books of Account:

Section 19 of the FCRA 2010 provides that proper books of account with regard to FC receipt and utilization should be maintained. Further Rule 11 of FCRR 2011 provides that separate books of account and records should be maintained exclusively for foreign contribution received and utilized and has been reproduced hereunder

“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,”

It may also be noted that the FCRA, 2010 requires filing of Income and Expenditure account, annually, which was not necessary earlier. Therefore, Books of Accounts should be maintained in such a way that the following statements can be prepared for the requirement of the form FC-4.

- Receipts and Payment Account
- Income and Expenditure Account
- Balance Sheet
- Certificate by a Chartered Accountant.

2.1. Preservation of Books Of Accounts:

FCRA 2011 provides that the financial statements should be preserved up to six years. This provision is a great relief to the various organizations as in the old Act; the power to call for information and statements was not defined. Now the organizations should preserve financial statement and records thereof for six years only.

However, as per Income Tax Act, 1961, an Assessing Officer may call for documents or scrutiny even after 8 years from the assessment year. Therefore, for all practical purposes, **the books of accounts and other related documents shall be preserved for a period of 8 years** from the particular assessment year.

3. FCRA ASSET & INCOME FROM SUCH ASSET.

3.1. Creation of Fixed Assets:

Any asset created out of foreign funds should be recorded in the FC books of account only. A FC asset will continue to remain an FC asset irrespective of time factor or closure of the project.

Under practical circumstances, it may so happen that a portion of the asset is funded from domestic sources. For instance, a building is constructed from FCRA funds on a land purchased from domestic sources. In such cases, the cost of the land should be reflected in the domestic books of account and the cost of the building should be shown in the FC books of account. Further, only the consolidated

statement will show the total cost of land and building together.

3.2. Income From Fixed Assets:

Explanation 2 to section 2(h) of the FCRA 2010 provides that interest accrued or any other income from foreign contribution shall also be treated as foreign contribution.

Generally, when fixed assets are purchased (in the name of the organization), it is shown as utilized and as a result the foreign contribution balance is also reduced to that extent. In other words, once a fixed asset is utilized it does not remain a part of the foreign contribution balance. However, the title of the fixed asset remains with the organization at a nil value for FCRA purposes. As the title of the asset is with the organization, irrespective of the accounting value, it should be considered as a part of foreign contribution. Based on the aforesaid analogy, all income generated from all FC assets should be considered as a part of FC contribution and should be reflected in the FC-4 annual returns accordingly.

Some example of income from FC assets is:

- Income from FC building, training centre etc.
- Income from FC machines and equipments such as photocopier, Projectors, laptops, utensils etc.
- Income from FC vehicles
- Income from FC projects

3.3. Sale of Fixed Assets:

If an asset purchased out of FCRA funds is sold, then the amount received on sales of such asset should be shown as FC receipts. There might be circumstances where assets are created out of both FCRA as well as domestic funds. In such cases, apportionment of the sale receipts should be made on a suitable and reasonable basis out of the sale consideration receipt and the amount, pertaining to foreign contribution portion of the asset should be considered as foreign contribution receipt.

3.4. Income from FC Assets maintained out of local Funds:

It may be noted that, if a FC asset is funded and managed from FC funds then the gross amount of Income received from such assets should be treated as foreign contribution and accordingly should be deposited in the FC bank account. However, if a FC asset is no longer supported under a FC project and all costs are booked in the local books of account then the transactions (both income and expenditure) should be recorded in the local books only. If there is any net surplus/income at the end of the year then such surplus should be treated as foreign contribution.

3.5. Disclosure requirements and Books of Account of Assets:

Following Information regarding Assets are required to be given in the Annual Return:

- Total purchase of fresh assets
- Details of Land and Buildings remained unutilized for more than two years.

It should be noted that Creation of Asset and income from Assets incurred by the association needs to be disclosed separately while filing the Annual returns in the form FC-4. Therefore, it becomes important that while maintaining FCRA Books of Accounts, Creation of Asset and income from Assets is recorded separately in such accounting procedures. The maintenance of books of accounts is pivotal to comply with the reporting requirement under the revised annual returns of FC-4.

4. SPECULATIVE INVESTMENTS AND INCOME FROM INVESTMENT

4.1. Creation of Fixed Deposits:

As far as the creation of fixed deposits of FC funds is concerned, there is no bar on it. All the funds are required to be received in the designated bank account but any temporary surplus funds may be placed in fixed deposits with the bank, pending utilization for the objects for which they were received. Care should be taken that the investments are in compliance with the section 11(5) of the Income-tax Act. It should further be ensured that the investments are not speculative in nature.

4.2. Section 11(5) of the Income-tax Act:

Surplus fund of the charitable entities should be invested as per forms and modes prescribed u/s 11(5) of Income Tax Act.

- Investment in savings certificates as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959),and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government.
- Deposit in any account with the Post Office Savings Bank.
- Deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank.)
- Investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963).
- Investment in any security for money created and issued by the Central Government or a State Government.
- Investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government.
- Deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long term finance for industrial development in India and which is eligible for deduction under clause (viii) of sub-section (1) of section 36.

- Deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long term finance for construction or purchase of houses in India for residential purposes and which is eligible for deduction under clause (viii) of sub-section (1) of section 36 etc.

4.3. Speculative Investments:

Under rule 4 of the foreign contribution (regulation) rules, 2011, following activities are 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 such as investment in various kind of mutual fund and investment in share market is speculative activity.
- (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 is speculative activity.

In simple words, FC funds cannot be invested in any kind of risk prone investment. It prohibits investments in :

- Equity linked mutual funds or shares

- Any investment which has element of risk with gain or loss.
- Participation in any scheme related with chit fund, land etc. which promises high return and is not related to the objectives.

Therefore, organization cannot invest in chit fund or money circulation scheme or activities like lottery or real estate from its FC funds as it would be considered as a speculative activity.

The coherent reading of the Rule 4 of FCRR, 2011 and Section 11 (5) of the Income Tax Act suggest that an organization can invest its local funds as per the modes prescribed in Section 11 (5) of the Act. However, in terms of FC Funds, the organization should take care in investment of such funds as none of the investments should be speculative in nature.

4.4. Interest earned on Investments:

It may be noted that since the interest earned on investments is considered as FC receipts, such interest earned should be deposited in the designated FC Bank account and should be reported under the Interest Column in the FCRA Annual Returns.

Rule 4 of FCRR 2011 provides that all persons shall maintain separate register of investment made out of FC funds.

4.5. Disclosure requirement of Investments:

The details of the FDs made out of FC Funds needs to be disclosed in the FCRA Annual Returns and hence, the organization should maintain necessary records for such compliance and reporting purposes. The following details need to be disclosed.

- Opening Balance of FDs
- FDs made during the year
- FDs realized during the year
- Closing Balance of FDs
- Interest received from FDs

5. ADMINISTRATIVE EXPENDITURE- DEFINITION, ACCOUNTING TREATMENT AND DISCLOSURES

5.1. Introductions:

FCRA 2010 prescribes that the administrative expenditure in any year should not exceed 50% of the total FC funds received in that year. Further, for the purpose of determining the administrative expenditure, Rule 5 of FCRR 2011 provides the list of expenditure which shall be treated as administrative in nature.

5.2. Definition of Administrative Expenditure:

Rule 5 of FCRA, 2011 defines that administrative expenses constitute the following:

- “Salaries, wages, travel expenses or any remuneration realized by the Members of the Executive Committee or Governing Council of the person;
- 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.
- 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.
- Cost of accounting for and administering funds
- Expenses towards running and maintenance of vehicles

- Cost of writing and filing reports.
- Legal and professional charges; and
- 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.”

5.3. Analysis of the Definition:

It can be seen that the definition of administrative expenses includes various expenses such as rent, vehicles etc. which may also be incurred for programme purposes. Therefore, the scope of the Rule is more important than the traditional understanding of administrative expenses. In other words, some expenditure may be related with the programmes but for the purpose of FCRA 2010 they shall be treated as administrative expenditure if such expenditure fall under the list of expenditures defined in the Rule above. For example, the salary of the programme director may be treated as administrative expenditure. However, in order to accommodate such aberrations, the limit of administrative expenditure has been kept at a high level of 50%.

From the above definition of administrative expenses, the following expenditures may be carefully ascertained;

- All kinds of vehicle expenditure have been considered as administrative in nature. However, the last proviso provides that expenses for furtherance of activity shall be excluded. Therefore, all direct programmes related vehicle expenses and other expenditures are excluded from calculation of administrative expenses. All vehicle expenditure other than those which could be established as ‘directly incurred on activities’ shall be treated as administrative expenses.
- The Rule includes the salaries of persons engaged in management of activity and at the same time the proviso as discussed above also applies. Therefore, salaries paid to all the staff directly engaged in implementation of the programmes shall be treated as programme expenditure. However, salary of senior management persons shall be treated as administrative expenses.

5.4. Accounting treatment of Administrative Expenditure:

It is not necessary to maintain separate set of books of account showing the administrative expenditure as per FCRR 2011. However, the organization should be in a position to clearly segregate the expenditure, which is administrative in nature, in the books of account. In other words, the organization may not maintain separate ledger heads based on the FCRR 2011 rules for administrative expenditure but it should have the detail and the supporting accounts to justify the percentage of administrative expenditure for the purposes of audit and reporting, if necessary.

5.5. Disclosure requirements:

Under the current scheme of law, the administrative expenditure is required to be reported to the FCRA authorities under a separate column in Form FC 4. The Central Government may also call for such information and records with regard to Administrative Expenses.

6. TRANSFER TO FCRA REGISTERED ORGANIZATION AND DISCLOSURE:

6.1. Transfer to FCRA registered organization:

There is no restriction on transfer of funds to another organization which is registered or has prior permission under FCRA provided that the recipient has not been proceeded against under FCRA. In other words, transfer of funds to another FC registration organization can be made without taking prior approval. However, certain compliances are necessary under Section 7 and Rule 24.

The relevant text of Section 7 of FCRA, 2010 has been reproduced hereunder

“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.”

6.2. Procedure for Transfer of Fund to Another FC Registered organization:

The following procedure is to be followed:

- The donor organization should ensure that the recipient organization is registered under FCRA or is having prior permission under the Act.
- A certificate/undertaking should be taken from the recipient organization that it has not been proceeded against under FCRA.
- The recipient organization shall reflect the foreign contribution receipts in FC 4 returns in the column of ‘Transfer from Local Source’.
- 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.

6.3. Disclosure Requirements under FCRA Annual Returns:

It should be noted that any transfers made to FCRA registered organizations need to be disclosed in the online annual returns in Form FC-4. Details such as Name of the association, amount and date needs to be disclosed in the appropriate column provided in FC-4. Therefore, the donor organization should be recording such transfers in a way, where such records can be easily retrievable for reporting purposes to the FCRA in the annual returns.

7. TRANSFER TO UNREGISTERED ORGANIZATION- POSSIBILITY, PROCEDURES AND LIMIT:

7.1. Transfer to unregistered organization:

Under normal circumstances, it is not permissible to transfer funds to other unregistered organizations which do not have registration/prior permission under FCRA.

However, such transfer can be made only with prior permission in compliance of Section 7 and Rule 24.

Section 7 of FCRA, 2010 with the relevant text in italics has been reproduced hereunder

“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.”

7.2. Procedure to be followed for transfer of fund to unregistered organizations:

The following procedure is to be followed:

- The donor organization shall apply in Form 5 to the Central government. The form is available at <https://fcraonline.nic.in>.
- Every application made under sub-rule (1) shall be accompanied by a declaration to the effect that:
 - 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;
 - The transferor shall not transfer any amount of foreign contribution until the Central Government approves such transfer.
- 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.

7.3. Limit Of Transfer of Fund:

As per Rule 24 of the FCRR, 2011, a maximum amount of 10% of the total foreign contribution received by the donor organization can be given to unregistered organizations with prior approval of the Central Government.

8. TRANSFER TO SHG, CBOs UNDER FCRA:

8.1. Introduction:

As discussed in earlier chapters, FCRA 2010 applies to individuals also without any limit; however, the FCRA shall apply only if such contribution is received by the individual for a definite purpose. Therefore, any charitable support given to individual beneficiaries or needy persons would not attract the provisions of FCRA 2010, unless such beneficiaries are supposed to undertake any specific purpose on behalf of the donor. Technically even a small amount of foreign contribution received by any individual for definite purpose shall be subject to FCRA 2010 and such individual needs prior permission or registration under FCRA.

8.2. Providing support to SHGs and CBOs whether Registered or unregistered:

FCRA 2010 applies to individuals and associations whether registered or not. Therefore, any transfer of foreign contribution to SHGs or CBOs should be done only with prior permission under Rule 24 by applying under Form FC-5. The reason for applicability of FCRA 2010 even in case of unregistered SHGs and CBOs is that they tantamount to an unregistered association with a definite purpose. Under section 11, any ‘person’ with a definite purpose cannot receive foreign contribution without registration or prior permission.

8.3. Helping Needy Beneficiaries is permissible:

It is worthwhile to note that Section 11(1) of FCRA 2010 provides that 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. It is important to note that having a definite programme is a key ingredient of FCRA. Therefore, an organization may receive a grant for a definite programme which may include helping the beneficiaries. In such circumstances, carrying out such definite programme shall be a part of the approval granted. Therefore, any help rendered directly to beneficiaries shall be permissible as long as it is end utilization towards execution of a definite programme of the implementing organization. The intent of the Act could not have been to block the support to needy beneficiaries at the grass root level as long as they are legitimately forming a part of the social programme. In other words, any foreign contribution applied towards achieving the objectives of the society including help to individuals shall be permissible.

However, if foreign contribution is gifted to any individual beyond any definite programme for which the foreign contribution was received, then such individual can receive such money only after prior permission irrespective of the amount.

9. CASH PAYMENTS UNDER INCOME TAX AND FCRA:

9.1. Cash Payments under Income Tax:

Section 40A (3) (a) of the income tax Act provides that any Expenditure incurred in respect of which payment is made in a sum exceeding Rs 10000/- in a single day otherwise than by

account payee Cheque drawn on a bank or by an account payee bank draft or through use of electronic clearing system, shall not be allowed as deduction.

9.2. Cash payments under FCRA:

As per the Do and Don'ts issued by the FCRA department for the FCRA Registered associations, it has been noted that the Cash Expenses and withdrawals is limited up to Rs.2, 000 in a single day. Such measures have been imposed in order to restrict the cash transactions in an FCRA Registered association.

Therefore, it is advised to follow the respective guidelines strictly in order to avoid any unnecessary scrutiny from the statutory authorities.

10. BANK MANAGEMENT UNDER FCRA

10.1. FCRA Designated Bank Account:

The foreign contribution should be received only in the exclusive single FC account of a Bank (also called designated FC account), as mentioned in the order for registration or prior permission granted and should be separately maintained by the association. Also, receiving contribution in any account other than the FCRA Designated Bank account is an offense under the Act. Such an account has no restriction over the utilization and therefore, utilization can be done directly from such account as well.

10.2. Procedure for change of Designated Bank Account:

With respect to change of the bank account, intimation is to be given online in Form FC-6C within 15 days of such change. The detailed procedures and operation aspects related to such changes have been covered in the next Module of this Course.

10.3. Method to be followed for Change of Designated Bank Account:

When a change of bank account becomes a necessity by virtue of relevant and justifiable reasons the following procedure may be followed:

- A new bank account should be opened by depositing the minimum amount required for opening of the account
- The resolution of the governing body should be passed before effecting the changes.
- Intimation of change in FCRA designated bank account in form FC-6C within 15 days of such change.
- After receiving online approval from the FCRA department, the entire balance from the old designated FC account should be transferred to the new account.
- It is not legally necessary to close the old account. Therefore, the organization may use the old account as a domestic account. But it is desirable to close the old account, to ensure that even by mistake the foreign fund are not credited to the old account.

11. FCRA utilization Bank account

One or more accounts (called Utilization Account) in one or more 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 funds other than that foreign contribution shall be received or deposited in such account or accounts.

Transfer of funds is allowed from the designated FC account of an Association to the multiple account or accounts opened for its utilization. However, no funds other than the funds (FC) received in the designated FC account shall be received or deposited in such multiple account or accounts.

11.1. Intimation Regarding opening of utilization Bank account:

With respect to online intimation of the opening of the account, intimation is to be given online in Form FC-6D within 15 days of such change. The detailed procedures and operational aspects related to such intimation have been covered in the next Module of this Course.

11.2. Transfer of funds between utilization Bank Accounts:

The FAQs suggest that there is no bar in transferring foreign contribution between the utilization accounts. However, Association should preferably avoid such practice for keeping the accounting process simple. The banks should apply full

diligence to keep track of the transfers. Therefore, in our opinion, it is suggested to avoid transfers between multiple Bank accounts to avoid unnecessary scrutiny from the FCRA Department.

12. ADVANCES TO STAFF UNDERFCRA

12.1. Salary and Travel Advances

Transfers of salary advances or travel reimbursement to the bank account of employees are legally permissible since it denotes end utilization of the funds. In other words, the funds are being transferred not in a fiduciary capacity as it is done in the case of Programme advances, and hence, would be considered as end-utilization of funds.

12.2. Programme Advance:

It is not permissible to transfer FC programme funds to the bank account of the staff. Many organizations follow this practice for transferring project funds to remote places. However such practices may not be legally consistent. Some legal and accounting Reasons against such practices are explained below.

Handling money or funds as a part of employment contract is permissible but accepting a fund for definite purpose in fiduciary capacity is not permissible. When an employee is handling the cash he/she is not a trustee to the fund, he/she is just an extended arm of the organization. For example, if an

employee is withdrawing cash from the bank Account of the organization; the organization can take transit insurance and if there is a theft then the FIR (First Information Report) can also be filed in the name of the organization. However, if the employee is withdrawing cash from his/her personal Bank account, the organization cannot take transit insurance and if there is a theft then the FIR (First Information Report) cannot be filed in the name of the organization.

Further, if some amount remains unutilized in the personal bank account of the staff at the end of the year, then such amount cannot be treated as a part of the FC closing Balance of the organization, but the cash in hand with the employee is always be treated as a part of the FC closing balance of the organization.

Based on the above it is advised that NPOs should not transfer FC funds to the bank

Account of their employees to implement programmes in remote places.

Instead, it is recommended that an organization should consider opening multiple bank accounts in remote places and such employee may be made the signatory to such bank account.

TO RECAPTURE:

1. FCRA 2010 and FCRA, 2011 do not prescribe any specific method of accounting. Therefore, technically speaking, any legally consistent and otherwise acceptable method of accounting can be used for maintaining books of account for FCRA purposes.

2. FCRA does not prescribe any method of accounting, and hence, any method of accounting (Cash, accrual or hybrid basis) may be followed in the FCRA books of accounts. However, FC-4 should be filed only on cash basis because of the structure and the requirements of the revised FC-4 form.

3. 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.

4. FCRA 2011 provides that the financial statements should be preserved up to six years.

5. Any asset created out of foreign funds should be recorded in the FC books of account only. A FC asset will continue to remain an FC asset irrespective of time factor or closure of the project.

6. If an asset purchased out of FCRA funds is sold, then the amount received on sales of such asset should be shown as foreign receipts.

7. It should be noted that Creation of Asset and income from Assets incurred by the association needs to be disclosed separately while filing the Annual returns in the form FC-4.

8. Under rule 4 of the foreign contribution (regulation) rules, 2011, speculative activities are strictly prohibited.

9. The details of the FDs made out of FC Funds needs to be disclosed in the FCRA Annual Returns and hence, the organization should maintain necessary records for such compliance and reporting purposes.

10. FCRA 2010 prescribes that the administrative expenditure in any year should not exceed 50% of the total utilization of FC funds received in that year.

11. 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.

12. Under the current scheme of law, the administrative expenditure is required to be reported to the FCRA authorities under a separate column in Form FC 4.

13. There is no restriction on transfer of funds to another organization which is registered or has prior permission under FCRA provided that the recipient has not been proceeded against under FCRA.

14. It should be noted that any transfers made to FCRA registered organizations need to be disclosed in the online annual returns in Form FC-4.

15. It is not permissible to transfer funds to other unregistered organizations which do not have registration/prior permission under FCRA.

16. As per Rule 24 of the FCRR, 2011, a maximum amount of 10% of the total foreign contribution received by the donor organization can be given to unregistered organizations with prior approval of the Central Government.

17. Any transfer of foreign contribution to SHGs or CBOs should be done only with prior permission under Rule 24 by applying under Form FC-5.

18. As per the Do and Don'ts issued by the FCRA department for the FCRA Registered associations, it has been noted that the Cash Expenses and withdrawals is limited up to Rs.2, 000 in a single day.

19. The foreign contribution should be received only in the exclusive single FC account of a Bank (also called designated FC account), as mentioned in the order for registration or prior permission granted and should be separately maintained by the associations.

20. One or more accounts (called Utilization Account) in one or more banks may be opened by the association for 'utilizing' the foreign contribution after it has been received in the designated FCRA bank account.

21. Transfers of salary advances or travel reimbursement to the bank account of employees are legally permissible since it denotes end utilization of the funds.

22. Handling money or funds as a part of employment contract is permissible but accepting a fund for definite purpose in fiduciary capacity is not permissible.

Frequently Asked Questions (FAQs) for Module 2

Q.1 Will interest or any other income earned from foreign contribution be considered foreign contribution?

Ans. Yes. It will become part of F.C.

Q.2 whether interest or any other income earned out of foreign contributions be shown as fresh foreign contribution receipt during that year or not?

Ans. No. The interest or any other income earned out of such deposit 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.3 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:-

- 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;
- 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.4 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.

Q.5 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 Act 2010 for receiving FC for certain purpose/objectives. Accordingly FC should be utilized for the purpose only for which it is received.

Q.6 Can foreign contribution be received in and utilized from multiple Bank Accounts?

Ans. The foreign contribution should be received only in the exclusive single FC account of a Bank (also called designated FC account), as mentioned in the order for registration or prior permission granted and should be separately maintained by the associations. However, one or more accounts (called Utilization Account) in one or more 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 funds other than that foreign contribution shall be received or deposited in such account or accounts and in all such cases, intimation in FC-6Dis to be given online within 15 days of opening of such account.

Q.7 Can an association transfer foreign contribution from one utilization account to another utilization account?

Ans. As such there is no bar for transferring FC from one uc a/c to another uc a/c. However, the same be preferably avoided to keep the accounting process simple.

Q.8 whether inter-account funds transfer shall be allowed within the multiple accounts that an Association is now permitted to open for the purpose of utilizing the foreign contributions and the level of diligence required on the part of the Banks in this regard?

Ans. No. Transfer of funds is allowed from the designated FC account of an Association to the multiple account or accounts opened for its utilization. However, no funds other than the funds (FC) received in the designated FC account shall be received or deposited in such multiple account or accounts. There is no bar in transferring foreign contribution between the utilization accounts. However, Association should preferably avoid such practice for keeping the accounting process simple. The banks should apply full diligence to keep track of the transfers.

Q.9 How would an organization that is registered or has obtained prior permission under FCRA and intends to transfer a part of the foreign contribution received by it to another organization would know whether the recipient organization has been proceeded against under FCRA?

Ans. Where any organization is proceeded against under FCRA, it is done with due intimation to the organization concerned. Therefore, the donor organization is advised to insist on a written undertaking from the intending recipient organization.

Q.10 Can foreign contribution be mixed with local receipts?

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

Q.11 Are there any specified banks for the purpose of FCRA 2010?

Ans. Yes, It should be a PFMS integrated Bank. List of banks integrated with PFMS is available at https://fcraonline.nic.in/fc_bank_list.aspx.

Q.12 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 should open such an exclusive FC A/c with a Bank. This A/c number would be mentioned in the letter granting registration or prior permission to the association.

Q.13 Whether Banks should allow an association which is applying for registration or prior permission under FCRA, 2010 to open an exclusive FC A/c with INR?

Ans. Yes. However, the Banks should 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.14 Should the Banks report transactions pertaining to foreign contributions which are returned to the remitter by the beneficiary Association for want of registration/prior permission from MHA?

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.15 whether reporting by Banks is also applicable for transfer of funds between FCRA accounts of two or more associations?

Ans. Yes. Reporting by Banks is also applicable to transfer of funds from one FCRA registered Association to another.

Q.16. Minimum balance requirements in FC Accounts?

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



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