



## M/s PRANJAL JOSHI & CO CHARTERED ACCOUNTANTS

Office No. 9, Suvan Apartments, Opp. Jog High School, HDFC Bank Building, Mayur Colony, Kothrud, Pune – 411 038. Tel – 020 – 25 43 02 76, Mob: 98500 35736, [pranjal@capranjaljoshi.com](mailto:pranjal@capranjaljoshi.com)

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### Note on Foreign Contribution Regulation Act

#### Basic Purpose of FCRA

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 on foreign hospitality for any activities detrimental to national interest and for matters connected therewith or incidental thereto.

#### What is Foreign Contribution ?

"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 upto Rs. 25,000/- as a gift for his personal use;
- (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.

Any amount received from 'foreign source' whether in rupees or foreign currency is construed as 'foreign contribution' under FCRA, 2010. Such transactions even in rupees term are considered foreign contribution.

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

- (i) the Government of any foreign country or territory and any agency of such Government;
- (ii) any international agency, not being the United Nations or any of its specialized agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify in this behalf;
- (iii) a foreign company;
- (iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;
- (v) a multi-national corporation referred to in Section 2(g) sub-clause (iv) of FCRA, 2010;
- (vi) a company within the meaning of the Companies Act, 1956, and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:- a. the Government of a foreign country or territory; b. the citizens of a foreign country or territory; c. corporations incorporated in a foreign country or territory; d. trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory; e. Foreign company;
- (vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;
- (viii) a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;
- (ix) a society, club or other association or individuals formed or registered outside India;
- (x) a citizen of a foreign country;"

NOTE – A few bodies organisations the United Nations, World Bank and some other International agencies/multilateral organisations are exempted from this definition, and are not treated as foreign



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source. Hence, the funds received from them are not considered as foreign contribution. List of such bodies/organisations, which are not treated as 'foreign source', are available on the website <http://Fcraonline.nic.in>

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 an Indian passport holder.

Donation from an Indian 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.

### **Who can receive foreign contribution?**

Any individual, HUF, association or a company registered under Section 25 of Companies Act 1956 (Now Section 8 of Companies Act, 2013) can receive foreign contribution subject to following conditions:-

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

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

A list of banned organisations is available in MHA's website (from whom donations can not be accepted) [http://mha.nic.in/uniquepage.asp?Id\\_Pk=292](http://mha.nic.in/uniquepage.asp?Id_Pk=292). In particular, the list of foreign entities/individuals can be seen at <http://www.un.org/sc/committees/1267/AQList.htm>

### **Utilisation of Foreign Contributions**

Foreign contribution cannot be deposited or utilised from the bank account being used for domestic funds.

Foreign contribution is required to be utilised for the purpose for which it has been received. Further every association receiving foreign contribution shall not defray more than 50% of the foreign contribution received in a financial year to meet administrative expenses without prior approval of central government.

Administrative expenses as per FCRA, 2010 constitute the following :

- (i) Salaries, wages, travel expenses or any remuneration realised by the Members of the Executive Committee or Governing Council of the person;
- (ii) all expenses towards hiring of personnel for management of the activities of the person and salaries, wages or any kind of remuneration paid, including cost of travel, to such personnel;



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- (iii) All expenses related to consumables like electricity and water charges, telephone charges, postal charges, repairs to premise(s) from where the organisation or Association is functioning, stationery and printing charges, transport and travel charges by the Members of the Executive Committee or Governing Council and expenditure on office equipment;
- (iv) cost of accounting for and administering funds;
- (v) expenses towards running and maintenance of vehicles;
- (vi) cost of writing and filing reports;
- (vii) legal and professional charges; and
- (viii) rent of premises, repairs to premises and expenses on other utilities;

Provided that the expenditure incurred on salaries or remuneration of personnel engaged in training or for collection or analysis of field data of an association primarily engaged in research or training shall not be counted towards administrative expenses:

Provided further that the expenses incurred directly in furtherance of the stated objectives of the welfare oriented organisation shall be excluded from the administrative expenses such as salaries to doctors of hospital, salaries to teachers of school etc.

#### Filing of annual returns

Annual returns are to be filed online at [fcrasonlineservice.nic.in](http://fcrasonlineservice.nic.in). No hard copy of the returns shall be accepted in FCRA Wing of Ministry of Home Affairs. The return is to be filed online for every financial year (1st April to 31st March) within a period of nine months from the closure of the year i.e. by 31st December each year. For FY 2014-15 extension has been granted till 15.03.2016.

Further, every registered association must place audited statements of accounts incl. Income and Expenditure account, receipt and payment account, and balance sheet for foreign contribution within 9 months on its official website or website of central government as may be prescribed.

Additionally, every registered association shall also inform receipt of foreign contribution within 15 days from end of quarter on website of government as may be prescribed.

#### Bank account for receipt of foreign contributions

Since the FC A/c through which foreign contribution is proposed to be received and utilised 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.

#### Communication of Changes in registration details –

For change of registered address of the association, online intimation is to be given in Form FC-6.

For seeking change in the name/address of the association, intimation is to be given online in Form FC-6 and self certified copy of amendment approved by local/relevant authority is to be uploaded.



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For change of the bank account, intimation is to be given online in Form FC-6 alongwith following certificates;

- (i) Certificate from bank in which new bank account has been opened.
- (ii) Copy of Resolution.
- (iii) Copy of registration.

If at any point of time, change causes in the Members of the Executive Committee/Governing Council of the association resulting into replacement of 50% or more of such Members of the Executive Committee/Governing Council of the association, intimation is to be given online in Form FC-6 to MHA within thirty days of such change.

Further, as per the undertaking & declaration, the association should not accept any foreign contribution except with prior permission till the permission to replace the office bearer(s) has been granted by MHA.

#### Renewal of registration –

Section 16 of FCRA, 2010 and Rule 12 of FCRR, 2011

An association granted registration under the repealed FCRA, 1976 shall be deemed to have been registered under FCRA, 2010 for a period of 5 years. 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.

An Association registered under FCRA should apply in Form FC-5 for renewal of its registration six months before the date of expiry of the certificate of registration. An Association granted registration under FCRA, 2010, i.e., after 1st May, 2011, shall have to apply for renewal of registration six months before the date of expiry of the validity of its certificate of registration.

Only self certified copy of registration is to be uploaded for renewal of registration.

Source – Based on FAQ's made available on <https://fcraonline.nic.in/home/index.aspx#>

#### Disclaimer –

*This is generalised information prepared. Please refer to <https://fcraonline.nic.in> for Act, Rules and other information related to FCRA.*