

FCRA 2010

Ministry of Home Affairs
FOREIGNERS DIVISION (FCRA WING)
Foreign Contribution Regulation Act, 2010
The Secretary,
Ministry of Home Affairs,
Foreigners Division,
NDCC-II Building JAI SINGH Road, OFF
Parliament Street, Near Jantar
Mantar
New Delhi-110 001

Saturday, 22nd February 2025
Lecture on FCRA 2010 at
Pune Branch of WIRC of The Institute
of Chartered Accountants of India



गृह मंत्रालय, भारत सरकार
Ministry of Home Affairs, Govt. of India

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Overview of the Foreign Contribution (Regulation) Act, 2010 (FCRA, 2010)

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A brief history of FCRA

Ancient India is credited with many innovations: the zero, the modern numeral notation and yoga to name just a few. However, few know that this innovative streak has continued in modern times as well. For example, **in 1976, India became the first nation in the world to invent controls over international charity.**

This was in the form of FCRA 1976. This law asked all the NGOs to tell the government how much funds they receive from foreigners. The law was refined in 1984-



NGOs could not accept foreign funds without government permission.

In 2010, the law was reinforced further. Charitable individuals were also brought into the net. The law was made more rigorous: periodic renewals, restrictions over use of funds, cap on administrative expenses, were introduced.

And the world has followed in India's wake. Similar laws have been passed in Bangladesh, Indonesia, Egypt, Ethiopia, Russia and Venezuela, among others.

Pakistan, Sri Lanka might also follow suit.



Executive Summary – (Annual Report)

- **Top Country:** USA has been the top donor country. (Rs: 3,260.22 crores)
- **Top Donor:** **Compassion International**, USA has contributed the maximum amount of foreign contribution as a single donor organization. (Rs: 99.20 crores)
- **Top Recipient State:** The State of **Delhi** has received the highest amount of foreign contribution. (Rs: 2017 crores), next **TN** (Rs: 1557 crores) and **AP** (Rs: 1177 crores)



- **Top Recipient District:** Among the Districts, **Bengaluru** has received the highest amount of foreign contribution. (Rs: 774.09 crores), followed by **CHENNAI** (Rs: 772.67 crores)
- **Top Single Recipient:** Among the recipient associations, **World Vision of India**, Chennai received the highest amount of foreign contribution. (Rs: 233.74crores)
- **Utilization:** The highest amount of foreign contribution was utilized for **Establishment expenses**. (Rs: 1,337.15 crores out of Rs: 10,334 crores) – **13%** approx





TRENDS OVER LAST YEAR

Year	No of registered Association (As on 31 march of Financial Year)	No of Reporting Association	Amount of foreign Contribution (Rs. in Core)
2012-13	42457	22770	11527
2013-14	42138	23921	14853
2014-15	33091	27221	15299
2015-16	24338	24065	17208
2016-17	24109	23176	18065
2017-18	23977	21915	16894
2018-19	22457	20664	16343
2019-20	22691	18837	16490
2020-21	22762	17059	17191
2021-22	16829	17285	18580
2022-23	16383	17190	17190

Synopsis - FCRA

- ✓ Out of 43000+ entities (Now over 16000)– only 3% (1200+) entities received more than Rs: 1 crore
- ✓ **From 178 countries – contributions are received:**
Top 10 are (US + Germany + UK + Netherlands + Switzerland + Spain + Canada + France + Belgium)
- ✓ **45th** year of inception of since repealed FCRA, 1976
- ✓ Only one amendment so far in 1985 with retrospective effect from 24th Oct 1984

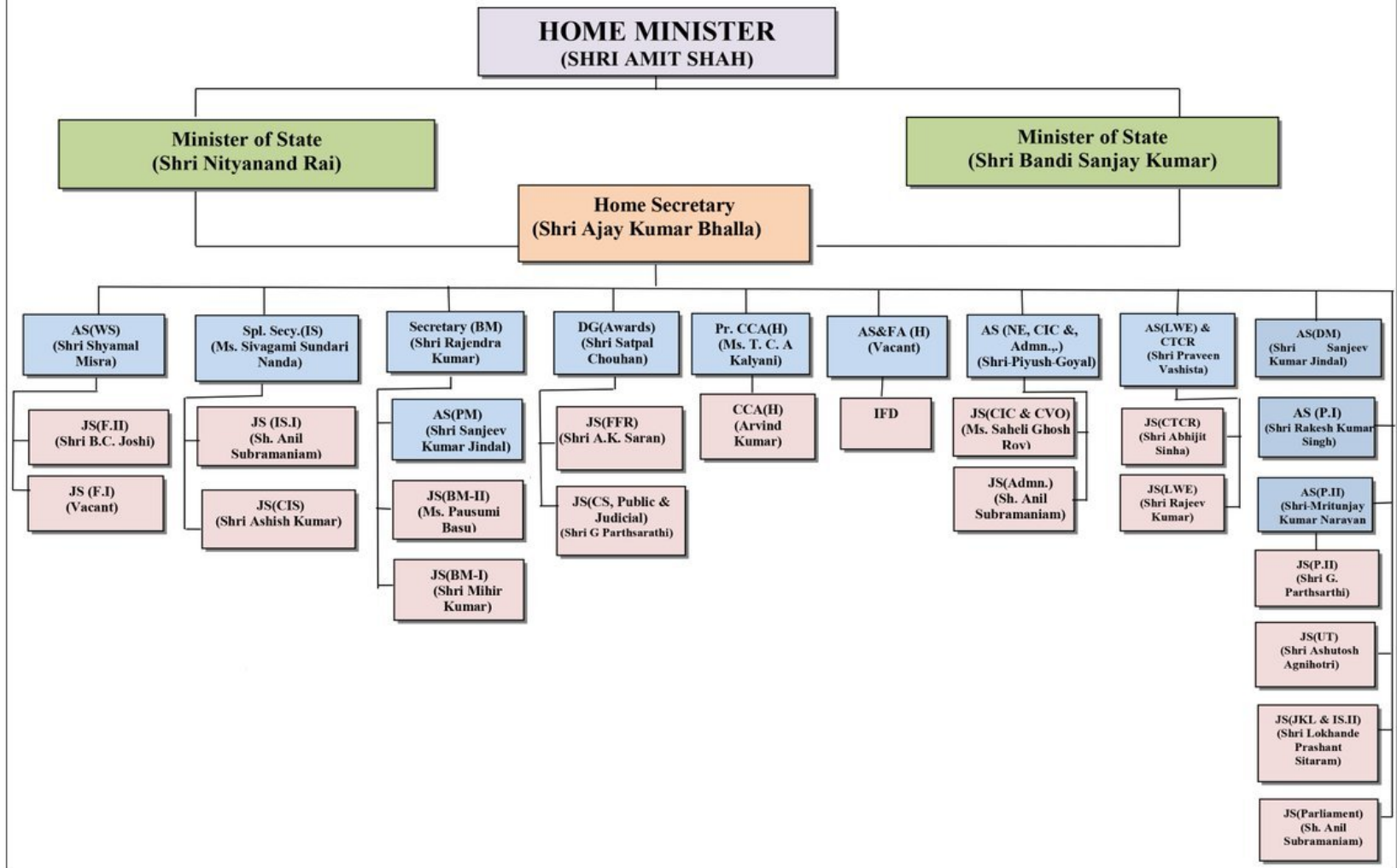


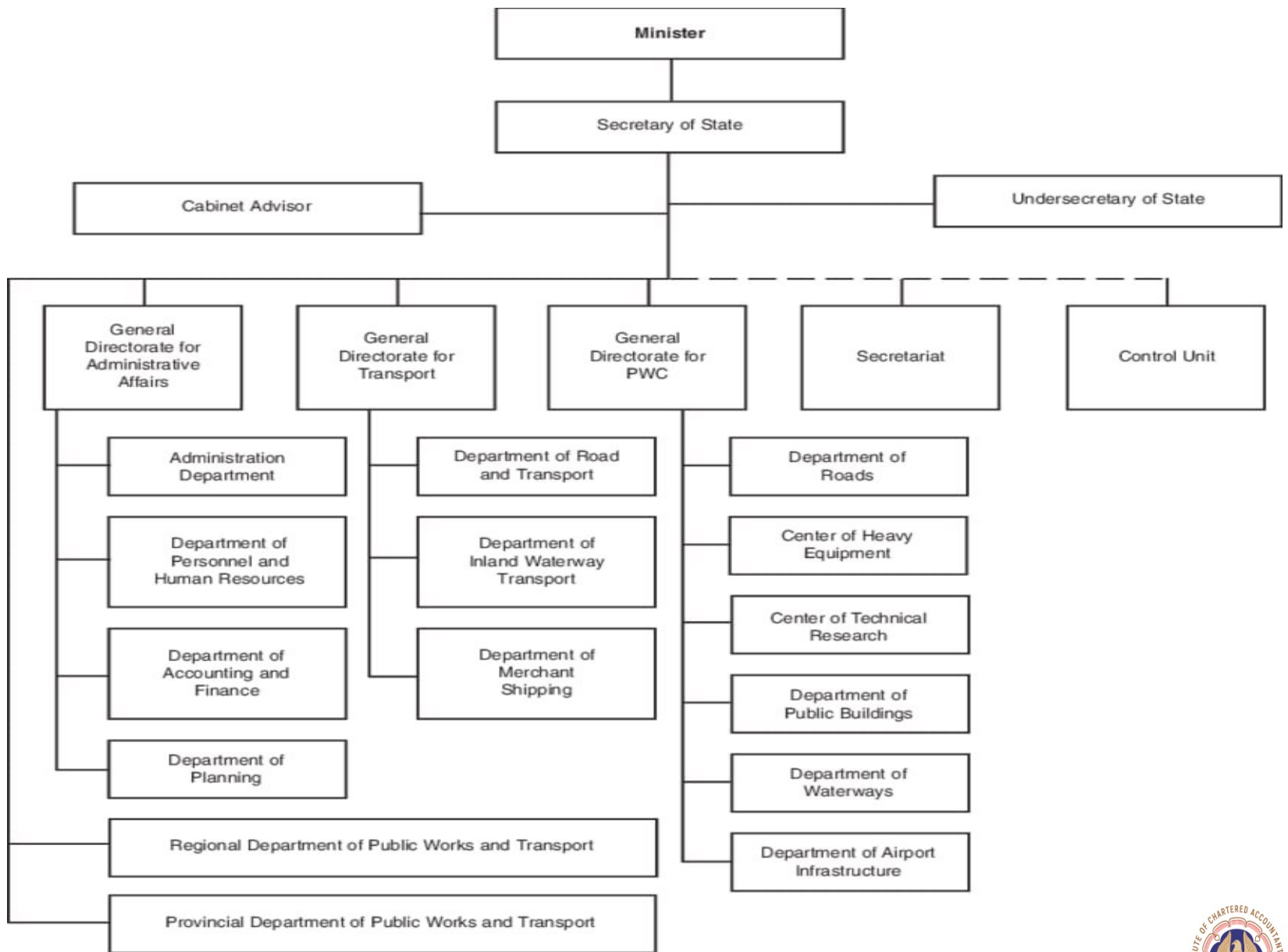
Eligible entities under FCRA

- **Society** – Registered under Societies Registration Act, 1860
- **Trust** – Governed under Indian Trusts Act, 1882
- **Company** – Under Section 25/8 of The Companies Act, 1956/2013
- **Individual / HUF** – Section 2(m) of FCRA, 2010 – Defines “Person”.



ORGANIZATIONAL CHART OF MINISTRY OF HOME AFFAIRS (As on 20.06.2024)







Home Minister
Amit Saha

Home Minister

Minister of State
for Home Affairs

Shri Nityanand Ray

Home Secretary

Shri Govind Mohan

Additional
Secretary (Border
Management)

Joint Secretary
(Foreigners)



Preamble FCRA



- To **regulate** the acceptance and utilisation of Foreign Contribution or Foreign Hospitality by certain Individuals/ Associations/ Companies
- To **prohibit** the acceptance and utilization of Foreign Contribution or Foreign Hospitality for any activities detrimental to the national interest.
- FCRA, 1976 – 32 Sections, FCRR, 1976 – 9 Rules
- **FCRA, 2010** – 54 Sections, **FCRR, 2011** – 24 Rules



- ✓ New FCRA, 2010 and FCRR, 2011 is effective from **1st MAY 2011** onwards.
- ✓ **Spotlight:** The new law is not much different from old law. In fact, they could have effortlessly modified the 1976 Act itself.



Purpose of FCRA, 2010

FCRA, 2010, has been enacted by the Parliament to consolidate the law **regulating the acceptance and utilization of foreign contributions or foreign hospitality by certain individuals or associations**, or companies and **to prohibit the acceptance and utilization of foreign contributions or foreign hospitality for any activities detrimental to national interest** and matters connected therewith or incidental thereto.



Act/rules/guidelines which regulate foreign contributions

The flow of foreign contribution to India is regulated under

- i. the Foreign Contribution (Regulation) Act, 2010 and
- ii. the Foreign Contribution (Regulation) Rules, 2011 (FCRR 2011) read with
- iii. other notifications/orders etc., as issued there from time to time.

**These are available at the website
<https://fcraonline.nic.in>.**



To whom is FCRA, 2010 applies

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**

Key Definitions and Concepts under FCRA, 2010



1. Foreign Contribution

As defined in Section 2(1)(h) of FCRA, 2010, "foreign contribution" means the **donation, delivery, or transfer made by any foreign source** —

(i) of any article, not being an article given to a person as a **gift for his personal use**, if the market value, in India, of such article, on the date of such gift is not more than such sum as may be specified from time to time by the Central Government by the rules made by it in this behalf.

Key Definitions and Concepts under FCRA, 2010



(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.

Key Definitions and Concepts under FCRA, 2010



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.



Key Definitions and Concepts under FCRA, 201

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 a foreign contribution within the meaning of this clause.

Key Definitions and Concepts under FCRA, 2010



Explanation 3–

Any amount received, by any person from any foreign source in India, by way of

- i. fee (including fees charged by an educational institution in India from foreign students) or
- ii. 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
- iii. any contribution received from an agent or. a foreign source towards such fee or cost **shall be excluded from the definition of foreign contribution within the meaning of this clause.**

Key Definitions and Concepts under FCRA, 2010



In terms of FCRA, 2010 "**person**" includes –

- ☺ (i) an individual;
- ☺ (ii) a Hindu undivided family;
- ☺ (iii) an association;
- ☺ (iv) a company registered under Section 25 of the Companies Act, 1956 (now Section 8 of the Companies Act, 2013).

Who can receive foreign contributions?



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

- ☺ a) It must have a definite cultural, economic, educational, religious, or social program.
- ☺ 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.



Who cannot receive foreign contributions?

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

- ☺ (a) candidate for election;
- ☺ (b) Correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;
- ☺ (c) Public Servant, Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;



Who cannot receive foreign contributions?

- ☺ (d) Member of any legislature;
- ☺ (e) Political party or office bearer thereof;
- ☺ (f) organization of a political nature as may be specified under sub-section (1) of Section 5 by the Central Government.
- ☺ (g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programs through any electronic mode, or any other electronic mode, or any other electronic form as defined in

Who cannot receive foreign contributions?



- ☺ clause (r) of sub-section (1) of Section 2 of the Information Technology Act, 2000 or any other mode of mass communication;
- ☺ (h) Correspondent or columnist, cartoonist, editor, owner of the association or company referred to in point (g).
- ☺ (i) Individuals or associations who have been prohibited from receiving foreign contributions.

Can foreign contribution be received in rupees?



Yes.

Any donation, delivery, or transfer received from a 'foreign source' whether in rupees or foreign currency is construed as 'foreign contribution' under FCRA, 2010.

Such transactions **including interest** on foreign contributions or income derived from foreign contributions **even in rupees** term are considered as foreign contributions.

Accretion out of foreign contribution whether constitutes a foreign contribution ?



It will not be considered **a fresh foreign contribution**

The interest or any other income earned out of foreign contribution should be shown against Column 2(i)(b) in the annual return (Form FC-4) during the year in which it is earned.

Such interest or income would be considered as F.C.

Rule 13: Receipt of FC in excess of 1 crore rupees



- **Applicable:** Registered entities and for prior permission entities
- **Period:** In a financial year
- **Amount:** In excess of 1 crore i.e. **(Rs: 1,00,00,001 and above only.)**
- **Condition:** Summary data to be placed in the Public domain viz., the website of the NGO, in addition, it will also be displayed/uploaded to the website of the Ministry of Home Affairs. (withdrawn)



Sale of goods or services to foreign clients is treated as a foreign contribution?



No.

As clarified in 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 a commercial nature/quid pro quo in the normal course of business trade etc within or outside India. FEMA applies and not FCRA

Individuals



- How do you know whether a person is foreigner or not? This is based on his or her **citizenship**. The country of stay is not important.
- Foreigner in India:** This means that a foreigner staying in India, working in India, earning money in India, will still remain a foreign source.
- Indian Outside India:** On the other hand, an Indian working abroad, getting salary from a foreign company, will not be a foreign source.

An example of this category is Mr. Amartya Sen

- **Vice-versa situation:** On the other hand, if a foreigner acquires Indian citizenship, then he or she will become an Indian source. Similarly, if an Indian becomes a foreign citizen, then he or she will become a foreign source.
- A common area of doubt is NRIs, PIOs and OCIs



- Are NRIs a foreign source or Indian source? **In general, NRIs are not a foreign source.** They are settled abroad but are still Indian citizens.
- **NRI**: However, the term NRI is sometimes used very casually. Therefore, it is best to confirm this by asking whether the person has become a foreign citizen. If the answer is ‘no’, then the funds will be treated as Indian.

**NRIs,
PIOs
&
OCIs**



- **PIO:** Persons of Indian origin are treated as a **foreign source**. It does not matter whether they hold the PIO card or not.
- **OCI:** Similarly, OCIs – Overseas Citizens of India (ex: USA) are treated as a **foreign source**.



Donations given by Non-Resident Indians (NRIs)



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, are not treated as foreign contributions.

However, while accepting any donations from such NRI, **it is advisable to obtain his/her passport details to ascertain that he/she is actually an Indian citizen.**



Donations given by an individual of Indian origin and having a foreign nationality

Yes.

Donation from an Indian-origin person who has acquired **foreign citizenship** is treated as a foreign contribution.

This will also apply to PIO / OCI cardholders as they are foreigners.

However, this will not apply to 'Non-resident Indians', who still hold **Indian citizenship** as they are not foreigners.

Foreign remittances from relatives are to be treated as foreign contributions?



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 contributions, are allowed to accept foreign contributions from their relatives.



Foreign remittances from relatives are to be treated as foreign contributions?

However, in terms of **Rule 6 of FCRR, 2011**, any person receiving a foreign contribution **in excess of ten lakh rupees or equivalent** thereto in a financial year from any of his relatives shall inform the Central Government in electronic **Form FC-1** within **three months from the date of receipt of such contribution**.

This form may be filled online on the website:
<https://fcraonline.nic.in>



Foreign contributions for the purposes listed in Section 4 of FCRA,2010

Individuals not covered under Section 3 or a HUF can accept foreign contributions freely for the purposes listed in Section 4 of FCRA,2010

Even the persons specified under Section 3, i.e., persons not permitted to accept foreign contributions, are allowed to receive the foreign contribution for the purposes listed in Section 4, it is obvious that Individuals in general and a HUF are permitted to accept foreign contributions without permission for the purposes listed in section 4. However, it should be

Foreign contributions for the purposes listed in Section 4 of FCRA,2010



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. one lakh vide FCR Amendment Rules, 2019.**



Fees paid for seminars

Delegate/Participation Fees

paid by foreign delegates/participants

for participation in a **conference/seminar**

and

which is utilized to meet the expenditure of hosting the conference/seminar is not treated as a foreign contribution and as such

the recipient requires no permission under FCRA.



6A. When articles gifted for personal use do not amount to foreign contribution.

Any article gifted to a person for his personal use whose market value in India on the date of such gift does not exceed

rupees one lakh

shall not be a foreign contribution within the meaning of sub-clause (i) of clause (h) of sub-section (1) of section (2).

Foreign Source Brief

- Individuals – NRIs and PIOs
- Government of a foreign country / territory (recognized / unrecognized)
- International Agencies (except 104)
- NPO – Trusts / Foundations / Society, Clubs / Trade Unions
- Business Organisations – Foreign Company / Subsidiary of a foreign company / foreign corporation / MNC / Company foreigners (>50%)



Foreign Source



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 on this behalf;
- (iii) a foreign company;



Foreign Source

- (iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;
- (v) a multi-national corporation referred to in sub-clause (iv) of clause (g) of section 2 of FCRA, 2010;
- (vi) a company within the meaning of the Companies Act, of 1956, and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of foreign govt, foreign citizen, foreign corporation, Trust, society, AOP in foreign country



Foreign Source

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 thereunder**, then, notwithstanding the nominal value of share capital of a company being more than **one-half of such value at the time of making the contribution, such company** shall not be a foreign source.

(vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;



Foreign Source

- (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;”

The contribution received from all the non- Indian Passport Holders is treated as a “Foreign Source.”

Can an Indian Company be a Foreign Source?

The following well-known Indian companies are classified as foreign source under FCRA:

- Bata India Ltd.
- Britannia Industries Ltd.
- Hindustan Unilever Ltd.
- Housing Development Finance Corporation Ltd (HDFC)
- ICICI Bank Ltd
- IDFC Ltd



- ING Vysya Bank Ltd
- ITC Ltd.
- Jet Airways (India) Ltd
- Maruti Suzuki India Ltd
- MphasiS Ltd.
- Sesa Goa Ltd.
- Siemens Ltd





Foreign Source

A few bodies/ organizations of the United Nations, World Bank, and some other International agencies/multi-lateral organizations are exempted from this definition and are not treated as foreign sources. Hence, the funds received from them **are not considered foreign contributions.**

A list of such bodies/organizations, which are not treated as 'foreign sources', is available on the website <https://fcraonline.nic.in>.

FCRA 2010 - Business/consultancy income of an NGO

- In the old FCRA 1976 had no clarity.
- **In FCRA 2010, explanation 3 to section 2(1)(h)** excludes income from business, trade or commerce.
- This amendment was very necessary but it comes with a lot of potent controversies and trouble for the NGOs.
- **FEMA applies**



- This section states that any fee or cost against business, trade or commerce shall **not be considered as foreign contribution.**

- In other words, such receipts can be treated **as local income.**



How about Dual Citizenship? Or When Indian Citizens are treated as Foreign Source?



- **Who is a DC?** The Government is now also seriously talking about dual-citizenship. This means that an Indian can remain an Indian citizen, even though he or she becomes a foreign citizen.
- Will this make a difference so far as FCRA is concerned? Surprisingly, the answer is ‘no’.
- Under FCRA, 2010 – u/s 2(1)(j), sub-clause (x) clearly says that **a citizen of a foreign country is a foreign source.**



- In the case of dual-citizenship, a person will be an Indian citizen but will also be a foreign citizen. Thus, he or she will attract clause (x) and will be treated as a foreign source!





Foreign company Section 2(1)(g) of FCRA, 2010

Foreign company means any company or association or body of individuals incorporated outside India and includes-

- a) foreign company within the meaning of Section 379 of the Companies Act, 2013
- b) a company which is a subsidiary of a foreign company
- c) the registered office or principal place of business of a foreign company referred to in sub-clause (i) or company referred to in sub-clause(ii);
- d) a multi-national corporation



Multinational Corporation

As per explanation given under clause (g) of subsection 1 of Section 2 of FCRA, 2010 a corporation incorporated in a foreign country or territory shall be deemed to be a multi-national corporation if such corporation,-

- ☺ (a) has a subsidiary or a branch or a place of business in two or more countries or territories; or
- ☺ (b) carries on business, or otherwise operates, in two or more countries or territories;



Political party

Section 2(1)(4) of FCRA, 2010. “Political party” means –

- i. an association or body of individual citizens of India
 - A) to be registered with the Election Commission of India as a political party under section 29A of the Representation of the People Act, 1951; or
 - B) which has setup candidates for election to any Legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order, 1968;



Political party

(ii) a political party mentioned in column 2 of Table 1 and Table 2 to the notification of the Election Commission of India No. 56/J&K/02, dated the 8th August, 2002, as in force for the time being;

Registration and Prior Permission and Eligibility



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

- i. Registration
- ii. Prior Permission

Eligibility

the association should:

(i) be registered under an existing statute like the **Societies Registration Act, 1860** or the **Indian Trusts Act, 1882**, or section 25 of the Companies Act, 1956 (Now **Section 8 of Companies Act, 2013**), etc;



Eligibility

ii) **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.** The applicant NGO/association will be free to choose its items of expenditure (excluding the administrative expenditure as defined in Rule 5 of FCRR, 2011) to become eligible **for the minimum threshold of Rs. 15.00 lakh spent during the last three years**



Eligibility

If the association wants inclusion of its capital investment in assets like land, building, other permanent Structures, vehicles, equipment etc, then the **Chief Functionary shall have to give an undertaking that these assets shall be utilized only for the FCRA activities** and they will not be diverted for any other purpose till FCRA registration of the NGO holds.



Eligibility criteria for grant of prior permission

An organization in the **formative stage is not eligible** for a certificate of registration.

Such an organization may apply for the grant of prior permission under FCRA, 2010.

Prior permission is granted for receipt of a specific amount from specific donor/donors for carrying out specific activities/projects.

For this purpose, the association should meet the following criteria:



Eligibility criteria for grant of prior permission

- (i) be registered under an existing statute like the **Societies Registration Act, 1860** or the **Indian Trusts Act, 1882** or **section 25/8 of the Companies Act, 1956-2013** etc;
- (ii) submit a specific **commitment letter** from the donor indicating the amount of foreign contribution and the purpose for which it is proposed to be given; and
- (iii) For Indian recipient organizations and foreign donor organizations **having common members**, FCRA Prior Permission shall be granted to the Indian recipient organizations subject to its satisfying the following:



Eligibility criteria for grant of prior permission

iv) In the case of a single foreign donor, at least **75% of office bearers/members of the governing body of the recipient organization should not be the family members and close relatives of the donor.**

Conditions to be met 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;

Eligibility criteria for grant of prior permission



- 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 the case of a foreign donor organization being a single person/individual that person should not be the Chief Functionary or office bearer of the recipient Indian organization.

Conditions to be met for the grant of registration and prior permission



- 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 the 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;

Conditions to be met for the grant of registration and prior permission



vii. has not contravened any of the provisions of this Act;

viii. has not been prohibited from accepting foreign contributions;

ix. the person being an individual, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offense is pending against him.

x. the person being other than an individual, any of its directors or office bearers has neither been convicted under any law for the time being in force nor any prosecution for any offense is pending against him.



Conditions to be met for the grant of registration and prior permission

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.

Conditions to be met for the grant of registration and prior permission



C)the acceptance of foreign contributions-

- ☺ i. shall not lead to incitement of an offense;
- ☺ ii. shall not endanger the life or physical safety of any person.

a private limited company too may seek prior permission/registration for receiving foreign funds in case they wish to do some work useful/beneficial to society.

Organisations under Central/State Governments are also required to obtain registration



All organizations (not being a political party), constituted or established by or under a Central Act or a State Act or by any administrative or executive order of the Central Government or any State Government and wholly owned by the respective Government and required to have their accounts compulsorily audited by the Comptroller and Auditor General of India (CAG) or any of the agencies of the CAG, are exempted from the operation of all the provisions of FCRA, 2010.



Can foreigners be members of Executive committee

Organizations having foreign nationals, other than of Indian origin, as members of their executive committees or governing bodies are **generally NOT** permitted to receive foreign contributions. Foreigners may be allowed to **be associated** with such associations in an **ex-officio capacity**, if they are representing multilateral bodies, the foreign contribution from whom is exempted from the purview of the Foreign Contribution (Regulation) Act, 2010, or in a purely honorary capacity depending upon the person's stature in his/her field of activity.



Can foreigners be members of Executive committee

Relaxation may be considered on case to case basis by an authority higher than the competent authority if any of the following grounds is met:

- i. the foreigner is married to an Indian citizen;
- ii. the foreigner has been living and working in India for at least five years;
- iii. the foreigner has made available his/her specialized knowledge, especially in the medical and health-related fields voluntarily in India, in the past;



Can foreigners be members of Executive committee

- iv. the foreigner is a part of the Board of Trustees/Executive Committee in terms of the provisions in an inter-governmental agreement;
- v. the foreigner is part of the Board of Trustees/Executive Committee, in an ex-officio capacity representing a multilateral body which is exempted from the definition of foreign source.

How to apply for grant of registration/prior permission?



Application for grant of registration and prior permission is to be submitted online in form FC-3 A and FC-3 B respectively on the website- <https://fcraonline.nic.in>.

All requisite documents are to be uploaded with the application online only and no physical copies shall be accepted by MHA under any circumstances. All physical documents, even if received, shall be returned to the sender immediately.



Filling of online form

The online application form FC-3A for registration / FC-3B for **prior permission** has been designed in an easy-to-fill format. The applicant will find instructions on each web page of the online form while filling out the application.

No rectification of error is allowed after the application has been finally submitted online. In case of an error, please Contact the Support Centre/ Help Desk of the FCRA.

For all FCRA services provided through the online portal, Aadhar Number & Darpan ID are mandatory.



Documents to be uploaded with the application for grant of registration

The applicant should be ready with the scanned copies of the following documents before applying online:

(A) Registration

- (i) jpg file of the signature of the chief functionary (size: 50kb)
- (ii) self-certified copy of registration certificate/Trust deed etc., of the association (size:1mb) [if not in English/ Hindi, please also upload a copy translated into English/Hindi].



Filling of online form

- (iii) self-certified copy of relevant pages of Memorandum of Association/ Article of Association showing the aim and objects of the association. (size:5mb) [if MOA/Article of Association is not in English/Hindi, please also upload a copy translated into English/Hindi]

(size :5MB) [if MOA/Article of Association is not in English/Hindi, please also upload a copy translated into English/Hindi]



Filling of online form

iv) Activity Report indicating details of activities during the last three years ;(size :3 MB)

(v) Copies of relevant audited statements of accounts for the past three years (Assets and Liabilities, Receipt and Payment, Income and Expenditure)

clearly reflecting expenditure incurred on aims and objects of the association and on administrative expenditure;
(size:5mb)

- (vi) Fee of Rs. 10,000/- is to be paid online through payment gateway.
- (vii) Affidavit from each office bearer in Proforma AA.



Filling of online form

(B) Prior Permission

- (i) jpg file of signature of the chief functionary(size:50kb)
- (ii) self-certified copy of registration certificate/Trust deed etc., of the association (size:1mb) [if not in English/ Hindi, please also upload copy translated into English/Hindi].
- (iii) duly signed Commitment Letter from Donor. (size:5mb)
- (iv) Fee of Rs. 5000/- is to be paid online through payment gateway.



Filling of online form

(v) If functioning as editor, owner, printer or publisher of a publication registered under the Press and Registration of Books Act, 1867, a certificate from the Registrar of Newspapers for India that the publication is not a newspaper in terms of section 1(1) of the said Act.

(vi) Project Report for which FC will be received.
(size:3mb)

(vii) Affidavit from each office bearer in Proforma AA.

N.B. Documents are scanned in proper resolution

form of Audited Statements which are to be uploaded with the FC-3A, FC-3B, FC-3C Forms



An Audited statement of accounts for the past three years (Assets and Liabilities, Receipt and Payment, Income, and Expenditure) reflecting expenditure incurred on aims and objectives of the association and on administration, duly signed by the Chartered Accountant with his membership number and UDIN.

Submission of verification certificate from the District Collector or Deputy Commissioner or District Magistrate is not required.



Payment of fee

For registration, the association is required to pay a fee of Rs. 10,000/-,

For prior permission, the fee is Rs. 5,000/- and

For renewal, the fee is Rs 5000/- only.

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



Status of Online Form

The status of pending applications for grant of registration/prior permission/renewal may be checked online at fcraonline services using the user ID and password created at the time of filing the application.

Application status can also be tracked on the website <https://fcraonline.nic.in>.



FCRA account in SBI, Sansad marg, Main branch, New Delhi

FCRA registered NGO **shall** have to open ‘FCRA account’ in SBI, Sansad Marg, Main branch, New Delhi for receipt of foreign contributions.

Organizations located anywhere in India can open and maintain designated FCRA accounts at SBI’s main branch, New Delhi without visiting physically to New Delhi.

In this regard, a detailed SOP of the State Bank of India is available in the public domain on the portal of SBI & FCRA.



Can foreign contributions be received in any other bank?

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

There is no bar on receiving such foreign contributions in installments

The association shall have to submit the mandatory online return in FC-4 form for receipt and utilization of the foreign contribution on a yearly basis, till the amount of foreign contribution is fully utilized. Even if no transaction takes place during a year, a NIL return should be submitted.

Advisory to incur expenditure above
Rs: 20000/- by cheques / drafts

20000

- ❑ The Ministry of Home Affairs has issued a Circular *[F.No. II/21022/58(136)/2014-FCRA(MU)]* dated 21st October 2014 an advisory to associations registered/ granted prior permission under FCRA to incur expenditure above Rs: 20000/- by cheques / drafts.
- ❑ The government *advises* all FCRA associations to that items of expenditure / payments amounting to Rs: 20000/- or more *should* be done by cheques / demand drafts



□ **Intensive Scrutiny:** It is also informed that records and accounts of associations indulging in cash payments of Rs: 20000/- or more from FC designated accounts or Utilisation accounts are ***likely to require more intensive scrutiny*** by government



Administrative Expenses



Rule 5 of FCRR, 2011 defines that administrative expenses include the following:

- (i) Salaries, wages, travel expenses, or any remuneration realized by the Members of the Executive Committee or Governing Council of the person;
- (ii) all expenses towards hiring of personnel for management of the activities of the person and salaries, wages, or any kind of remuneration paid, including cost of travel, to such personnel;
- (iii) all expenses related to consumables like electricity and water charges, telephone charges, postal



Administrative Expenses

charges, repairs to premise(s) from where the organization or Association is functioning, stationery and printing charges, transport and travel charges by the Members of the Executive Committee or Governing Council and expenditure on office equipment;

(iv) cost of accounting for and administering funds;

(v) expenses towards running and maintenance of vehicles;

(vi) cost of writing and filing reports;

(vii) legal and professional charges; and

(viii) rent of premises, repairs to premises, and expenses on other utilities;



Administrative Expenses

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.

#	Offences	Amount of Penalty
1.	Accepting a cheque or draft for foreign contribution without registration or prior permission	Rs. 10,000 or 2% of the foreign contribution involved, whichever is higher.
2.	Depositing a cheque or draft for foreign contribution without registration or prior permission	Rs. 25,000 or 2% of the foreign contribution involved, whichever is higher.
3.	Accepting and using foreign contribution for specified purpose without registration or prior-permission	Rs. 1,00,000 or 5%, whichever is higher.
4.	Accepting foreign contribution in kind without registration or prior permission	Rs. 10,000 or 2%, whichever is higher.

Utilisation of funds



Can foreign contributions be invested in Mutual Funds ?

No. Speculative activities have been defined in Rule 4 of FCRR, 2011 as under:-

- a. any activity or investment that has an element of risk of appreciation or depreciation of the original investment, linked to market forces, including investment in mutual funds or in shares;
- b) participation in any scheme that promises high returns like investment in chits or land or similar assets



Utilisation of funds

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.

The associations are granted registration/Prior Permission under the FCRA Act 2010 for receiving FC for certain purposes/objectives. Accordingly, FC should be utilized for the purpose only for which it is granted registration or prior permission.

Can foreign contribution be received in and utilised from multiple Bank Accounts?



The foreign contribution should be received only in the exclusive single “FCRA account” of the New Delhi Main Branch of SBI (also called designated FC account), as mentioned in the order for registration or prior permission granted, and shall be independently maintained by the associations. Besides, this “FCRA Account”, the association may also open “another FCRA Account” in any scheduled bank of its choice & link these accounts for the transfer of foreign contributions. Also, one or more accounts (called Utilization Account) in one or more scheduled banks



Can foreign contribution be received in and utilised from multiple Bank Accounts?

may be opened by the association for ‘utilizing’ the foreign contribution after it has been received in the designated FCRA bank account, provided that no fund other than foreign contribution shall be received or deposited in such account or accounts and in all cases of any change, intimation in FC-6D is to be given online within 45 days of the opening of such account.

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



FC-4

- **Statute:** Rule 17
- **Who:** should file FC-4: Every person who received FC
- **New:** Column No: 14 added specifying: *Places with address of specific activities*
- **When:** Due Date within 9 months from the end of FY (31st December)
- **Annual:** File it each year
- **Along with:** IE Account, RP Account and BS
- **FC-7:** For articles





Annual returns are to be filed online at <https://fcraonline.nic.in>. No hard copy of the returns shall be accepted in the FCRA Wing of the Ministry of Home Affairs.

The Annual return is to be submitted online at <https://fcraonline.nic.in> in prescribed Form FC-4, duly

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 accompanied by a balance sheet and statement of receipt and payment, which is



certified by a Chartered Accountant. Submission of a 'NIL' return, even if there is no receipt/utilization of foreign contribution during the year, is also mandatory. However, in such cases, a certificate from a Chartered Accountant, or an audited statement of accounts is not required to be uploaded.

Annual Return are to be filed online at <https://fcraonline.nic.in> For further details, please refer to Rule 17 of the Foreign Contribution (Regulation) Rules, 2011 (FCRR, 2011)



The association should file the mandatory annual return every year, till the amount of foreign contribution is fully utilized. Even if no transaction takes place during a year, a NIL return should be submitted.

Accounts and records relating to the receiving and utilization of foreign contributions are to be maintained exclusively/ separately

Consequences of not filling the annual returns on time



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

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

#	Offences	Amount of Penalty	Officer competent of compounding
1.	Non-furnishing of FCRA return upto 90 days after 31 st December every year	Penalty of 2% of the amount received during the Financial year or Rs.10,000/-, whichever is higher.	The Director or Deputy Secretary in charge of the Foreign Contribution (Regulation) Act Wing of Foreigners Division in the MHA.
2.	Non-furnishing of return after 91 days upto 180 days after 31 st December every year	Penalty of 3% of the amount received during the Financial year or Rs.20,000/-, whichever is higher.	The Director or Deputy Secretary in charge of the Foreign Contribution (Regulation) Act Wing of Foreigners Division in the MHA.
3.	Non-furnishing of return after 180 days after 31 st December every year	Penalty of 5% of the amount received during the Financial year or Rs.50,000/-, whichever is higher, with Rs. 500/- per day of delay after 180 days.	The Director or Deputy Secretary in charge of the Foreign Contribution (Regulation) Act Wing of Foreigners Division in the MHA.



Banks and Banking related issues

The “FCRA Account” under Section 17(1) of the Act can be opened only in the New Delhi Main Branch of SBI. “Another FCRA Account” and utilization account/accounts can be opened in any scheduled bank. It should be a PFMS integrated Bank.

FCRA account through which foreign contribution is proposed to be received and utilized is to be mentioned in the application seeking registration or prior permission, as the case may be, the association has to open such an exclusive “FCRA Account” in the New Delhi Main Branch of SBI. This A/c number would be mentioned in the letter granting registration or prior permission to the association.

Other forms

★ FC 1

★ Intimation of receipt of foreign contribution by way of gift/as Articles/ Securities/ by candidate for Election.

★ FC-2

★ Application for seeking prior permission of the Central Government to accept foreign hospitality(FC-2)

★ FC 3A

★ Application for FCRA Registration

FC-3B

Application for FCRA Prior Permission

FC-3C

Application for Renewal of FCRA Registration

FC 4

Annual Return

FC 6A

Intimation - Change of name and/ or address within the State of the Association

Other forms

■ **Form 6 B**

- Intimation - Change of nature, aims and objects and registration with local/relevant authorities in respect of the association

■ **FC-6C**

- Intimation - Change of designated bank/ branch/ bank account number of designated FC receipt-cum-utilisation bank account

FC-6D

- Intimation - Opening of additional FC-utilisation Bank Account for the purpose of utilisation of foreign contribution

FC-6E

- Intimation - Change in original Key members of the association

Other forms

★ FC-7

- ★ Application for surrender of certificate of registration
- ★ Revision Application against Section 32, FCRA 2010
- ★ Response Against Compounding Notice
- ★ Updation of email Id in the FC- receipt cum utilisation and utilisation bank account details
- ★ Filling of Annual returns of assets and liabilities under Lokpal and Lokayukts Act, 2013 by individual of Association.



Banks and Banking related issues

The bank doesn't need to report all such foreign contributions that are returned to the donor without crediting the account of the recipient.

There are no Minimum Balance requirements in FC Accounts under FCRA, 2010

Intimation for change in the name/address of the association, intimation is to be given online in Form FC-6A within 45 days, and self-certified copy of amendment approved by local/relevant authority is to be uploaded and similarly, for aims and objects form FC-6B is available online.



Banks and Banking related issues

For a change of the utilization account, an intimation is to be given online in Form FC-6 D within 45 days of such change with the uploading of certificates from the concerned banks regarding the change.

If at any point in time, such change causes the replacement of original Members of the Executive Committee/Governing Council of the association, intimation is to be given online in Form FC-6 E to MHA within 45 days of such change.



Renewal of certificate of registration

As per Section 16 of FCRA, 2010 every person who has been granted a certificate of registration under Section 12 thereof shall have such certificate renewed within **six months** before the expiry of the period of the certificate.

Associations that desire to renew their registration certificate shall apply online only in Form FC- 3C within 6 months before the expiry of their existing registration certificate. After successful payment of fees only, the application is deemed to have been completed.



Renewal of certificate of registration

In terms of Rule 12 (2) of FCRR, 2011, an Association registered under FCRA should apply in Form FC-3C for renewal of its registration six months before the date of expiry of the certificate of registration.

Darpan ID, verification of aadhaar number of each member, details of FCRA account of SBI, Main Branch New Delhi, signature of Chief Functionary, seal of the association, registration certificate of the association, Memorandum of Association/ Trust Deed, FCRA Registration Certificate of association issued by MHA and affidavit in prescribed proforma AA to be executed by each member individually on Non- Judicial Stamp Paper of Rs. 10 attested by Notary Public or 1st Class Magistrate are to be uploaded for renewal of registration.



Non renewal of registration

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 receipt & utilization of foreign contribution. **In such a case, the association has to apply afresh for a grant of registration.**

The person/associations must have filed all previous ARs, Darpan ID, aadhaar number of each member and designated “FCRA Account” in SBI, Main Branch New Delhi. Filing of AR is mandatory for even ‘NIL’ FC receipt.

Section 14: Cancellation of Certificate



- **Reasons:** Registration can be cancelled by CG after making enquiry and after giving opportunity of hearing
 1. **Providing false information**
 2. **Violating the terms and conditions like filing of return, etc.**
 3. **Acting against public interest**
 4. **Violating the Act or the Rules**
 5. **No reasonable activity for 2 years or has become defunct**



- **Caution:** Once certificate has been cancelled, they shall **not be eligible for registration or grant of prior permission for a period of 3 (three) years** from the date of cancellation of such certificate.
- **Procedure:** CG can revise the order **u/s. 32** of FCRA, Application to be made **within 1 year** from the date of communication of order. ***Delay can be condoned, no time limit for Condonation***
- Appeal against the order of cancellation lies with High Court under section 31(2) of FCRA (**within 60 days**).



Section 15: FCAMA – FC Asset Management Authority



- FCRA 2010 provides that after cancellation of registration certificate all the FC and assets thereof **shall vest with such authority** as may be prescribed.
- The government authorities shall take charge of the foreign contribution and the FC assets till the registration is restored.
- This seems to be a very harsh provision because it is open ended.
- Outcome:** In other words FC assets created since the inception of the organisation can be implicated if registration certificate is cancelled.



Section 22: Disposal of assets created out of FC



- Where any person who was permitted to accept FC under this Act, **ceases to exist** or **has become defunct**,
- All the assets of such person shall be disposed of in accordance with the provisions contained in any law for the time being in force under which the person was registered or incorporated, and



In the absence of any such law, the CG may, having regard to the nature of assets created out of FC received under this Act, by notification, **specify that all such assets shall be disposed of by such authority**, as it may specify, in such manner and procedure as may be prescribed.



Revision of an order under section 32 of the FCRA, 2010.



Any person who is registered under the Foreign Contribution (Regulation) Act, 2010 (FCRA 2010) and rules made thereunder and is aggrieved of an order of the Central Government may prefer revision application in terms of section 32 of the FCRA 2010 and rule 20 of the Foreign Contribution (Regulation) Rules, 2011 (FCRR 2011).

An application for revision of an order shall be made to the Secretary, Ministry of Home Affairs, Government of India, New Delhi in electronic form only.



Revision of an order under section 32 of the FCRA, 2010.

With effect from 1st September 2022, applications are acceptable only in electronic mode.

Any organization that wants to apply for revision of an order passed by the competent authority may upload a scanned copy of its application on the FCRA web portal (<https://fcraonline.nic.in/>) under main heading “Services under FCRA”, Sub heading “Revision Application against Section 32, FCRA 2010

There is no need to send a physical copy of the revision application or any related document to MHA



Revision of an order under section 32 of the FCRA, 2010.

There is no standardized format. A scanned copy of the duly signed application in plain paper is acceptable.

Justification for revision of Order must be submitted online along with the supporting documents, if any.

A fee of Rs.3000/- (Three Thousand only) must be paid through the payment gateway specified by the Central Government.

The application must be made within one year from the date on which the order in question was communicated or the date on which it otherwise came to know of it, whichever is earlier.



Offences and penalties under FCRA, 2010

TABLE

Sr. No	Offence	Amount of Penalty
(1)	(2)	(3)
1.	Offence punishable under section 35 for accepting any hospitality in contravention of section 6 of the Act.	Ten thousand rupees
2.	Offence punishable under section 37 for transferring any foreign contribution to any other person in contravention of section 7 of the Act or any rule made thereunder: Provided that transfer of foreign contribution	lakh rupees or ten per cent of such transferred One foreign contribution, whichever is higher.



Offences and penalties under FCRA, 2010

	(inclusive of more than one instances of transfer, if any) shall be compoundable only once.	
3.	Offence punishable under section 37 for defraying of foreign contribution beyond twenty per cent of the contribution received for administrative expenses in contravention of section 8 of the Act.	One lakh rupees or five per cent of such foreign contribution so defrayed beyond the permissible limit, whichever is higher.
4.	Offence punishable under section 35 for accepting foreign contribution in contravention of section 11 of the Act.	One lakh rupees or thirty per cent. of the foreign contribution received, whichever is higher.



Offences and penalties under FCRA, 2010

5.	<p>Offences punishable under section 37 read with section 17 of the Act for-</p> <p>(a) receiving foreign contribution in any account other than specified account in his application for grant of certificate;</p> <p>(b) non-reporting the prescribed amount of foreign remittance or source and manner of such remittance by banks and authorised persons.</p> <p>(c) receiving and depositing any fund other than foreign contribution in the account or accounts opened for receiving foreign contribution or for utilising the foreign contribution.</p>	<p>One lakh rupees or five per cent of the foreign contribution received in account, whichever is higher;</p> <p>One lakh rupees or three percent of the foreign contribution received or deposited in such account, whichever is higher.</p> <p>One lakh rupees or two per cent. Of such deposit, whichever is higher.</p>
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Offences and penalties under FCRA, 2010

6.	Offence punishable under section 37 for non-furnishing of intimation of the amount of each foreign contribution received and the source from which and in the manner in which, such foreign contribution is received as required under section 18 of the Act.	One lakh rupees or five per cent of the foreign contribution received during the period of non submission, whichever is higher.
7.	Offence punishable under section 37 for not maintaining the account and records of foreign contribution received and manner of its utilisation as required section 19 of the Act.	One lakh rupees or five per cent of the foreign contribution received during the relevant period of non- maintenance of accounts, whichever is higher.



Offences and penalties under FCRA, 2010

8.	Offence punishable under sections 3, 11 and 35 of the Act read with rule 6 for failure to intimate about receipt of foreign contribution within the prescribed time limit.	Five per cent of such foreign Contribution received in a financial year.
9.	Offence punishable under section 37, section 17 and section 19 of the Act read with clause (e) of sub-rule (1) of rule 9 for failure to intimate about opening of account or accounts within the prescribed time.	Ten thousand rupees per utilisation account for failure to intimate within the prescribed time.
10.	Offence punishable under section 37, section 17 and section 19 of the Act read with clause (e) of sub-rule (2) of rule 9 for failure to intimate about opening of account or accounts within the prescribed time.	Ten thousand rupees per utilisation account for failure to intimate within the prescribed time.



Offences and penalties under FCRA, 2010

11.	Offence punishable under section 37, section 11 and section 17 of the Act read with rule 17A, for failure to intimate about details within the prescribed time.	Ten thousand rupees for each violation of failure to intimate within the prescribed time.
12.	Offence punishable under section 37 and section 19 of the Act read with rule 13, for failure to place on website as prescribed in clause (a) of rule 13 within the prescribed time.	Ten thousand rupees for each violation.

Note: The amount of penalty computed under column (3) of the Table in respect of any offence or offences referred to in column (2) thereof shall not be more than the value of the foreign contribution received.



Compounding of an offense under FCRA, 2010

Application for compounding of an offence under Section 41 of FCRA, 2010 shall be made in electronic form on the website – <https://fcraonline.nic.in> with a fee of Rs.3000/- (Rupees three thousand only) to the Secretary, Ministry of Home Affairs, New Delhi. The fee will be paid through the payment gateway specified by the Central Government.



Compounding of an offense under FCRA, 2010

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

The Central Bureau of Investigation or the investigating agencies (Crime Branch) of the State Governments/ UTs in which cause of offence arises are the designated agencies for investigating and prosecuting a person for violation of FCRA.

Compounding of Offences

- FCRA 2010 has introduced a provision for compounding of offences. This allows the Government to enter into a compromise with the offending entity. They can pay a compounding fee, instead of facing court proceedings, and possibly a fine and imprisonment
- **What can be compounded?**: In theory, all the offences under the Act are eligible for compounding. However, only notified offences can be compounded in practice.
- **Repeated Offence**: If a similar offence is repeated by a person within 3 years, it cannot be compounded again



Compounding of Offences...

★ **Caution:** Secondly, compounding is feasible only before prosecution is started. If a complaint has been filed in the court, then compounding is no longer an option.

What is not an Offence?:

1. What happens if the money is transferred electronically into a person's account, without their consent? This probably **does not constitute an offence** – till the time the person starts using the money.
2. If the offence is for not filing a document or filing it incorrectly? In such a case, the person may also be asked to file the missing document etc. before the offence is compounded

Procedure for Compounding

- ★ **How:** Make an *application on plain paper* for this. The application should be addressed to **The Secretary, Ministry of Home Affairs**. The application will be decided by the Director or Deputy Secretary.
- ★ **Fees:** An application fee of Rs.3000 is to be paid for this. This is in addition to the penalty that may be levied if the Government agrees to compound the offence.





Limits

Accountable

Nature of offence	Compounding Fee	Payable by
<ul style="list-style-type: none">Bureaucrat, judge, MP, MLA, politician, etc. enjoys foreign hospitality while abroad without permission or intimation	Rs. 10,000	Bureaucrat, judge, MP, MLA, politician, etc.
<ul style="list-style-type: none">NGO with FCRA permission or registration passes on foreign contribution to unregistered person	Rs. 1 lakh or 10% of contribution transferred, whichever is higher	NGO which transferred the FC

Limits

<ul style="list-style-type: none"> NGO accepts foreign contribution without registration or permission or from a restricted source or for restricted purpose, area, etc. 	Rs. 1 lakh or 10% of contribution received, whichever is higher	NGO which received the FC
<ul style="list-style-type: none"> NGO spends more than 50% of foreign contribution on administrative expenses 	Rs. 1 lakh or 5% of the excess expenditure on administration, whichever is higher	NGO
<ul style="list-style-type: none"> NGO receives foreign contribution in wrong bank account 	Rs. 1 lakh or 5% of amount received, whichever is higher	NGO

Limits

<ul style="list-style-type: none"> NGO deposits local funds (including funds from UNO, etc.) in an FCRA bank account 	Rs. 1 lakh or 2% of amount deposited, whichever is higher	NGO
<ul style="list-style-type: none"> Bank does not report foreign contribution or source to MHA 	Rs. 1 lakh or 3% of amount deposited, whichever is higher	Bank
<ul style="list-style-type: none"> NGO does not file FC-4 or FC-1 for foreign contribution received in cash or kind 	Rs. 1 lakh or 5% of amount received during the period of default, whichever is higher	NGO
<ul style="list-style-type: none"> NGO does not maintain accounts or records of foreign contribution 	Rs. 1 lakh or 5% of amount received during the period of default, whichever is higher	NGO



Suspension, Cancellation and Surrender of Registration

Central Government may cancel the certificate as per the provisions of section 14 of the FCRA, 2010.

NOTE –

Any person whose certificate has been canceled under this section shall not be eligible for registration or grant of prior permission for three years from the date of cancellation of such certificate.



Suspension, Cancellation and Surrender of Registration

Central Government may suspend the certificate as per the provisions of section 13 of the FCRA, 2010 for a period not exceeding one hundred and eighty days and extend the suspension period for another one hundred and eighty days.

A person whose FCRA registration certificate has been suspended shall:-

- (a) not receive any foreign contribution during the period of suspension of certificate; provided that the Central Government specifically approves it on a case to case basis



Suspension, Cancellation and Surrender of Registration

(b) not utilize the unutilized FC in his custody without the prior approval of the Central Government. Even in this case, only upto twenty-five percent of the unutilized amount may be spent, with the prior approval of the Central Government, for the declared aims and objects for which the foreign contribution was received. The remaining seventy- five percent of the unutilized foreign contribution shall be utilized only after revocation of suspension of the certificate of registration.



Suspension, Cancellation and Surrender of Registration

Any organization who wants to forgo/ foreclose its FCRA registration due to its own reasons may surrender the certificate by uploading application online in form FC-7 on the website <https://fcraonline.nic.in>

In the event of any person who was permitted to accept foreign contribution, ceases to exist/ cancelled/ wishes to surrender, all the physical assets and unutilized foreign contribution in bank of such person shall be disposed off in accordance with the law.



Foreign Hospitality

Foreign Hospitality means any offer, not being a purely casual one, made in cash or kind by a foreign source for providing a person with the costs of travel to any foreign country or territory or with free board, lodging, transport or medical treatment.

The following categories of persons require prior approval from the Ministry of Home Affairs before accepting Foreign Hospitality:-

- a. Members of a Legislature
- b) office bearers of political parties
- c) Judges
- d) Government servants, Public Servants



Foreign Hospitality

e) Employees of any corporation or any other body owned or controlled by the Government. Provided that it shall not be necessary to obtain any such permission for an emergent medical aid needed on account of a sudden illness contracted during a visit outside India. But, where such foreign hospitality has been received, the person receiving such hospitality shall give an intimation to the Central Government as to the receipt of such hospitality within one month from the date of receipt of such hospitality, and the source from which, and how, such hospitality was received.



Foreign Hospitality

(i) Where the entire expenditure on the proposed foreign visit is being met by the Central/State Government or any Central/State PSU Etc.

Where the proposed foreign visit is being undertaken by a person in his/her capacity and the entire expenditure thereon is being met by the person concerned.

Where the foreign hospitality is being provided by an Indian national living in a foreign country or territory.



Foreign Hospitality

Cases involving acceptance of an assignment on salary, fee or remuneration etc.

Cases involving funding offered by an agency/organisation mentioned in list of agencies of the United Nations and other International Organisations, which are not treated as “foreign source” (available on website <https://fcraonline.nic.in>)

Cases involving visits undertaken by the Members of an Indian Parliamentary delegation under bilateral exchange.



Foreign Hospitality

Cases involving visits undertaken in pursuance of a bilateral agreement between the Government of India and the Government of the country concerned, approved by the Ministry of Finance (Department of Economic Affairs)

Cases involving long term/short term foreign training courses approved by the Ministry of Personnel, Training and Public Grievances

The applicant should submit application in electronic form in Form FC-2 on website -

<https://fcraonline.nic.in>



Foreign Hospitality

The following documents are to be uploaded with the FC-2 form (as mentioned under Rule 7 of FCRR, 2011)

- (i) Signature of the applicant (maximum 50 KB allowed in JPG/ JPEG format)
- (ii) An invitation letter from the host or the host country, as the case may be (maximum 1 MB allowed in PDF format)
- (iii) administrative clearance of the Ministry or department concerned in case of visits sponsored by a Ministry or department of the Government (maximum 1 MB allowed in PDF format).



Foreign Hospitality

The application for grant of permission to accept foreign hospitality should be filed online **ordinarily two weeks before the proposed date of onward journey**. In case of emergent medical aid needed on account of sudden illness during a visit abroad, the acceptance of foreign hospitality shall be required to be intimated to the Central Government **within one month of such receipt giving full details including** the source, approximate value in Indian Rupees, and the purpose for which and w it was utilized.

Role of CAs in FCRA, 2010 & FCRR, 2011



Role of CAs



1. Charter for the CA:

- To Verify whether associations are eligible to receive FC
- To Guide in submission of application for registration / prior permission
- To Ensure that the associations receives and utilizes the FC through its exclusive Bank Accounts



- To Assist in proper maintenance of Books of Accounts
- To Ensure that the annual returns are prepared in accordance with the provisions

- 1. Maintenance of Accounts; Audit of Accounts**
- 2. Representations – seizure / confiscation**
- 3. Filing of Returns**
- 4. Preparation of FCRA Balance Sheet (Cash Basis?)**
- 5. Certification & Secretarial Practice**



Thanks learned attendees



Thank you

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Prior Permission

- Prior-permission is given to NGOs by FCRA department to accept foreign contribution on a case-by-case basis.
- This permission should be obtained *before accepting the contribution*.
- However, if NGOs are going to receive foreign funds regularly, they should get 'FCRA Registration', so that they don't have to apply for permission again and again.

