

## **FEQUENTLY ASKED QUESTIONS (FAQs) ON FCRA**

Q.1 What is foreign contribution?

A.1 Foreign contribution means the donation, delivery or transfer, made by any foreign source of any,

- a) article, not given to a person as a gift for personal use, if the market value, in India, of such article exceeds one thousand rupees;
- b) currency, whether Indian or foreign; or,
- c) foreign security

This excludes earnings from foreign client(s) by an NGO/association in lieu of goods sold or services rendered by it as this is a transaction of commercial nature.

Q.2 What is a foreign source?

A.2 Foreign source includes the government of any foreign country or territory or its agency; an international agency; a foreign company; and citizen of a foreign country. Agencies of the United Nations, World Bank and some other International agencies/multilateral organisations are exempted from the definition of 'foreign source'. List of such exempted agencies/organisations is available on the website <http://mha.nic.in/fcra.htm>

Q.3 Whether donation given by Non-Resident Indians (NRIs) is treated as 'foreign contribution'?

A.3 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.

Q.4 Whether donations by Persons of Indian Origin (PIO) Card holder or Persons of Indian Origin (PIO) who hold other country's passports or registered Overseas Citizens of India (OCI) would be considered 'foreign source' ?

A.4 Yes, because persons under all these three categories are foreign nationals and hold passports of the country of their nationality.

Q.5 Whether foreigners can be appointed as Executive Committee members?

A.5 Foreign nationals are generally discouraged from being appointed as member of Executive Committee by an association. However, Foreign nationals, fulfilling the following conditions, may be appointed as Executive Committee members, after obtaining prior permission of the Central Government:

- (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 on a voluntary basis in India, in the past;
- (iv) the foreigner is 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 Trustee/Executive Committee, in an ex-officio capacity representing a multilateral body which is exempted from the definition of foreign source. The need for such an appointment should, however, be adequately justified.

Q.6 Who can receive foreign contribution?

A.6 An association having a definite cultural, economic, educational, religious or social programme can receive foreign contribution after it obtains the prior permission of the Central Government, or gets itself registered with the Central Government. Illustrative but not exhaustive lists of activities which are permissible and may be carried out by associations of different nature are available on the website <http://mha.nic.in/fcra.htm>

Q.7 Who cannot receive foreign contribution?

A.7 Foreign contribution cannot be accepted by:

- (i) a candidate for election;
- (ii) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;
- (iii) judge, government servant or employee of any Corporation;
- (iv) member of any legislature;
- (v) political party or office bearer thereof; and
- (vi) individuals or associations specifically notified under section 10(a) of Foreign Contribution (Regulation) Act, 1976 who have been prohibited from receiving foreign contribution.

Q.8 Can foreign contribution be received in and utilised from multiple Bank Accounts?

A.8 No. All foreign contribution should be received in and utilised from same single Bank Account mentioned in the order for registration or prior permission granted by MHA. This account number is same as has been intimated by the organisation in their application for registration/prior permission. **Use of multiple bank accounts is legally prohibited.**

Q.9 Can foreign contribution be mixed with local receipts?

A.9 No. Foreign contribution should not be mixed with local funds being handled by the organisation.

Q.10 Can foreign contribution be received in rupees?

A.10 Yes. Any amount received from 'foreign source' in rupees or foreign currency is construed as 'foreign contribution' under law. Such transactions even in rupees term are considered foreign contribution.

Q.11 Will interest earned from foreign contribution be considered foreign contribution ?

A.11 Yes.

Q.12 What is the Procedure for change of designated Bank Account?

A.12. For change of the bank account, an application in prescribed form mentioning the details of the old bank account and the proposed new bank account alongwith justification for change may be submitted to MHA alongwith copy of resolution of the executive committee for such change. This form is available on website <http://mha.nic.in/fcra.htm>. The new account may be made operational only after seeking MHA's approval.

Q.13 What are the eligibility criteria for registration?

A.13 An organisation in formative stage is not eligible for registration. Such organisation may apply for grant of prior permission under the law. For grant of registration, the association should:

- (i) be registered under the Societies Registration Act, 1860 or the Indian Trusts Act, 1882 or section 25 of the Companies Act, 1956;
- (ii) be in existence for at least three years and have made significant contribution in chosen area of activity. For this purpose, the association should have spent at least Rs.6,00,000 over last three years on its activities, excluding administrative expenditure. Statement of Income & Expenditure duly audited by Chartered Accountant for last three years may be enclosed to substantiate financial parameter.

Q.14 What are the eligibility criteria for grant of prior permission?

A.14 Prior permission is granted for receipt of specific amount from specific donor for carrying out specific activities/projects. For this purpose, the association should:

- (i) be registered under the Societies Registration Act, 1860 or the Indian Trusts Act, 1882 or section 25 of the Companies Act, 1956;
- (ii) submit commitment letter from the donor; and
- (iii) submit copy of project for which foreign contribution is solicited/ is being offered.

Q.15 Whether recommendation of District Collector, etc., is mandatory?

A.15 No. Submission of verification certificate from the District Collector, etc. is not mandatory. However, in certain cases, if the area of activity of an association is in non-border/coastal/tribal region and amount applied for prior permission is less than Rs.50 lakhs, submission of such a certificate assists in speedy clearance of the application.

Q.16 What are the documents to be enclosed with the application?

A.16 (a) Following documents should be enclosed with the application for grant of registration:

(i) Certified copy of registration certificate or Trust deed, as the case may be;

(ii) Details of activities during the last three years;

(iii) Copies of audited statement of accounts for the past three years (Asset and Liabilities, Receipt and Payment, Income and Expenditure);

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

(b) Following documents should be enclosed with the application for grant of Prior Permission:

(i) Certified copy of registration certificate or Trust deed, as the case may be;

(ii) Commitment letter from foreign donor specifying the amount of foreign contribution;

(iii) Copy of project for which foreign contribution was solicited / is being offered;

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

Q.17 How to find the status of pending application for registration/prior permission. ?

A.17 Status of pending applications for grant of registration or prior permission may be checked on-line from the Ministry of Home Affairs' web-site – <http://mha.nic.in/fcra.htm>. One needs to fill in the numbers on acknowledgement letter or any correspondence from MHA (Foreigners'

Division) in the blank format which pops up on the screen after selection of status enquiry icon (registration/prior permission, as the case may be)

Q.18 Is there any restrictions on transfer of funds to other organisations?

A.18 Yes. No foreign contribution can be transferred from an association granted registration or prior permission under FCRA to another association unless the latter has also obtained either registration or prior permission under FCRA.

Q.19 What is the procedure to be followed by a Liaison Office to receive foreign contribution?

A.19 Prior permission under FCRA is required by a Liaison Office of a foreign company for receiving remittances from its Head Office abroad for conducting conferences or carrying out other activities/programmes, etc. in India.

Q.20 What is the procedure for filing of FC-3 returns?

A.20 An association permitted to accept foreign contribution is required under law to maintain separate set of accounts and records exclusively for the foreign contribution received and utilised and submit an annual return, duly certified by a Chartered Accountant, giving details of the receipt and purpose-wise utilisation of the foreign contribution. **The return is to be filed for every financial year (1st April to 31<sup>st</sup> March) within a period of nine months from the closure of the year i.e. by 31st December each year. Submission of even a 'Nil' return, if there is no receipt/utilization of foreign contribution during the year, is mandatory, under law.**

The return is to be submitted, in prescribed Form FC – 3, duly accompanied with the balance sheet and statement of receipt and payment, which is certified by a Chartered Accountant. The form is available on MHA's web-site – <http://mha.nic.in/fcra.htm>.

Q.21 What is foreign hospitality?

A.21 Foreign Hospitality means any offer, not being a purely casual one, made by a foreign source for providing a person with the cost of travel to any foreign country or territory or with free board, lodging, transport or medical treatment.

Q.22 Who cannot accept foreign hospitality without prior approval of MHA?

A.22 No member of a legislature, office bearer of a political party, Judge, Government servant or employee of any corporation shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government any foreign hospitality.

Q.23 How one can seek permission of the Government for receiving foreign hospitality?

A.23 Application form (form FC-2) for his purpose is available on MHA's web-site – <http://mha.nic.in/fcra.htm>. One must apply on this form through the controlling officer at least three weeks in advance to seek prior approval of the Government for receiving foreign hospitality

Q.24 Where should the applications be sent ?

A.24 All applications be sent to the Secretary, Ministry of Home Affairs, Foreigners' Division, Jaisalmer House, 26, Man Singh Road, New Delhi – 110011. The forms can be downloaded from the website <http://mha.nic.in/fcra.htm>.

Q.25 What is the procedure for seeking change in the name/address of the association?

A.25 For seeking change in the name/address of the association, one should use the prescribed form available on MHA's website <http://mha.nic.in/fcra.htm>

Q.26 Who should be contacted for any information on FCRA ?

A.26 Names of the officers, their contact details including telephone numbers are available on MHA's website <http://mha.nic.in/fcra.htm>

Q.27 Which other materials on FCRA are available on the MHA's website ?

A.27 Following material on FCRA are available on MHA's website <http://mha.nic.in/fcra.htm> :

1. Foreign Contribution (Regulation) Act, 1976

2. Foreign Contribution (Regulation) Rules, 1976
3. Citizens charter, Charter for NGOs/Associations applying for grant of prior permission/registration under FCRA
4. Charter for NGOs/Associations granted prior permission/ registration under FCRA
5. Charter for the Chartered Accountants
6. Charter for the Banks
7. Illustrative programmes permitted to be carried out by associations having different nature
8. Check list for ensuring proper submission of applications
9. Agencies not covered by the definition of 'foreign source',
10. Common grounds for rejection of application
11. Details of registered associations
12. On-line status of pending applications
13. Annual summary on FCRA, FC forms
14. List of associations placed in prohibited category/prior permission category u/s 6 (1), 10 (a) and 10(b) of the Act
15. Directory of officers dealing with FCRA.

Q.28 Can an organization, whose violation under FCRA has been condoned, apply for registration/prior permission?

A.28 After the violation committed by an association has been condoned, the association can apply for prior permission (PP) only by submitting an application in form FC 1-A. Once the PP has been granted and foreign contribution received for specific purpose has been fully/partially utilized and organisation has submitted annual FC-3 returns and accounts in prescribed format pertaining to the PP, it becomes eligible for consideration of registration under FCRA. Registration would be granted under FCRA, if other parameters are fulfilled by the association.

Q.29 Can NGOs use the foreign contributions for investment in Mutual Funds and other speculative investments?

A.29 No. The foreign contributions received after prior permission/ grant of registration under the Act are to be utilized for the purpose for which they have been received and they are not to be invested in any speculative investments. Further, it is also clarified that foreign contributions can be received through a single Bank account designated for the purpose under the

order for registration/prior permission or changed thereafter with prior approval of the government.

Q.30 Whether Capital Assets purchased with the help of foreign contributions can be acquired in the name of the office bearers of the association?

A.30 No. Every assets acquired out of foreign contributions should be acquired and possessed in the name of the association since association has a separate legal entity distinct from its members.

Q.31 Can the NGOs/Trusts invest in profitable ventures and proceeds can be utilized for welfare activities?

A.31 No. The NGOs/Trusts should utilize the funds for the welfare purpose or related activities for which it is received. The utilization should be in line with the objectives of the association. However, foreign contributions can be utilized for self-sustaining activities, not meant for commercial purposes.

Q.32 Whether interest earned out of foreign contributions be shown as fresh foreign contribution receipt during that year or not?

A.32 Yes. The interest earned out of such deposit should be shown as second / subsequent foreign contributions receipt in the FC-3 returns during the year in which it is earned.

Q.33 Whether grant received from MNCs be treated as FC or not?

A.33 If the funds are received from an Indian Company incorporated under the Companies' Act, 1956 the same will not be treated as foreign contribution. But if the ownership and control rights of the company are vested in a foreign source, it will be treated as foreign contribution.

Q.34 If an application for registration is submitted on-line by an NGO, does it need to submit the application in physical form also?

A.34 Yes. When an application is filed on-line, a printout of the same may be taken after submission and thereafter, it should be submitted alongwith the requisite enclosures, duly signed, to Ministry of Home Affairs.

Q.35 Can the fee paid by the foreign delegates/participants attending/participating in a conference/seminar etc. be termed as foreign contribution and thus require permission from FCRA?

A.35 Foreign delegates/participants paying “delegate/participation Fees” in foreign currency for participation in a conference/seminar which is utilized for the purpose of meeting the expenditure of hosting the conference/seminar and is not treated as foreign contribution and as such no permission under FCRA is required.