

**A Study on
Foreign Contribution (Regulation) Act, 2010**



The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi

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First Edition : February 2005
Second Edition : February, 2010
Third Edition : February, 2015

Committee/Department : Committee on Economic, Commercial Laws & WTO

E-mail : ctlwto@icai.in

Website : www.icai.org

Price : ₹

ISBN No. : 978-81-8441-298-7

Published by : The Publication Department on behalf of the Institute of Chartered Accountants of India. ICAI Bhawan, Post Box No. 7100, Indraprastha Marg, New Delhi – 110 002, India.

Printed by : Sahitya Bhawan Publications, Hospital Road, Agra 282 003
February/2015/1,000

Foreword

Globalization refers to the integration of economies of the world through uninhibited trade and financial flows, as also through mutual exchange of technology and knowledge.

With the initiation of globalization, we have witnessed an immense surge of foreign direct investment (FDI) inflows during the past two decades. A strong increase in the number of FDI projects in India is a clear indication that global investors view the country as an attractive investment destination. However, this increasing flow of investment has imposed huge amount of responsibility on the Government and Regulators.

Since the Foreign Contribution (Regulation) Act, 2010 is national security legislation; stakeholders are required to exercise extreme care and caution in dealing with foreign contribution from the time of its receipt to its final utilization. As Chartered Accountants audit the accounts of the associations and certify the accounts before submission to the Government, they are required to provide proper guidance to the associations who are either applying for grant of prior permission/registration or who have been granted prior permission/registration under FCRA, 2010.

I feel that this legislation provides scope and opportunity to Chartered Accountants to facilitate timely and qualitatively better disclosure of foreign contributions by the recipients to the Regulatory Authorities. I am confident that this publication 'Study on Foreign Contribution (Regulation) Act, 2010' will facilitate our members in carrying out their professional endeavours, pursuits and roles.

I wish to place on record my appreciation to CA. Sanjay Agarwal, Chairman, Committee on Economic and Commercial Laws and its members for their invaluable contribution in the revision of this publication and bringing out the third edition of the Publication.

I hope the members and other readers would find this Publication immensely useful and it would serve as a handy tool in rendering the professional services.

New Delhi
February 3, 2015

CA. K. Raghu
President, ICAI

Preface

With the Foreign Contribution (Regulation) Act, 2010 coming into effect from May 1, 2011, the Foreign Contribution (Regulation) Act, 1976 stands repealed. As against the 32 sections in the since repealed Act, the new Foreign Contribution (Regulation) Act, 2010 comprises of 54 sections. The FC(R) Act, 2010, among others, has provided for broader applicability, including individuals, Hindu Undivided Family (HUF), Association and a section 25 company, and has removed inadequacies and practical difficulties in administration of the certain provisions of the earlier Act. The basic purpose of Act is to consolidate the law to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith or incidental thereto.

Members of CA Community have a greater role and sacred duty to ensure that the laws of the land are not only respected totally but are also followed in letter and spirit. To facilitate our members keep updated with the latest developments and amendments in the Act, the Committee undertook the exercise to revise its earlier publication on the subject.

This publication is aimed at enhancing the knowledge profile on the various aspects of the provisions and amendments in the Act. This is a small guide to the Act to facilitate the members and others interested to better appreciate the restrictions and covenants of the Foreign Contribution (Regulation) Act 2010.

I place on record my gratitude for the support and guidance afforded by CA. K. Raghu, President, ICAI and CA. Manoj Fadnis, Vice-President, ICAI.

I acknowledge the contribution of CA. Shyam Lal Agarwal, Vice- Chairman, CA. Tarun Jamnadas Ghia, CA. Dhinal Ashvinbhai Shah, CA. Nilesh Shivji Vikamsey, CA. M. Devaraja Reddy, CA. S. Santhanakrishnan, CA. Naveen N.D. Gupta, CA. Sanjiv Kumar Chaudhary, Shri Sunil Kanoria, Shri R.K. Jain, Members of the Committee and CA. Prasad N L, CA. Prabhu Dayal Baid, CA. Ajay Kumar Alipuria, Co-opted Members and CA. Rajat Mengi, Special Invitee, in bringing out this revised Publication.

I also place on record my appreciation to Dr. G Raghavan and members of the Special Group that was constituted for revision and updation of the publication, namely, CA. Sushil Gupta, CA. Poonam Mehndiratta and CA. Sunil Kumar Rastogi, who greatly helped in revising the earlier publication.

My appreciation are also due to the Committee Secretariate for the contribution made towards bringing this publication out.

I am confident that the Publication will be found immensely informative to the readers.

New Delhi
February 3, 2015

CA. Sanjay Agarwal
Chairman
Committee on Economic and Commercial Laws

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Chapter 1

Introduction

In India, the Foreign Contribution (Regulation) Act, 2010 is intended to consolidate the extant laws to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith or incidental thereto.

This Act came into force on 1st May 2011.

Objective

The objective of Foreign Contribution (Regulation) Act, 2010 is primarily to regulate the acceptance and utilization of foreign contribution or foreign hospitality by specified persons and to prohibit acceptance and utilization of foreign contribution or foreign hospitality for any activity detrimental to national interest.

Choronology

The regulation of foreign contribution started with the enactment of the Foreign Contribution (Regulation) Act, 1976 consequent to the controversy that erupted in 1967 over the possible use of foreign funds in parliamentary elections.

The legislative chronology of foreign contribution can be summed up thus:

- Foreign Contribution (Regulation) Act, 1976
- Foreign Contribution (Regulation) Amendment Act, 1985
- Foreign Contribution (Regulation) Repealing and Amendment Act, 2001
- Foreign Contribution (Regulation) Act, 2010

Preamble of the Act of 2010

The preamble to the Foreign Contribution (Regulation) Act, 2010 reads as under:

A Study on Foreign Contribution (Regulation) Act, 2010

An act to consolidate the law to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith or incidental thereto

What is foreign contribution?

A foreign contribution means the donation, delivery or transfer made by any foreign source 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
- any currency, whether Indian or Foreign
- any security as defined in Securities Contracts (Regulation) Act, 1956 and includes any foreign security as defined in Foreign Exchange Management Act, 1999

Explanation

- A donation, delivery or transfer of any article, currency or foreign security referred to above 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
- The interest that accrued on the foreign contribution deposited in any bank or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution

What is not a foreign contribution?

Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent of a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution

Contributions made by a citizen of India living in another country (i.e. Non-Resident Indian), from his personal savings, through the normal banking

Introduction

channels, is not treated as a 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.

Foreign Source

Foreign source includes the following:

- The Government of any foreign country or territory and an agency of such Government
- Any international agency, not being the United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify
- A foreign company
- A corporation, not being a foreign company, incorporated in a foreign country or territory
- A multi-national corporation
- A company within the meaning of the Companies Act in which more than one half of the nominal value of the share capital is held, either singly or in the aggregate, by one or more of the following namely
 - The Government of a foreign country or territory
 - The citizens of a foreign country or territory
 - Corporations incorporated in a foreign country or territory
 - Trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory
 - Foreign company
- A trade union in any foreign country or territory, whether or not registered in such foreign country or territory
- A foreign trust or foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory
 - A society, club or other association of individuals formed or registered outside India
 - A citizens of a foreign country

Chapter 2

Overview of Foreign Contribution (Regulation) Act, 2010

The Foreign Contribution (Regulation) Act, 2010 was notified in the Gazette of India on 27th Sep 2010 and was brought into force with effect from 1st May 2011.

This Act comprises of 9 Chapters containing 54 Sections as under:

Chapter	Subject	No. of Sections
Chapter I	Preliminary	2
Chapter II	Regulation of Foreign Contribution and Foreign Hospitality	8
Chapter III	Registration	6
Chapter IV	Accounts, Intimation, Audit and Disposal of Assets, etc	6
Chapter V	Inspection, Search and Seizure	5
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The provisions of the Foreign Contribution (Regulation) Act, 2010 extends to the whole of India and applies to

- Citizens of India outside India and
- Associate branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India

Key Definitions (Section 2)

Association

Association means an association of individuals, whether incorporated or not, having an office in India and includes a society, whether registered under the Societies Registration Act, 1860, or not, and any other organisation, by whatever name called

Authorised Person in Foreign Exchange

Authorised Person in Foreign Exchange means an authorised person referred to in Foreign Exchange Management Act, 1999

Bank

Bank means a banking company as referred to in the Banking Regulation Act, 1949

Candidate for election

Candidate for election means a person who has been duly nominated as a candidate for election to any Legislature

Certificate

Certificate means certificate of registration granted under Sub-section (3) of Section 12 of the Foreign Contribution (Regulation) Act, 2010

Company

Company shall have the meaning assigned to it under Income Tax Act, 1961

Foreign Company

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

- Foreign company within the meaning of Companies Act
- A company which is subsidiary of a foreign company
- The registered office or principal place of business of a foreign company
- A multi-national corporation

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For the purpose of reckoning a company as an MNC, a corporation incorporated in a foreign country or territory shall be deemed to be a multinational corporation if such corporation has a subsidiary or a branch or a place of business in two or more countries or territories or carries on business or otherwise operates in two or more countries or territories

Foreign contribution

Foreign contribution means donation, delivery or transfer made by any foreign source 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
- any currency, whether Indian or Foreign
- any security as defined in the Securities Contracts (Regulation) Act, 1956 and includes any foreign security as defined in the Foreign Exchange Management Act, 1999
- Explanations –(i) A donation, delivery or transfer of any article, currency or foreign security referred to above 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
- Explanation –(ii) The interest accrued on the foreign contribution deposited in any bank or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution
- Explanation –(iii) Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent of a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution
- Explanation –(iv) 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 a foreign

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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

Foreign hospitality

Foreign hospitality means any offer, not being purely a 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 boarding, lodging, transport or medical treatment

Foreign source

Foreign source includes

- The Government of any foreign country or territory and an agency of such Government
- Any international agency, not being the United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify
- A foreign company
- A corporation, not being a foreign company, incorporated in a foreign country or territory
- A multi-national corporation
- A company within the meaning of the Companies Act 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
 - The Government of a foreign country or territory
 - The citizens of a foreign country or territory
 - Corporations incorporated in a foreign country or territory
 - Trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory
 - Foreign company
- A trade union in any foreign country or territory, whether or not registered in such foreign country or territory

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- A foreign trust or foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory
- A society, club or other association of individuals formed or registered outside India
- A citizens of a foreign country

Legislature

Legislature means

- Either house of Parliament
- The Legislative Assembly of a State, in the case of a State having a Legislative Council, either house of the Legislature of that State
- Legislative Assembly of a Union Territory constituted under the Government Union Territories Act, 1963
- Legislative Assembly for the National Capital Territory of Delhi referred to in the Government of National Capital Territory of Delhi Act, 1991
- Municipality as defined in the Constitution
- District Councils and Regional Councils in the States of Assam, Meghalaya, Tripura and Mizoram as provided in the Sixth Schedule to the Constitution
- Panchayat as defined in the Constitution
- Any other elective body as may be notified by the Central Government

Notification

Notification means notification published in the Official Gazettee and the expression notify shall be construed accordingly

Person

Person includes an individual, a Hindu Undivided Family, an Association or a Company registered under Companies Act.

Political party

Political party means

- an association or body of individual citizens of India
- to be registered with the Election Commission of India as a Political Party under Representation of the People Act or

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- which has set up 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
- a political party mentioned in notification of Election Commission of India dated 8th August 2002 as in force for the time being

Prescribed

Prescribed means prescribed by rules made under this Act

Prescribed Authority

Prescribed Authority means an authority specified as such by rules made by the Central Government under this Act

Registered Newspaper

Registered Newspaper means a newspaper registered under the Press and Registration of Books Act, 1867

Relative

Relative has the meaning assigned to it in the Companies Act

Scheduled Bank

Scheduled bank shall have the meaning assigned to it under Reserve Bank of India Act, 1934

Subsidiary

Subsidiary and associate shall have the meanings, respectively assigned to them in the Companies Act, 1956 (Now Companies Act, 2013)

Trade Union

Trade union means a trade union registered under the Trade Unions Act, 1926

Regulation of Foreign Contribution and Foreign Hospitality

Prohibition to accept foreign contribution - Section 3

Section 3 stipulates that no foreign contribution shall be accepted by any candidate for election, correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper, judge, Government servant or

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employee of any corporation (includes a corporation owned or controlled by the Government and a Government company as defined in the Companies Act) or any other body controlled or owned by the Government, member of any Legislature, political party or office bearer thereof, organisation of a political nature as may be specified by the Central Government, association or company engaged in production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in the Information Technology Act, 2000 or any other mode of mass communication, correspondent or columnist, cartoonist, editor, owner of the association or company referred to in the Information Technology Act, 2000

No person resident in India and no citizen of India resident outside India shall accept any foreign contribution or acquire or agree to acquire any currency from a foreign source, on behalf of any political party or any prohibited person

No person resident in India shall deliver any currency whether Indian or Foreign, which has been accepted from any foreign source, to any person if he knows or has reasonable cause to believe that such other person intends, or is likely to deliver such currency to any political party or any prohibited person

No citizen of India resident outside India shall deliver any currency whether Indian or Foreign which has been accepted from any foreign source to any political party or any prohibited person or any other person if he knows or has reasonable cause to believe that such other person intends or is likely to deliver such currency to a political party or to any prohibited person

No person receiving any currency, whether Indian or Foreign, from a foreign source on behalf any person or class of persons prohibited in Section 9, shall deliver such currency to any other person other than a person for which it was received or to any person, if s/he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a person other than the person for which such currency was received

Persons to whom Section 3 shall not apply - Section 4

Nothing contained in Section 3 shall apply to the acceptance, by any person specified in that Section, or any foreign contribution where such contribution is accepted by him, subject to the provisions of Section 10 – by way of

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salary, wages or other remuneration due to him or to any group of persons working under him, from any foreign source or by way of payment in the ordinary course of business transacted in India by such foreign source or by way of payment, in the course of international trade or commerce, or in the ordinary course of business transacted by him outside India or as an agent of a foreign source in relation to any transaction made by such foreign source with the Central Government or State Government or by way of a gift or presentation made to him as a member of any Indian delegation, provided that such gift or present was accepted in accordance with the rules made by the Central Government with regard to the acceptance or retention of such gift or presentation or from his relative or by way of remittance received, in the ordinary course of business through an official channel, post office, or any authorised person in foreign exchange under the Foreign Exchange Management Act, 1999 or by way of any scholarship, stipend or any payment of like nature, provided that in case any foreign contribution received by any person specified under Section 3, for any of the purposes other than those specified under the Section 4, such contribution shall be deemed to have been accepted in contravention of the provisions of Section 3

Procedure to notify an organisation of a political nature - Section 5

The Central Government may, having regard to the activities of the organisation or the ideology propagated by the organisation or the programme of the organisation or the association of the organisations with the activities of any political party, by an order published in the Official Gazette, specify such organisation as an organisation of a political nature not being a political party, provided that the Central Government may by rules made by it, frame the guidelines specifying the ground or grounds on which an organisation shall be specified as an organisation of a political nature

Before making an order, the Central Government shall give the organisation, a notice in writing informing it of the ground or grounds, on which it is proposed to be specified as an organisation of political nature.

The organisation to which a notice has been served, may, within a period of thirty days from the date of the notice, make a representation to the Central Government giving reasons for not specifying such organisation as an organisation of a political nature.

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Provided that the Central Government may entertain the representation after the expiry of said period of thirty days, if it satisfied that the organisation was prevented by sufficient cause from making the representation within thirty days.

The Central Government may, if it considers it appropriate, forward the representation to any authority to report on such representation.

The Central Government may, after considering the representation and the report of the authority referred, specify such organisation as an organisation of a political nature not being a political party and make an order accordingly.

Every order shall be made within a period of one hundred and twenty days from the date of issue of notice.

Provided that in case no order is made within the said period of one hundred and twenty days, the Central Government shall, after recording the reasons therefor, make an order within a period of sixty days from the expiry of the said period of one hundred and twenty days.

Restrictions on acceptance of foreign hospitality - Section 6

No member of a Legislature or office bearer of a political party or judge or Government servant or employee of any corporation or any other body owned or controlled by the Government shall, while visiting any country or territory outside India, accept, except with the prior permission of Central Government, any foreign hospitality.

Provided that it shall not be necessary to obtain any such permission from an emergent medical aid needed on account of sudden illness contracted during a visit outside India, but where such foreign hospitality has been received, the person receiving such hospitality shall give, within one month from the date of receipt of such hospitality an intimation to the Central Government as to the receipt of such hospitality, and the source from which, and the manner in which, such hospitality was received by him,

Prohibition to transfer foreign contribution to other persons - Section 7

No person who is registered and granted a certificate or has obtained prior permission under this Act and receives any foreign contribution shall transfer such foreign contribution to any other person unless such person is also registered and had been granted the certificate or obtained prior permission under this Act.

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Provided that such person may transfer, with the prior approval of the Central Government, a part of such foreign contribution to any other person who has not been granted a certificate or obtained permission under this Act in accordance with the rules made by the Central Government.

Restrictions to utilise foreign contribution for administrative purpose - Section 8

Every person, who is registered and granted a certificate or given prior permission under this Act and receives any foreign contribution, (a) shall utilise such contribution for the purposes for which the contribution has been received provided that any foreign contribution or any income arising out of it shall not be used for speculative business; provided further that the Central Government shall, by rules, specify the activities or business which shall be construed as speculative business for the purpose of this section (b) shall not defray as far as possible such sum, not exceeding fifty per cent of such contribution, received in a financial year, to meet administrative expenses provided that administrative expenses exceeding fifty per cent, of such contribution may be defrayed with prior approval of the Central Government.

The Central Government may prescribe the elements which shall be included in the administrative expenses and the manner in which the administrative expenses shall be calculated.

Power of Central Government to prohibit receipt of foreign contributions, etc. in certain cases - Section 9

The Central Government may

- (a) prohibit any person or organisation not specified from accepting any foreign contribution.
- (b) require any person or class of persons, not specified, to obtain prior permission of the Central Government before accepting any foreign hospitality;
- (c) require any person or class of persons not specified, to furnish intimation within such time and in such manner as may be prescribed as the amount of any foreign contribution received by such person or class of persons as the case may be, and the source from which and the manner in which such contribution was received and the purpose for which and the manner in which such foreign contribution was utilised.

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- (d) without prejudice to the other provisions, require any person or class of persons specified in that sub section to obtain prior permission of the Central Government before accepting any foreign contribution;
- (e) require any person or class of persons, not specified in this Act, to furnish intimation, within such time and in such manner as may be prescribed, as to the receipt of any foreign hospitality, the source from which and the manner in which such hospitality was received:

Provided that no such prohibition or requirement shall be made unless the Central Government is satisfied that the acceptance of foreign contribution by such person or class of persons, as the case may be, or the acceptance of foreign hospitality by such person, is likely to affect prejudicially – the sovereignty and integrity of India, or public interest or freedom or fairness of election to any legislature or friendly relations with any foreign State or harmony between religious, racial, social, linguistic or regional groups, castes or communities.

Power to prohibit payment of currency received in contravention of the Act - Section 10

Where the Central Government is satisfied, after making such enquiry as it may deem fit, that any person has in his custody or control any article or currency or security, whether Indian or Foreign, which has been accepted by such person in contravention of any of the provisions of this Act, it may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing with, in any manner whatsoever, such article or currency or security save in accordance with the written orders of the Central Government and a copy of such order shall be served upon the person so prohibited in the prescribed manner, and thereupon the provisions of Unlawful Activities (Prevention) Act 1967 shall, so far as may be, apply to, or in relation to, such article or currency or security and references in the said Act to moneys, securities or credits shall be construed as references to such article or currency or security.

Registration - Section 11

Save as otherwise provided in this Act, no person having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution unless such person obtains a certificate of registration from the Central Government.

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Provided that any association registered with the Central Government under Foreign Contribution (Regulation) Act, 1976, as it stood immediately before the commencement of this Act, shall be deemed to have been registered or granted prior permission, as the case may be, under this Act and such registration shall be valid for a period of five years from the date on which this section comes into force.

Every person referred to in this Act, if it is not registered with the Central Government under this Act, accept any foreign contribution only after obtaining the prior permission of the Central Government and such permission shall be valid for the specific purpose for which it is obtained and from the specific source.

Provided that if the person referred to in the Act has been found guilty of violation of any of the provisions of the Act or the Foreign Contribution (Regulation) Act, 1976, the unutilised or un received amount of foreign contribution shall not be utilised or received, as the case may be, without the prior approval of the Central Government.

Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, specify the person or class of persons who shall obtain its prior permission before accepting foreign contribution or the area or areas in which the foreign contribution shall be accepted and utilised with the prior permission of the Central Government or the purpose or purposes for which the foreign contribution shall be utilised with the prior permission of the Central Government or the source or sources from which the foreign contribution shall be accepted with the prior permission of the Central Government

Grant of certificate of registration - Section 12

An application by a person, referred to in the Act for grant of certificate or giving prior permission, shall be made to the Central Government in such form and manner and along with such fee, as may be prescribed.

On receipt of an application under this Act, the Central Government shall, by an order, if the application is not in the prescribed form or does not contain any of the particulars specified in that form, reject the application.

If on receipt of an application for grant of certificate or giving prior permission and after making such inquiry as the Central Government deems fit, it is of the opinion that the conditions specified in this Act are satisfied, it may,

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ordinarily within ninety days from the date of receipt of application under this Act, register such person and grant him a certificate or give him prior permission, as the case may be, subject to such terms and conditions as may be prescribed.

Provided that in case the Central Government does not grant, within the said period of ninety days, a certificate or give prior permission it shall communicate the reasons therefor to the applicant

Provided further the person shall not be eligible for grant of certificate or giving prior permission, if his certificate has been suspended and such suspension of certificate continues on the date of making application

The following shall be the conditions for the purposes of this Act, namely –

- the person making an application for registration or grant of prior permission under this Act is not fictitious or benami, 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, has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country, has not been found guilty of diversion or mis-utilisation of its funds, is not engaged or likely to engage in propagation of sedition or advocate violent methods to achieve its ends, is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes, has not contravened any of the provisions of this Act, has not been prohibited from accepting foreign contribution;
- the person making application for registration under this Act has undertaken reasonable activity in its chosen field for the benefit of the society for which the foreign contribution is proposed to be utilised;
- the person making an application for giving prior permission under this Act has prepared a reasonable project for the benefit of the society for which the foreign contribution is proposed to be utilised;
- In the case of the person being an individual, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offence pending against him;
- In case of the person being other than an individual, any of its

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directors or office bearers has neither been convicted under any law for the time being in force nor any prosecution for any offence is pending against him;

- the acceptance of foreign contribution by the person referred to in this Act is not likely to affect prejudicially the sovereignty and integrity of India, or the security, strategic, scientific or economic interest of the State or the public interest or freedom or fairness of election to any legislature or friendly relation with any foreign State or harmony between religious, racial, social, linguistic, regional groups, castes or communities;
- the acceptance of foreign contribution referred to this Act shall not lead to incitement of an offence, and shall not endanger the life or physical safety of any person.

Where the Central Government refuses the grant of certificate or does not give prior permission, it shall record in its order the reasons therefor and furnish a copy thereof to the applicant

Provided that the Central Government may not communicate the reasons for refusal for grant of certificate or for not giving prior permission to the applicant under this Act in cases where there is no obligation to give any information or documents or records or papers under the Right to Information Act, 2005

The certificate granted under this Act shall be valid for a period of five years and the prior permission shall be valid for the specific purpose or specific amount of foreign contribution proposed to be received, as the case may be.

Suspension of certificate - Section 13

Where the Central Government, for reasons to be recorded in writing, is satisfied that pending consideration of the question of cancelling the certificate on any of the grounds mentioned in this Act, it is necessary so to do, it may, by order in writing, suspend the certificate for such period not exceeding one hundred and eighty days as may be specified in the order.

Every person whose certificate has been suspended shall (a) not receive any foreign contribution during the period of suspension of certificate, provided that the Central Government, on an application made by such person, if it considers appropriate, allow receipt of any foreign contribution by such person on such terms and conditions as it may specify (b) utilise, in the

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prescribed manner, the foreign contribution in his custody with the prior approval of the Central Government

Cancellation of certificate - Section 14

The Central Government may, if it is satisfied after making such inquiry as it may deem fit, by an order, cancel the certificate if (a) the holder of the certificate has made a statement in, or in relation to, the application for the grant of registration or renewal thereof, which is incorrect or false or (b) the holder of the certificate has violated any of the terms and conditions of the certificate or renewal thereof or (c) in the opinion of the Central Government, it is necessary in the public interest to cancel the certificate or (d) the holder of the certificate has violated any of the provisions of this Act or rules or order made thereunder or (e) if the holder of the certificate has not been engaged in any reasonable activity in its chosen field for the benefit of the society for two consecutive years or has become defunct.

No order of cancellation of certificate under this section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

Any person whose certificate has been cancelled under this Act shall not be eligible for registration or grant of prior permission for a period of three years from the date of cancellation of such certificate

Management of foreign contribution of person whose certificate has been cancelled - Section 15

The foreign contribution and assets created out of the foreign contribution in the custody of every person whose certificate has been cancelled under this Act shall vest in such authority as may be prescribed.

The authority referred to this Act may, if it considers necessary and in public interest, manage the activities of the person referred to in this Act for such period and in such manner, as the Central Government may direct and such authority may utilise the foreign contribution or dispose of the assets created out of it in case adequate funds are not available for running such activity.

The authority referred to in this Act shall return the foreign contribution and the assets vested upon it under this Act to the person referred to in this Act if such person is subsequently registered under this Act.

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Renewal of certificate - Section 16

Every person who has been granted a certificate under this Act shall have such certificate renewed within six months before the expiry of the period of the certificate.

The application for renewal of the certificate shall be made to the Central Government in such form and manner and accompanied by such fee as may be prescribed.

The Central Government shall renew the certificate, ordinarily within ninety days from the date of receipt of application for renewal of certificate subject to such terms and conditions as it may deem fit and grant a certificate of renewal for a period of five years.

Provided that in case the Central Government does not renew the certificate within the said period of ninety days, it shall communicate the reasons therefor to the applicant.

Provided further that the Central Government may refuse to renew the certificate in case where a person has violated any of the provisions of this Act or rules made thereunder.

Foreign contribution through scheduled bank - Section 17

Every person who has been granted a certificate or given prior permission under this Act, shall receive foreign contribution in a single account only through such one of the branches of a bank as he may specify in his application for grant of certificate.

Provided that such person may open one or more accounts in one or more banks for utilising the foreign contribution received by him

Provided further that no funds other than foreign contribution shall be received or deposited in such account or accounts

Every bank or authorised person in foreign exchange shall report to such authority as may be specified – (a) prescribed amount of foreign remittance (b) the source and manner in which the foreign remittance was received and (c) other particulars in such form and manner as may be prescribed.

Intimation - Section 18

Every person who has been granted a certificate or given prior approval under this Act shall give, within such time and in such manner as may be

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prescribed, an intimation to the Central Government, and such other authority as may be specified by the Central Government, as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received, and the purpose for which, and the manner in which such foreign contribution was utilised by him.

Every person receiving foreign contribution shall submit a copy of the statement indicating therein the particulars of foreign contribution received duly certified by officer of the bank or authorised person in foreign exchange and furnish the same to the Central Government along with the intimation under this Act.

Maintenance of accounts - Section 19

Every person who has been granted a certificate or given prior approval under this Act shall maintain, in such form and manner as may be prescribed (a) an account of foreign contribution received by him and (b) a record as to the manner in which such contribution has been utilised by him

Audit of accounts - Section 20

Where any person who has been granted a certificate or given prior permission, fails to furnish any intimation under this Act within the time specified therefor or the intimation so furnished is not in accordance with law or if, after inspection of such intimation, the Central Government has any reasonable cause to believe that any provision of this Act has been, or is being, contravened, the Central Government may, by general or special order, authorise such Gazetted officer, holding a Group A post under the Central Government or any other officer or authority or organization, as it may think fit, to audit any books of account kept or maintained by such person and thereupon every such officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of auditing the said books of account, provided that any information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of this Act.

Intimation by candidate for election - Section 21

Every candidate for election, who had received any foreign contribution at any time within one hundred and eighty days immediately preceding the date on which he is duly nominated as such candidate, shall give, within such time and in such manner as may be prescribed, an intimation to the Central

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Government or prescribed authority or both as to the amount of foreign contribution received by him, the source from which, and the manner in which, such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by him.

Disposal of assets created out of foreign contribution - Section 22

Where any person who was permitted to accept foreign contribution 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 Central Government may, having regard to the nature of assets created out of foreign contribution received under this Act, by notification, specify that all such assets shall be disposed off by such authority, as it may specify, in such manner and procedure as may be prescribed.

Inspection of accounts or records - Section 23

If the Central Government has, for any reason, to be recorded in writing, any ground to suspect that any provision of this Act has been or is being, contravened by – (a) any political party or (b) any person or (c) any organisation or (d) any association, it may, by general or special order, authorise such Gazetted officer, holding a Group A post under the Central Government or such other officer authority or organisation, as it may think fit (herein after referred to as the inspecting officer), to inspect any account or record maintained by such political party, person, organisation or association, as the case may be, and thereupon every such inspecting officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of inspecting the said account or record.

Seizure of accounts or records - Section 24

If, after inspection of an account or record referred to in this Act, the inspecting officer has any reasonable cause to believe that any provision of this Act or of any other law relating to foreign exchange has been, or is being, contravened, he may seize such account or record and produce the same before the court, authority or tribunal in which any proceeding is brought for such contravention.

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Provided that the authorised officer shall return such account or record to the person from whom it was seized if no proceeding is brought within six months from the date of such seizure for the contravention disclosed by such account or record.

Seizure of article or currency or security received in contravention of the act - Section 25

If any Gazetted officer, authorised in this behalf by the Central Government by general or special order, has any reason to believe that any person has in his possession or control any article exceeding the value specified in this Act or currency or security whether Indian or foreign, in relation to which any provision of this Act has been or is being, contravened, he may seize such article or currency or security.

Disposal of seized article or currency or security - Section 26

The Central Government, may, having regard to the value of article or currency or security, their vulnerability to theft or any relevant consideration, by notification, specify such article or currency or security, which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner, as the Central Government may, from time to time, determine after following the procedure herein after specified

The article or currency or security seized shall be forwarded without unnecessary delay to such officer as may be specified.

Where any article or currency or security has been seized and forwarded to such officer, the officer referred to in the Act, shall prepare an inventory of such article or currency or security containing such details relating to their description, value or such other identifying particulars as the officer referred to in that Act may consider relevant to the identity of the article or the currency or security and make an application to any Magistrate for the purpose of certifying the correctness of the inventory so prepared

Where an application is made under this Act, the Magistrate shall, as soon as may be, allow the application

Notwithstanding anything contained in the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, every court trying an offence under this Act, shall treat the inventory, as certified by the Magistrate, as primary evidence in respect of such offence.

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Every officer acting under this Act shall forthwith report the seizure to the Court of Session or Assistant Sessions Judge having jurisdiction for adjudging the confiscation under the Act.

Seizure - Section 27

The provisions of the Code of Criminal Procedure, 1973 shall apply in so far as they are not inconsistent with the provisions of this Act to all seizures made under this Act.

Confiscation of article or currency or security obtained in contravention of this Act - Section 28

Any article or currency or security which is seized under this Act shall be liable to confiscation if such article or currency or security has been adjudged under the Act to have been received or obtained in contravention of this Act.

Adjudication of confiscation - Section 29

Any confiscation referred to in this Act may be adjudged – (a) without limit, by the Court of Session within the local limits of whose jurisdiction the seizure was made and (b) subject to such limits as may be prescribed, by such officer, not below the rank of Assistant Sessions Judge, as the Central Government may, by notification in the Official Gazette, specify in this behalf

When an adjudication under this Act – (a) is concluded by the Court of Session or Assistant Sessions judge, as the case may be, the Sessions Judge or Assistant Sessions Judge may make such order as he thinks fit for the disposal by confiscation or delivery of seized article or currency or security, as the case may be, to any person claiming to be entitled to possession thereof or otherwise, or which has been used for the commission of any offence under this Act.

Procedure for confiscation - Section 30

No order of adjudication of confiscation shall be made unless a reasonable opportunity of making a representation against such confiscation has been given to the person from whom any article or currency or security has been seized.

Appeals and Revision

Appeal - Section 31

Any person aggrieved by any order made under this Act may prefer an appeal – (a) where the order has been made by the Court of Session, to the High Court to which such Court is subordinate or (b) where the order has been made by any officer specified under this Act, to the Court of Session within the local limits of whose jurisdiction such order of adjudication of confiscation was made, within one month from the date of communication to such person of the order

Provided that the appellate court may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of one month, allow such appeal to be preferred within a further period of one month, but not thereafter.

Any organisation referred to in this Act, or any person or association referred to in this Act, aggrieved by an order made in pursuance of this Act or by an order of the Central Government refusing to give permission under this Act, or by any order made by the Central Government under this Act, as the case may be, may, within sixty days from the date of such order, prefer an appeal against such order to the High Court within the local limits of whose jurisdiction the appellant ordinarily resides or carries on business or personally works for gain, or, where the appellant is an organisation or association, the principal office of such organisation or association is located.

Every appeal preferred under this Act shall be deemed to be an appeal from an original decree and the provisions of Order XLI of the First Schedule to the Code of Civil Procedure, 1908, shall, as far as may be, apply thereto as they apply to an appeal from an original decree.

Revision of orders by Central Government - Section 32

The Central Government may, either of its own motion or on an application for revision by the person registered under this Act, call for and examine the record of any proceeding under this Act in which any such order has been passed by it and may make such inquiry or cause such inquiry to be made and, subject to the provision of this Act, may pass such order thereon as it thinks fit.

The Central Government shall not of its own motion revise any order under this Act if the order has been made more than one year previously.

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In the case of an application for revision under this Act by the person referred to this Act, the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

Provided that the Central Government may, if it is satisfied that such person was prevented by sufficient cause from making the application within that period admit an application made after the expiry of that period.

The Central Government shall not revise any order where an appeal against the order lies but has not been made and the time within which such appeal may be made has not expired or such person has not waived his right of appeal or an appeal has been filed under this Act.

Every application by such person for revision under this Act shall be accompanied by such fee, as may be prescribed.

Explanation – An order by the Central Government declining to interfere shall, for the purposes of this Act, be deemed not to be an order prejudicial to such person.

Offences and penalties

Making of false statement, declaration or delivering false accounts - Section 33

Any person, subject to this Act, who knowingly – (a) gives false intimation under this Act or (b) seeks prior permission or registration by means of fraud, false representation or concealment of material fact, shall, on conviction by a court, be liable to imprisonment for a term which may extend to six months or with fine or with both

Penalty for article or currency or security obtained in contravention of this Act - Section 34

If any person, on whom any prohibitory order has been served under this Act, pays, delivers, transfers or otherwise deals with, in any manner whatsoever, any article or currency or security, whether Indian or Foreign, in contravention of such prohibitory order, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying such contravention may also impose on the person convicted an additional fine equivalent to the market value of the

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article or the amount of the currency or security in respect of which the prohibitory order has been contravened by him or such part thereof as the court may deem fit.

Punishment for contravention of any provision of the Act - Section 35

Whoever accepts, or assists any person, political party or organisation in accepting, any foreign contribution or any currency or security from a foreign source, in contravention of any provision of this Act or any rule or order made thereunder, shall be punished with imprisonment for a term which may extend to five years, or with fine, or with both

Power to impose additional fine where article or currency or security is not available for confiscation - Section 36

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying a person, who, in relation to any article or currency or security, whether Indian or foreign, does or omits to do any act which act or omission would render such article or currency or security liable to confiscation under this Act, may, in the event of the conviction of such person for the act or omission aforesaid, impose on such person a fine not exceeding five times the value of the article or currency or security or one thousand rupees, whichever is more, if such article or currency or security is not available for confiscation, and the fine so imposed shall be in addition to any other fine which may be imposed on such person under this Act.

Penalty for offences where no separate punishment has been provided - Section 37

Whoever fails to comply with any provision of this act for which no separate penalty has been provided in this act shall be punished with imprisonment for a term which may extend to one year, or with fine or with both

Prohibition of acceptance of foreign contribution - Section 38

Notwithstanding anything contained in this act, whoever, having been convicted of any offence under this act, in so far as such offence relates to the acceptance or utilisation of foreign contribution, is again convicted for such offence shall not accept any foreign contribution for a period of five years from the date of the subsequent conviction.

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Offences by companies - Section 39

Where an offence under this act or any rule or order made thereunder has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this act shall render such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Notwithstanding anything contained in this Act, where an offence under this Act or any rule or order made thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation – For the purposes of this section – (a) company means any body corporate and includes a firm, society, trade union or other association of individuals and (b) director, in relation to a firm, society, trade union, or other association of individuals, means a partner in the firm or a member of the governing body of such society, trade union or other association of individuals.

Bar on prosecution of offences under the Act - Section 40

No court shall take cognizance of any offence under this act, except with the previous sanction of the Central Government or any officer authorised by that Government in this behalf

Composition of certain offences - Section 41

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act (whether committed by an individual or association or any officer or employee thereof), not being an offence punishable with imprisonment only, may, before the institution of any prosecution, be compounded by such officers or authorities and for such

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sums as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Nothing in this act shall apply to an offence committed by an individual or association or its officer or other employee within a period of three years from the date on which a similar offence committed by it or him was compounded under this Act.

Explanation – For the purposes of this Act, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence

Every officer or authority referred to in this Act shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Central Government.

Every application for the compounding of an offence shall be made to the officer or authority referred to in this act in such form and manner along with such fee as may be prescribed.

Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

Every officer or authority referred to in this Act, while dealing with a proposal for the compounding of an offence for a default in compliance with any provision of this act which requires by an individual or association or its officer or other employee to obtain permission or file or register with, or deliver or send to, the Central Government or any prescribed authority any return, account or other document, may, direct, by order, if he or it thinks fit to do so, any individual or association or its officer or other employee to file or register with, such return, account or other document within such time as may be specified in the order

Miscellaneous

Power to call for information or document - Section 42

Any inspecting officer referred to in this Act who is authorised in this behalf by the Central Government may, during the course of any inspection of any account or record maintained by any political party, person, organisation or association in connection with the contravention of any provision of this Act –

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(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or rule or order made thereunder (b) require any person to produce or deliver any document or thing useful or relevant to such inspection and (c) examine any person acquainted with the facts and circumstances of the case related to the inspection

Investigation into cases under the act - Section 43

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this act may also be investigated into by such authority as the Central Government may specify in this behalf and the authority so specified shall have all the powers which an officer in charge of a police station has while making an investigation into a cognizable offence.

Returns by prescribed authority to Central Government - Section 44

The prescribed authority shall furnish to the Central Government at such time and in such form and manner such returns and statements as may be prescribed

Protection of action taken in good faith - Section 45

No suit or other legal proceedings shall lie against the Central Government or the authority referred to in the Act or any of its officers in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this act, any rule or order made thereunder.

Power of Central Government to give directions - Section 46

The Central Government may give such directions as it may deem necessary to any other authority or any person or class of persons regarding the carrying into execution of the provisions of this Act.

Delegation of powers - Section 47

The Central Government may, by notification, direct that any of its powers or functions under this Act, except power to make rule under this Act, shall, in relation to such matters and subject to such conditions, if any, may be specified in the notification, be exercised or discharged also by such authority as may be specified

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Power to make Rules - Section 48

The Central Government may, by notification, make rules for carrying out the provisions of this Act.

In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely – (a) the value of article which may be specified under the Act, (b) the authority which may be specified under this Act, (c) acceptance or retention of gift or presentation under this Act, (d) guidelines specifying the ground or grounds on which an organisation may be specified as an organisation of political nature under this Act, (e) the activities or business which shall be construed as speculative business under the proviso of this Act (f) the elements and the manner in which the administrative expenses shall be calculated under the Act (g) the time within which and the manner in which any person or class of persons or an association may be required to furnish intimation regarding the amount of foreign contribution received under the Act (h) the time within which and the manner in which any person or class of persons may be required to furnish intimation regarding foreign hospitality under the Act, (i) the manner in which the copy of the order of the Central Government shall be served upon under this Act (j) the form and manner in which the application for grant of certificate of registration or giving of prior permission under this Act (k) the fee to be accompanied by the application under this Act (l) the terms and conditions for granting a certificate or giving prior permission under this Act (m) the manner of utilising the foreign contribution under this Act (n) the authority with whom the foreign contribution to be vested under this Act (o) the period within which and the manner in which the foreign contribution shall be managed under this Act (p) the form and manner in which the application for a renewal of certificate of registration shall be made under this Act (q) the fee to be accompanied by the application for renewal of certificate under this Act (r) the prescribed amount of foreign remittance, the form and manner in which the foreign remittance received by every bank or authorised persons in foreign exchange shall be reported under this Act (s) the time within which and the manner in which the person who has been granted certificate of registration or given prior permission under this act shall give intimation under this Act (t) the form and manner in which account of any foreign contribution and the manner in which such contribution has been utilised shall be maintained under this Act (u) the time within which and the manner in which a candidate for election shall give intimation under this Act (v) the manner and procedure to be followed in disposing of the assets

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under this Act (w) the limits subject to which any confiscation may be adjudged under this Act (x) the fee to be accompanied along with every application for revision under this Act (y) the form and manner for making an application for compounding of an offence and the fee therefor under the Act (z) the form and manner in which and the time within which such returns and statements to be furnished by the prescribed authority under this Act (za) and any other matter which is required to be or may be prescribed

Orders and rules to be laid before Parliament - Section 49

Every order made under this Act and every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or rule or both Houses agree that the order or rule should not be made, the order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order or rule

Power to exempt in certain cases - Section 50

If the Central Government is of the opinion that it is necessary or expedient in the interests of general public so to do, it may, by order and subject to such conditions as may be specified in the order, exempt any person or association or organisation (not being a political party), or any individual (not being a candidate for election) from the operation of all or any of the provisions of this Act and may, as often as may be necessary, revoke or modify such order

Act not to apply to certain Government transactions - Section 51

Nothing contained in this Act shall apply to any transaction between the Government of India and the Government of any foreign country or territory

Application of other laws not barred - Section 52

The provisions of this Act shall be in addition to and not in derogation of, the provisions of any other law for the time being in force

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Power to remove difficulties - Section 53

If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this Act after expiry of two years from the commencement of this Act

Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving - Section 54

The Foreign Contribution (Regulation) Act 1976 (hereafter referred to as the repealed act) is hereby repealed

Notwithstanding such repeal - (a) anything done or any action taken or purported to have been done or taken under the repealed act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act (b) any organisation of a political nature, not being a political party, to whom the prior permission was granted under the repealed Act, shall continue to be the organisation of a political nature, not being a political party under this Act, till such permission is withdrawn by the Central Government (c) permission to accept foreign hospitality granted under the repealed act shall be deemed to be the permission granted under this Act until such permission is withdrawn by the Central Government (d) any association prohibited from accepting any foreign contribution under the repealed act, in so far as it is not inconsistent with the provisions of this Act, shall be deemed to be an association prohibited from accepting any foreign contribution under this Act (e) permission obtained the repealed act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to be the permission until such permission is withdrawn by the Central Government (f) any order issued under the repealed act shall be deemed to be an order issued under this Act (g) any order issued under the repealed Act exempting any association or any individual shall be deemed to be an order under this Act till such order is varied or revoked

Save as provided in the Act, mention of particular matters in the Act shall not be held to prejudice or affect the general application of the General Clauses Act, 1897, with regard to the effect of repeal.

Chapter 3

Do's and Don'ts

Foreign Contribution (Regulation) Act, 2010

Persons eligible accept foreign contribution and not eligible to accept foreign contribution

1. No foreign contribution shall be accepted by any (a) candidate for election, (b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper, (c) judge, Government servant or employee of any corporation or any other body controlled or owned by the government, (d) member of any Legislature, (e) political party or office-bearer thereof, (f) organisation of a political nature as may be specified, (g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode or any other electronic form as defined or any other mode of mass communication, (h) correspondent or columnist, cartoonist, editor, owner of the association or company referred to in (g) above.
2. No person, resident in India and no citizen of India resident outside India, shall accept any foreign contribution, or acquire or agree to acquire any currency from a foreign source, on behalf of any political party, or any person referred to in (1) above.
3. No person, resident in India, shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to any person if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to any political party or any person referred to in 1 (a) above.

Restrictions on residents outside India in delivering foreign contribution

4. No citizen of India resident outside India shall deliver any currency, whether Indian or Foreign, which has been accepted from any foreign source to (a) any political party or any person referred to in (a) above or both (b) any person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a political party or to any person referred to in (1) above or both.

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5. No person receiving any currency, whether Indian or Foreign, from a foreign source on behalf of any person or class of persons, shall deliver such currency (a) to any person other than a person for which it was received or (b) to any person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a person other than the person for which such currency was received

6. No member of a Legislature or office-bearer of a political party or Judge or Government servant or employee of any corporation or any other body owned or controlled by a Government shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality, provided that it shall not be necessary to obtain any such permission for an emergent medical aid needed on account of sudden illness contracted during a visit outside India, but, where such foreign hospitality has been received, the person receiving such hospitality shall give, within one month from the receipt of such hospitality an intimation to the Central Government as to the receipt of such hospitality, and the source from which, and the manner in which, such hospitality was received by him.

Restrictions on persons who have not registered and granted certificates

7. No person who – (a) is registered and granted a certificate or has obtained prior permission under this Act and (b) receives any foreign contribution, shall transfer such foreign contribution to any other person unless such other person is also registered and has been granted the certificate or obtained the prior permission under Act, provide that such person may transfer, with the prior approval of the Central Government, a part of such foreign contribution to any other person who has not been granted a certificate or obtained permission under this Act in accordance with the rules made by the Central Government.

8. Every person, who is registered and granted a certificate or given prior permission under this Act and receives any foreign contribution – (a) shall utilise such contribution for the purposes for which the contribution has been made, provided that any foreign contribution or any income arising out of it shall not be used for speculative business, provided further that the Central Government shall, by rules, specify the activities or business which shall be construed as speculative business for the purpose of this Act (b) shall not

Do's and Don'ts

defray as far as possible such sum, not exceeding fifty per cent, of such contribution, received in a financial year, to meet administrative expenses, provided that administrative expenses exceeding fifty percent of such contribution may be defrayed with prior approval of the Central Government

9. Save as otherwise provided in this Act, no person having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution unless such person obtains a certificate of registration from the Central Government, provided that any association registered with the Central Government under Foreign Contribution (Regulation) Act, 1976, as it stood immediately before the commencement of this Act, shall be deemed to have been registered or granted prior permission, as the case may be, under this Act and such registration shall be valid for a period of five years from the date on which this section comes into force.

10. Every person referred to in (9) above may, if it is not registered with the Central Government, accept any foreign contribution only after obtaining the prior permission of the Central Government and such prior permission shall be valid for the specific purpose for which it is obtained and from the specific source, provided that if the person referred has been found guilty of violation of any of the provisions of the Act or Foreign Contribution (Regulation) Act, 1976, the unutilised or unreceived amount of foreign contribution shall not be utilised or received, as the case may be, without the prior approval of the Central Government.

Application for registration and grant of certificate

11. An application by a person for grant of certificate or giving prior permission, shall be made to the Central Government in such form and manner and along with such fee, as may be prescribed

12. The person making an application for registration or grant of prior permission (a) should not be a fictitious person or benami (b) 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 (c) has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of country (d) has not been found guilty of diversion or mis-utilisation of its funds (e) is not engaged or likely to engage in propagation of sedition or advocating violent methods to achieve its ends (f) is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes

A Study on Foreign Contribution (Regulation) Act, 2010

(g) has not contravened any of the provisions of the Act and (h) has not been prohibited from accepting foreign contribution

13. The person making an application for registration under this Act should have undertaken reasonable activity in its chosen field for the benefit of the society for which the foreign contribution is proposed to be utilised

14. The person making an application for giving prior permission under this Act should have prepared a reasonable project for the benefit of the society for which the foreign contribution is proposed to be utilised.

15. Where the person making an application for registration is an individual, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offence pending against him

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

Restrictions on persons whose certificates have been suspended or cancelled

17. Every person whose certificate has been suspended shall - (a) not receive any foreign contribution during the period of suspension of certificate, provided that the Central Government, on an application made by such person, if it considers appropriate, allow receipt of any foreign contribution by such person on such terms and conditions as it may specify (b) utilise, the prescribed manner, the foreign contribution in his custody with the prior approval of the Central Government.

18. Any person whose certificate has been cancelled under this Act shall not be eligible for registration or grant of prior permission for a period of three years from the date of cancellation of such certificate

Renewal of certificates

19. Every person who has been granted a certificate under this Act shall have such certificate renewed within six months before the expiry of the certificate.

Conditions for receipt of foreign contribution through bank accounts

20. Every person who has been granted a certificate or given prior permission under this Act shall receive foreign contribution in a single account only through such one of the branches of a bank as he may specify in his application for grant of certificate, provided that such person may open one or more accounts in one or more banks for utilising the foreign contribution received by him, provided further that no funds other than foreign contribution shall be received or deposited in such account or accounts

Requirements on such banks through whom foreign contribution is routed

21. Every bank or authorised person in foreign exchange shall report to such authority as may be specified – (a) prescribed amount of foreign remittance (b) the source and manner in which the foreign remittance was received and (c) other particulars in such form and manner as may be prescribed

Intimation to Central Government on receipt of foreign contribution

22. Every person who has been granted a certificate or given prior approval under this Act shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government, and such other authority as may be specified by the Central Government, as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received, and the purposes for which, and the manner in which such foreign contribution was utilised by him.

23. Every person receiving foreign contribution shall submit a copy of a statement indicating therein the particulars of foreign contribution received duly certified by a officer of the bank or authorised person in foreign exchange and furnish the same to the Central Government along with the intimation under this Act.

Maintenance of books and accounts

24. Every person who has been granted a certificate or given prior approval under this Act shall maintain, in such form and manner as may be

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prescribed – (a) an account of any foreign contribution received by him and (b) a record as to the manner in which such contribution has been utilised by him.

Requirements on candidates for election

25. Every candidate for election, who had received any foreign contribution, at any time within one hundred and eighty days immediately preceding the date on which he is duly nominated as such candidate, shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government or prescribed authority or both as to the amount of foreign contribution received by him, the source from which, and the manner in which, such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by him.

Appeal procedure

26. Any person aggrieved by any confiscation made under this Act may prefer an appeal – (a) where the order has been made by the Court of Sessions, to the High Court to which such Court is subordinate or (b) where the order has been made by any officer specified under Section 29 of this Act, to the Court of Session within the local limits of whose jurisdiction such order of adjudication of confiscation was made within one month from the date of communication to such person of the order, provided that the appellate court may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of one month, allow such appeal to be preferred within a further period of one month, but not thereafter

27. Any organisation referred in the Act or any person or association referred to in the Act, aggrieved by an order made in pursuant of the Act or by an order of the Central Government refusing to give permission under this Act, or by any order made by the Central Government under this Act, as the case may be, may, within sixty days from the date of such order, prefer an appeal against such order to the High Court within the local limits of whose jurisdiction the appellant ordinarily resides or carries on business or personally works for gain, or, where the appellant is an organisation or association, the principal office of such organisation or association is located.

False intimation and implications

28. Any person, subject to this Act, who knowingly – (a) gives false intimation under this Act or (b) seeks prior permission or registration by means of fraud, false representation or concealment of material fact, shall, on conviction by a court, be liable to imprisonment for a term which may extend to six months or with fine or with both

29. If any person, on whom any prohibitory order has been served under this Act, pays, delivers, transfers or otherwise deals with, in any manner whatsoever, any article or currency or security, whether Indian or Foreign, in contravention of such prohibitory order, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying such contravention may also impose on the person convicted an additional fine equivalent to the market value of the article or the amount of the currency or security in respect of which the prohibitory order has been contravened by him or such part thereof as the court may deem fit

Non compliance

30. Whoever accepts, or assists any person, political party or organisation in accepting, any foreign contribution or any currency or security from a foreign source, in contravention of any provision of this Act or any rule made thereunder, shall be punished with imprisonment for a term which may extend to five years, or with fine, or with both.

31. Whoever fails to comply with any provision of this Act for which no separate penalty has been provided in this Act shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

32. Notwithstanding anything contained in this Act, whoever, having been convicted of any offence under this Act, in so far as such offence relates to the acceptance or utilisation of foreign contribution, is again convicted of such offence shall not accept any foreign contribution for a period of five years from the date of the subsequent conviction.

33. Every application for the compounding of an offence shall be made to the officer or authority referred to in this act in such form and manner along with such fee as may be prescribed.

Foreign contribution (Regulation) Rules, 2011

Reporting requirements

34. Any person receiving foreign contribution in excess of one lakh rupees or equivalent thereto in a financial year from any of his relatives shall inform the Central Government in Form FC-1 within thirty days from the date of receipt of such contribution

Foreign hospitality

34. Any person belonging to any of the categories specified in Section 6 of the Act who wishes to avail of foreign hospitality, shall apply to the Central Government in Form FC-2 for prior permission to accept such foreign hospitality

Emergent medical aid

35. 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 sixty days of such receipt giving full details including the source, approximate value in Indian Rupees, and the purpose for which and the manner in which it was utilised, provided no such intimation is required if the value of such hospitality in emergent medical aid is upto one lakh rupees or equivalent thereto.

Application for registration

35. An application under the Act for registration of a person for acceptance of foreign contribution shall be made electronically online in Form FC-3 and shall be followed by forwarding the hard copy of the on-line application duly signed by the Chief Functionary of the association together with the required documents. The hard copy of the on-line application referred should reach the Central Government within thirty days of the submission of the on-line application, failing which the request of the person shall be deemed to have ceased. Any person whose request has ceased may prefer a fresh on-line application with the Central Government only after six months from the date of cessation of the previous application

Requirement on exclusive bank account

36. A person seeking registration shall be required to open an exclusive bank account to receive the foreign contribution.

Do's and Don'ts

37. The person may open one or more accounts in one or more banks for the purpose of utilising the foreign contribution after it has been received and, in all such cases, intimation on plain paper shall be furnished to the Secretary, Ministry of Home Affairs, New Delhi within fifteen days of opening of any account.

Application for prior permission

38. An application under the Act for obtaining prior permission of the Central Government to receive foreign contribution shall be made electronically on line in form FC-4 and shall be followed by forwarding the hard copy of the on-line application duly signed by the Chief Functionary of the Association together with the required documents. The hard copy of the on-line application shall reach the Central Government within thirty days of filing of the on-line application, failing which the request of the person shall be deemed to have ceased. Any person whose request has ceased under this may prefer a fresh on-line application with the Central Government only after six months from the date of cessation of the previous application.

39. A person seeking prior permission under Rule 9(2)(a) shall be required to open an exclusive bank account for the receipt of foreign contribution.

40. A person seeking prior permission under Rule 9(2)(a) may open one or more accounts in one or more banks for the purpose of utilising the foreign contribution after it has been received and in all such cases intimation on plain paper shall be furnished to the Secretary, Ministry of Home Affairs, New Delhi within fifteen days of the opening of any account.

41. No person shall prefer a second application for registration or prior permission within a period of six months after submitting an application either for grant of prior permission for the same project or for registration.

Maintenance of books and accounts

42. Every person who has been granted registration or prior permission under this Act shall maintain a separate set of accounts and records, exclusively, for the foreign contribution received and utilised.

Renewal of certificate of registration

43. Every person shall apply to the Central Government in form FC-5, six months before the date of expiry of the certificate of registration, for its renewal

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44. A person implementing an ongoing multi year project shall apply for renewal twelve months before the date of expiry of the certificate of registration.

Requirements on persons who receive foreign contribution in excess of Rs. one crore

45. In case a person who has been granted a certificate of registration or prior permission receives foreign contribution in excess of one crore rupees, or equivalent thereto, in a financial year, he/it shall place the summary data on receipts and utilisation of the foreign contribution pertaining to the year of receipt as well as for one year thereafter in the public domain.

Transfer of foreign contribution

46. If a person whose certificate of registration has been cancelled or has transferred the foreign contribution to any other person, the provisions of the Act shall apply to the person to whom the fund has been transferred.

Submission of yearly returns

47. Every person who receives foreign contribution under the Act shall submit a report in Form FC-6 accompanied by an income and expenditure statement, receipt and payment account, and balance sheet for every financial year beginning on the 1st day of April within nine months of the closure of the financial year, to the Secretary to the Government of India, Ministry of Home Affairs, New Delhi.

Transfer request

48. Any person intending to transfer the foreign contribution may make an application to the Central Government in Form FC-10

Chapter 4

FC Forms

Form	Rule	Details
FC-1	Rule 6	Any person receiving foreign contribution in excess of one lakh rupees or equivalent thereto in a financial year from any of his relatives shall inform the Central Government in Form FC-1 within thirty days from the date of receipt of such contribution
FC-2	Rule 7(1)	Any person belonging to any of the categories specified in Section 6 of the Act who wishes to avail of foreign hospitality shall apply to the Central Government in Form FC-2 for prior permission to accept such foreign hospitality
FC-3	Rule 9(1)(a)	An application under Sub-Section (a) of Section 11 of the Act for registration of a person for acceptance of foreign contribution shall be made electronically on-line in Form FC-3, and shall be followed by forwarding the hard copy of the on-line application duly signed by the Chief Functionary of the association together with the required documents
FC-4	Rule 9(2)(a)	An application under Sub-Section 2 of Section 11 for obtaining prior permission of the Central Government to receive foreign contribution shall be made electronically on-line in Form FC-4 and shall be followed by forwarding the hard copy of the on-line application duly signed by the Chief Functionary of the Association together with the required documents
FC-5	Rule 12(2)	Every person shall apply to the Central Government in Form FC-5, six months before the date of expiry of the certificate of registration, for its renewal

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FC-6	Rule 17(1)	Every person who receives foreign contribution under the Act shall submit a report in Form FC-6, accompanied by an income and expenditure statement, receipt and payment account, and balance sheet for every financial year beginning on the 1 st day of April within nine months of the closure of the financial year, to the Secretary to the Government of India, Ministry of Home Affairs, New Delhi
FC-7	Rule 17(3)	If the foreign contribution relates only to articles, the intimation shall be in Form FC-7
FC-8	Rule 17(4)	If the foreign contribution relates to foreign securities, the intimation shall be submitted in Form FC-8
FC-9	Rule 18	Foreign contribution received by a candidate for election, referred to in Section 21 of the Act, shall be furnished in Form FC-9 within forty five days from the date on which he is duly nominated as a candidate for election.
FC-10	Rule 24(1)	Any person intending to transfer the foreign contribution may make an application to the Central Government in form FC-10

Form FC-1

(Under Rule No.6 of Foreign Contribution Regulation Rules, 2011)

Intimation to the Central Government of receipt of foreign contribution by way of gift from relative

The application should be made to The Secretary to the Government of India, Ministry of Home Affairs by the recipient applicant.

The intimation should be made if the foreign contribution received, if it exceeds Rs.1 lakhs or equivalent in a financial year.

In addition to the name of the applicant, his/her date of birth, permanent address, PAN card details are to be furnished.

FC Forms

Income tax registration number of the relative abroad and the name of the country of residence should also be furnished along with passport details

Form FC-2

(Under Rule 7(1) of Foreign Contribution Regulation Rules, 2011)

Application for seeking prior permission of the Central Government to accept foreign hospitality.

For foreign hospitality availed in case of emergent medical aid situation, intimation to be given on a plain paper to The Secretary, Ministry of Home Affairs within sixty days of such receipt of foreign hospitality.

The applicant recipient should furnish the following details along with his self declaration

- Name and Address
- Date of birth
- Pass port details with status
- Name of countries to be visited with duration of stay
- Countries and places where foreign hospitality is to be accepted
- Particulars of host
- Nature and Duration? of foreign hospitality
- Nature of connections / dealings with the host
- Approximate value of the hospitality

Form FC-3

Under Rule 9 (1) (A) of Foreign Contribution Regulation Rules, 2011

Application for registration under Section 11(1) of Foreign Contribution (Regulation) Act, 2010 for the acceptance of foreign contribution by an Association having definite, cultural, economic, educational, religious or social program.

A Study on Foreign Contribution (Regulation) Act, 2010

The application should be made by the Chief Functionary to The Secretary to the Government of India, Ministry of Home Affairs.

The application will have cover the following details

1. Name of the association and its complete postal address
2. Registration details
3. Nature of the association
4. Main aims and objects of the association
5. Main objects and definite programmes for which foreign contribution is to be accepted/utilised
6. Names and address of the members of Executive committee/ Governing Council
7. Particulars of Members and Chief Functionary in the discharge of their official / private conduct
8. Whether the applicant association is a branch / unit / associate of another registered association
9. Whether granted prior permission under the Act or FCRA 1976
10. Additional particulars as to functioning as editor, owner, printer, publisher
11. Details of past three years activities and financial statements
12. Whether the association can be specified as an organisation of political nature and if so details
13. Bank account details
14. Recommendation certificate from competent authority
15. In addition the association to furnish an undertaking and declaration

Form FC-4

(Under Rule 9 (2) (2) of Foreign Contribution Regulation Rules, 2011)

Application for prior permission under sub section (2) of section 11 of Foreign Contribution Regulation Act 2010 for the acceptance of Foreign contribution

FC Forms

by an association having definite cultural, economic, educational, religious or social program

The application should be made by the Chief Functionary of the Association to The Secretary to the Government of India, Ministry of Home Affairs.

The following details are to be furnished

1. Name and address of the association
2. Registration details (trust or society)
3. Nature of association
4. Main aims and objects of the association
5. Main objects and definite programs for which the foreign contribution is to be accepted/utilised
6. Names and particulars of members of Executive Committee/Governing Council of the Association
7. If the association is a branch /unit/associate of any organisation based abroad or of another association already registered and details of parent organisation.
8. Conduct details of the members of Executive committee/Governing Body (official function / private)
9. Other relevant details
10. Details of bank accounts
11. Detailed activities of the association during past three years.
12. Audited financial statements of the association for the past three years duly certified by Chartered Accountant.
13. Details of foreign source from which foreign contribution to be received
14. Declaration and undertaking

FORM FC-5

(Under Rule 12(2) of Foreign Contribution Regulation Rules, 2011)

Application for seeking renewal of registration certificate under Section 13 of Foreign Contribution Regulation Act 2010

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Application for renewal to be submitted six months before date of expiry of certificate of registration

The application should be made to the Secretary to the Government of India, Ministry of Home Affairs

The application should be made by the Chief Functionary of the applicant association

The application to cover the following details

1. Name and address of the association
2. Details of members of Executive Committee/Governing Council
3. Nature of association
4. Registration details
5. Foreign Contribution received and details of utilisation
6. Confirmation on provisions stipulation of registration
7. Reasons for seeking renewal of certificate
8. Whether the association was blacklisted or debarred by other departments / central or State government

Form FC-6

(Under Rule 17 1) of Foreign Contribution Regulation Rules, 2011)

Account of Foreign Contribution for the year ending on 31st March...

Application to be made to the Secretary to the Government of India, Ministry of Home Affairs by the Chief Functionary of the Association.

The application will cover the following details:-

1. Association details
2. Name and address
3. Registration number and date
4. Prior permission and date
5. Nature of association
6. Denomination in the case of religious nature

FC Forms

7. Foreign contribution received, interest earned, investments made
8. Purpose for which foreign contribution received and utilised
9. Bank account details
10. Donor wise receipt of foreign contributions
11. Self declaration

Form FC-7

(Under Rule 17(3) of Foreign Contribution Regulation Rules, 2011)

Intimation about foreign contribution articles account

Application to be made by the Chief Functionary to the Secretary to the Government of India, Ministry of Home Affairs

The application to contain the following details –

Description of the article – receipt, utilisation / disposal and quantity along with self declaration

Form FC-8

(Under Rule 17(4) of Foreign Contribution Regulation Rules, 2011)

Intimation about foreign contribution securities account

Application to be made by the Chief Functionary of the Association to the Secretary to the Government of India, Ministry of Home Affairs

The Application should contain descriptions provided in the existing form (old) – Rule 8(c) Foreign Contribution Regulation Rules 1976:

Name of Securities, Nominal Value of each security

Details of dividends/interest received

Declaration

Additionally a certificate to be given by Chartered Accountant

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Form FC-9

(Under Rule 18 of the Foreign Contribution Regulation Rules, 2011)

Intimation to the Central Government of Receipt of foreign contribution received by a candidate for election under Section 21 of the Foreign Contribution Regulation Act 2010

The application is to be made to the Secretary to the Government of India, Ministry of Home Affairs

The application should be made by every candidate for election within 45 days from the date of which he is duly nominated as a candidate for election, the details of foreign contribution received by him, any time within 180 days immediately preceding the date of his nomination

The application will contain details like:

1. Name, date of birth, father's name, address
2. Date on which nominated as a candidate
3. Particulars of foreign contribution received
4. Nature and full details including value
5. Mode, channel of receipt
6. Purpose of contribution
7. Foreign source details
8. Nature of connections with foreign source
9. Details of actual utilisation of contribution
10. Declaration
11. Certificate of declaration

Form FC-10

(Under Rule 24 (1) of Foreign Contribution Regulation Rules, 2011)

Application for seeking permission for transfer of foreign contribution to other registered/unregistered persons

FC Forms

This Application should be made by Chief Functionary of the Association to the Secretary to the Government of India, Ministry of Home Affairs

The application should contain the following details:

1. Details of the applicant / transferor association
2. Details of registration of applicant
3. Details of recipient / transferee association
4. Details of registration of recipient
5. Amount of contribution to be transferred
6. Mode of transfer
7. Bank details
8. Any other information
9. Declaration by the Chief Functionary

Chapter 5

Check list and Charter for Ensuring Proper Submission of Applications

1. Eligible category
An association with a definite cultural, economic, educational, religious or social program.
2. Types of permission
 - Registration
 - Prior permission
3. Application form
 - for Grant of registration Form FC-3
 - for Grant of prior permission Form FC-4
4. Essential requirements

Bank account

Open a separate bank account for the receipt and utilisation of foreign contribution in a bank and furnish particulars of the same at the appropriate place.

No local funds to be deposited, other than the essential initial deposit specified by the bank for opening the account

Documents

 - A certified copy of registration certificate or trust deed as the case may be
 - Details of activities during the last three years
 - Copies of audited statement of accounts for the last three years (assets and liabilities, receipt and payment, income and expenditure)
 - Commitment letter from foreign donor specifying the amount of foreign contribution (only with prior permission application)

Check list and Charter for Ensuring Proper Submission of Applications

- A copy of the project for which foreign contribution was solicited / is being offered (only with prior permission application)

5. Miscellaneous

Furnish information exactly in the manner asked for in the form, especially the names and addresses of the members of the Executive Committee/Governing Body/Governing Council, etc

6. Chartered Accountants / Banks

Chartered Accountants, before certifying the accounts of an association in Form FC 3 or FC 4 must ensure that they have been prepared in accordance with the provisions of Foreign Contribution (Regulation) Act, 2010 and the Rules framed there-under

No bank should credit any foreign contribution to the account of an association / organisation unless it produces documentary proof of having obtained registration / prior permission from the Central Government for the same. Crediting foreign contribution by a bank to the account of an association / organisation that has not obtained registration or prior permission from the Central Government constitutes serious violation and will render the defaulting bank liable for penal action and / or further action by Reserve Bank of India.

CHARTER FOR ASSOCIATIONS APPLYING FOR GRANT OF PRIOR PERMISSION/REGISTRATION UNDER THE FOREIGN CONTRIBUTION (REGULATION) ACT, 2010.

- Any Association/NGO wishing to receive foreign contribution (FC) must have a definite cultural, economic, educational, religious or social programme.
- It shall neither receive nor utilise any FC without obtaining either prior permission or registration from the Central Govt.
- Details of FC received prior to obtaining either prior permission or registration should be mentioned clearly at the time of applying for prior permission or registration, as the case may be.
- Application for grant of registration is to be made online in Form FC – 3.
- Application seeking prior permission to accept foreign contribution is to be made online in Form FC – 4.

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- The application should be complete in all respects and no column should be left blank.
- Each Prior permission application should be sent for receiving a specific amount, for a specific purpose and from a specific donor.
- Following documents should be enclosed with the application for grant of Registration:
 - (i) Hard-copy of the online application, duly signed by the Chief Functionary of the association.;-
 - (ii) Certified copy of registration certificate or Trust deed, as the case may be.;-
 - (iii) Details of activities during the last three years.;-
 - (iv) Copies of audited statement of accounts for the past three years (Asset and Liabilities, Receipt and Payment, Income and Expenditure).;-
 - (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 to the effect that the publication is not a newspaper in terms of section 1(1) of the said Act.
 - (vi) A copy of the PAN, if any, issued by Income Tax authorities.
 - (vii) Fee of by means of demand draft or banker's cheque of Rs. 2000/- in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.
- Following documents should be enclosed with the application for grant of Prior Permission:
 - (i) Hard-copy of the online application, duly signed by the Chief Functionary of the association.;-
 - (ii) Certified copy of registration certificate or Trust deed, as the case may be.;-
 - (iii) Commitment letter from foreign donor specifying the amount of foreign contribution.;-
 - (iv) Copy of the project report for which foreign contribution is solicited/being offered;

Check list and Charter for Ensuring Proper Submission of Applications

- (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) A copy of the PAN, if any, issued by Income Tax authorities.
- (vii) Fee of by means of demand draft or banker's cheque of Rs. 1000/- in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.

Note: The hard copy of the on-line application along with all the documents mentioned above must reach the Ministry of Home Affairs, Foreigners Division (FCRA Wing) within thirty days of the submission of the on-line application, failing which the request of the person for grant of registration or prior permission, as the case may be, shall be deemed to have ceased.

CHARTER FOR ASSOCIATIONS WHICH HAVE BEEN GRANTED PRIOR PERMISSION OR REGISTRATION UNDER FCRA

- An association which has been granted prior permission or registration under the repealed Foreign Contribution (Regulation) Act, 1976 shall be deemed to have been registered or granted prior permission, as the case may be, under the Foreign Contribution (Regulation) Act, 2010 (FCRA, 2010) and such registration shall be valid for a period of 5 years from the 1st May, 2011, i.e., up to the 30th April, 2016.
- Every certificate of registration granted under FCRA, 2010 shall be valid for a period of five years from the date of its issue.
- Every certificate of registration shall have to be renewed. The application for renewal is to be made in Form FC-5 along with the prescribed fee, six months before the date of expiry of the certificate of registration. An association implementing an ongoing multi-year project shall apply for renewal twelve months before the date of expiry of the certificate of registration. In case no application for renewal of registration is received or such application is not accompanied by the requisite fee, the validity of the certificate of registration shall be deemed to have ceased from the date of completion of the period of five years from the date of the grant of registration.

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- An association granted prior permission or registration under the Foreign Contribution (Regulation) Act, 2010 (FCRA, 2010) should receive the foreign contribution in the same exclusive designated Bank Account mentioned in the order granting prior permission or registration. This account number would be the same as has been intimated by the organisation in their application for prior permission/registration. Deposit of any local fund in this bank account is not allowed. One or more accounts in one or more scheduled banks may be opened for utilizing the foreign contribution provided that no funds other than foreign contribution shall be received or deposited in such account or accounts. Section 17 of the FCRA, 2010 may be referred.
- Foreign contribution can not be mixed with local funds being handled by the organisation.
- An association which has been granted prior permission or registration is required to carry out the activities, for which foreign contribution is received, in India only and the amount should not be utilised for purposes other than for which it is received.
- Any fixed asset acquired out of the foreign contribution and any article received in kind from the foreign source should be in the name of the association and not in the name of any individual in the association.
- Not more than 50% of the foreign contribution shall be defrayed to meet administrative expenses of the association. What constitutes 'administrative expenses' has been defined in Rule 5 of the Foreign Contribution (Regulation) Rules, 2011 (FCRR, 2011).
- Any foreign contribution or any income arising out of it shall not be used for speculative business. What constitutes 'speculative business' has been defined in Rule 4 of FCRR, 2011.
- An association which has been granted prior permission or registration should maintain a separate set of accounts and records, exclusively for foreign contribution received and utilised. If the foreign contribution relates only to articles, the intimation shall be submitted in Form FC-7. If the foreign contribution relates to foreign securities, the intimation shall be submitted in Form FC-8. Every report submitted shall be duly certified by a chartered accountant.

Check list and Charter for Ensuring Proper Submission of Applications

- Every account giving details of the receipt and purpose-wise utilisation of the FC, including the interest earned on the FC amount, should be maintained on an yearly basis, commencing on the 1st day of April each year, and every such yearly account is to be submitted, in Form FC – 6 along with the income and expenditure statement, balance sheet and statement of receipt and payment, duly certified by a chartered accountant in duplicate, within nine months of the closure of the year, i.e., before 31st December. Every such return in Form FC-6 shall also be accompanied by a copy of a statement of account from the bank where the exclusive foreign contribution account is maintained by the person, duly certified by an officer of such bank. The cash book and ledger account should be maintained on double entry basis, where the FC relates to currency received and utilised. The annual return in Form FC-6 shall reflect the foreign contribution received in the exclusive bank account and include the details in respect of the funds transferred to other bank accounts for utilisation.
- The accounting statements shall have to be preserved by the NGO/association for a period of six years.
- Even if no FC is received during a year, a 'Nil' return is required to be filed with the Ministry of Home Affairs within the prescribed time limit.
- Associations/NGOs granted registration or prior permission, which have received foreign contribution in excess of one crore rupees, or equivalent thereto, in a financial year, shall place the summary data on receipts and utilisation of the foreign contribution pertaining to the year of receipt as well as for one year thereafter in the public domain.
- No FC should be transferred to an association which has not obtained either prior permission or registration under FCRA or to any person or association, prohibited under FCRA from receiving any FC. However, if the foreign contribution is proposed to be transferred to a person who has not been granted a certificate of registration or prior permission by the Central Government, the person concerned may apply for permission to the Central Government to transfer a part of the foreign contribution, not exceeding ten per cent, of the total value of the foreign contribution received. The application shall be countersigned by the District Magistrate having jurisdiction in the place where the transferred funds are sought to be utilized. The District Magistrate concerned shall take an appropriate decision in the matter within sixty days of the receipt of such request from the person. The

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donor shall not transfer any foreign contribution until the Central Government has approved the transfer. Any transfer of foreign contribution shall be reflected in the returns in Form FC-6 as well as in Form FC-10 by the transferor and the recipient.

- Change of name, address, registration, nature of activities or aims and objectives of an association should be intimated to the Ministry of Home Affairs within 30 days of effecting the change, alongwith the documentary evidence effecting the change.
- Prior permission of Ministry of Home Affairs should be obtained for replacing 50% or more of the office bearers.
- Prior permission of Ministry of Home Affairs should be obtained for changing bank account for valid and convincing reasons.

Chapter 6

Common Grounds for Rejection of Applications under FCRA 2010

Certain guidelines have been laid down for considering applications for grant of prior permission/ registration under the Act. Some of the common grounds for rejection of applications are enlisted below as illustrations to bring about transparency and benefit the applicants in taking due care and caution:-

- The association is not registered under the Societies Registration Act, 1860 or the Indian Trusts Act, 1882 or section 25 of the Companies Act, 1956.
- Any of the office bearers/trustees including the chief functionary is a foreign national, other than of Indian origin.
- The association has a single office bearer/member.
- The association is found to have been formed for personal gain or for diversion of the funds for undesirable purposes.
- The association is found to be fictitious or 'benami' in nature.
- The credibility of any member of the governing body is in doubt.
- The association has close links with another association which has been refused registration under FCRA or prohibited under FCRA or violated the provisions of FCRA.
- The association has links with any banned organizations.
- The principal office bearers of the association have been convicted by any court of law under any act or prosecution for any offence is pending against them.
- The principal office bearers of the association have been found guilty of diversion or misutilisation of funds of the said association or any other association in the past.
- The activities of the association are found to be aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another.

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- The association is found to propagate sedition or advocating violent methods to achieve its ends.
- The association is found to be creating communal tensions or disharmony.
- The office bearers of the association are also office bearers of another association which has been subjected to an adverse notice.
- The association's printed work is not certified by the Registrar of Newspapers for India to be a newspaper in terms of section 1(1) of the Press Registration of Books Act, 1867.
- The source of foreign contribution is found to be adverse to the interests of the country.
- The acceptance of foreign contribution by the association is likely to be prejudicial to (a) the sovereignty and integrity of India; (b) free and fair elections to any Legislature or House of Parliament; (c) public interest; (d) friendly relations with a foreign state; or (e) harmony between any religious, social, linguistic, regional groups, caste or community.
- The association has not filed its annual returns of receipt and utilization of foreign contribution received with prior permission, within the stipulated period.
- The association has violated any provisions of the Act or Rules during the preceding three years and the said violation has not been remedied or rectified.

Additional grounds for rejection of applications for Registration.

- The association has not been in existence for three years from the date of its registration under the Societies Registration Act, 1860 or the Indian Trusts Act, 1882 or Section 25 of the Companies Act, 1956.
- The association has not carried on any activity in its chosen field during the last three years.
- The association has not received foreign contribution, with prior permission, during the preceding three years.
- If the association has not made any substantial contribution, i.e., at least Rs.10,00,000/- over a period of three years, in its field of activity excluding expenditure on administration.

Common Grounds for Rejection of Applications under FCRA 2010

Additional grounds for rejection of applications for Prior Permission

- The application is not accompanied by the 'commitment letter' of the donor.
- The application is not accompanied by the copy of project for which foreign contribution was solicited/is being offered

Chapter 7

Illustrative List of Permitted Programs

The illustrative programs permitted to be carried out by associations having different nature are indicated below :

1. Religious

- Celebrations of religious functions/festivals etc.
- Construction/repair/maintenance of places of worship, religious schools.
- Education of priests and preachers; (dissemination of the message of good will etc. from their holy books).
- Publication and distribution of religious books/ literature.
- Maintenance of priests / preachers / other religious functionaries.
- Any other activities related to the above.

2. Educational

- Construction and maintenance of school/college.
- Construction and running of hostel for poor students.
- Grant of stipend/Scholarship/assistance in cash and kind to poor/deserving children.
- Purchase and supply of educational material-books, notebooks etc.
- Conducting adult literacy programs.
- Conducting Research.
- Education/Schools for the mentally challenged.
- Non-formal education projects/coaching classes.
- Any other activities related to the above.

Illustrative List of Permitted Programs

3. Economic

Following activities (Not being commercial or profit making activities)

- Micro-finance projects, including setting up banking co-operative and self-help groups.
- Self-sustaining income generation projects/Schemes.
- Agricultural activity.
- Rural Development.
- Animal husbandry projects.
- Setting up and running handicraft centre/cottage and khadi industry/social forestry projects.
- Vocational training, tailoring, motor repairs, computers etc.
- Any other activities related to the above, not being commercial activities.

4. Social

- Construction/Running of Hospital/dispensary/clinic.
- Construction of community halls etc.
- Construction and Management of old age home.
- Welfare of the aged widows.
- Construction and Management of Orphanage.
- Welfare of the orphans.
- Construction and Management of dharamshala /shelter.
- Holding of free medical/health/family welfare/immunisation camps.
- Supply of free medicine, and medical aids, including hearing aids, visual aids, family planning aids etc.
- Provision of aids such as Tricycles, callipers etc. to the handicapped.
- Treatment/Rehabilitation of drug addicts.
- Welfare/Empowerment of women.
- Welfare of children.

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- Provision of free clothing/food/to the poor. Needy and destitute.
- Relief/Rehabilitation of victims of natural calamities.
- Help to the victims of riots/other disturbances.
- Digging of bore wells.
- Sanitation including community toilets etc.
- Awareness camp/Seminar/workshop/meeting/conference.
- Providing free legal aid/Running legal aid centre.
- Holding sports meet.
- Awareness about Acquired Immune Deficiency Syndrome (AIDS)/Treatment and rehabilitation of persons affected by AIDS.
- Welfare of the physically and mentally challenged.
- Welfare of the Schedules Castes.
- Welfare of the Scheduled Tribes.
- Welfare of the Backward Classes.
- Environmental programs.
- Survey for Socio-economic and other welfare programs.
- Preservation & maintenance of Wild Life.
- Preservation of Natural Resources.
- Awareness against social evils.
- Rehabilitation of victims of heinous crimes.
- Rehabilitation of beggars, bootleggers, child labourers etc.
- Creating awareness of Government schemes & Law to general public.
- Any other activities related to the above.

5. Cultural

- Celebration of national events (Independence/Republic day/festivals.
- Theatre/Films etc.
- Maintenance of places of historical and cultural importance.

Illustrative List of Permitted Programs

- Preservation of ancient/tribal art forms.
- Preservation & promotion of Cultural Heritage & Literature of India.
- Cultural shows.
- Any other activities related to the above.

Chapter 8

Exempted Agencies which are Treated as Foreign Source

List of agencies of the United Nations, and other international agencies and organisations notified by the Central Government to be not covered by the definition of 'foreign source', under section 2(1)(j)(ii) of the Foreign Contribution (Regulation) Act, 2010

The United Nations

I. Secretariat

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

II. Bodies of the United Nations

14. International Research and Training Institute for the Advancement of Women (INSTRAW), Santo Domingo, Dominican Republic.

Exempted Agencies who are Treated as Foreign Source

15. Joint United Nations Programme on HIV/AIDS (UNAIDS), Geneva.
16. Office of the UN High Commissioner for Human Rights (OHCHR), Geneva.
17. Office of the UN High Commissioner for Refugees (UNHCR), Geneva.
18. United Nations Capital Development Fund (UNCDF), New York.
19. United Nations Conference on Trade and Development (UNCTAD), Geneva.
20. United Nations Development Fund for Women (UNIFEM), New York.
21. United Nations Institute for Disarmament Research (UNIDIR), Geneva.
22. United Nations Institute for Training and Research (UNITAR), Geneva.
23. United Nations Interregional Crime and Justice Research Institute (UNICRI), Rome.
24. United Nations Office for Project Services (UNOPS), New York.
25. United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), Gaza and Amman.
26. United Nations Research Institute for Social Development (UNRISD), Geneva.
27. United Nations University (UNU), Tokyo.
28. United Nations Volunteers (UNV), Bonn.

III. Funds and Programs

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

IV. Regional Commissions

35. Economic Commission for Africa (ECA), Addis Ababa, Ethiopia.

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

V. Law of the Sea Treaty Bodies

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

VI. Environmental Bodies

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

Exempted Agencies who are Treated as Foreign Source

VII. Specialised Agencies

- 53. International Labour Organisation (ILO), Geneva.
- 54. Food and Agriculture Organization (FAO), Rome.
- 55. United Nations Educational, Scientific and Cultural Organisation (UNESCO), Paris.
- 56. International Civil Aviation Organisation (ICAO), Montreal.
- 57. World Health Organisation, Geneva.
- 58. Universal Postal Union (UPO), Berne, Switzerland.
- 59. International Telecommunication Union (ITU), Geneva.
- 60. World Meteorological Organization (WMO), Geneva.
- 61. International Maritime Organization (IMO), London.
- 62. World Intellectual Property Organization (WIPO), Geneva.
- 63. International Fund for Agricultural Development (IFAD), Rome.
- 64. United Nations Industrial Development Organisation (UNIDO), Vienna.

VIII. The World Bank Group

- 65. International Bank for Reconstruction and Development (IBRD), Washington D.C.
- 66. International Development Association (IDA), Washington D.C.
- 67. International Monetary Fund (IMF) Washington D.C.
- 68. International Finance Corporation (IFC), Washington D.C.
- 69. Associated Organisations of World Bank Group:
 - (A) International Centre for the settlement of Investment Disputes (ICSID), Washington D.C.
 - (B) Multilateral Investment Guarantee Agency (MIGA), Washington D.C.
 - (C) Consultative Group on International Agricultural Research (CGIAR), Washington D.C. (It has 16 Research centres)
 - (i) International Plant Genetic Resource Institute (IPGRI), Rome.

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- (ii) International Wheat and Maize Improvement Centre (CIMMYT), Mexico.
- (iii) International Centre for Living Aquatic Resource Management (ICLARM), Philippines.
- (iv) International Irrigation Management Institute (IIMI), Colombo.
- (v) International Food Policy Research Institute (IFPRI) Washington D.C.
- (vi) International Centre of Research in Agro-forestry (ICRAF), Nairobi.
- (vii) International Centre for Agricultural Research in Dry Areas (ICARDA), Syria.
- (viii) International Centre for Tropical Agriculture (CIAT), Columbia.
- (ix.) International livestock Research Institute (ILRI), Nairobi.
- (x) West Africa Development Association (WARDA), Abidjan.
- (xi) International Service Of National Agricultural Research (ISNAR), The Netherlands.
- (xii) International Crops Research Institute For the Semi-Arid Tropics (ICRISAT), Hyderabad.
- (xiii) International Rice Research Institute, Manila, Philippines.
- (xiv) International Potato Centre, Peru.
- (xv) Centre for International Forestry Research (CIFOR), Indonesia.
- (xvi) International Institute of Tropical Agriculture (IITA), Nigeria.

IX. Regional Development Banks

- 70. African Development Bank (ADB), Abidjan.
- 71. Inter-American Development Bank (IDB), Washington D.C.
- 72. Asian Development Bank (ADB), Manila.

Exempted Agencies who are Treated as Foreign Source

73. Caribbean Development Bank (CDB), St. Michael, Barbados.

X. Other Bodies Related to United Nations

74. International Atomic Energy Agency (IAEA), Vienna.
75. Organisation for the Prohibition of Chemical Weapons (OPCW), The Hague.
76. Provisional Technical Secretariat (PTS) for the Comprehensive Nuclear Test Ban Treaty Organization (CTBTO), Vienna.
77. International Consultative Group on Food Irradiation (ICGFI), Vienna.
78. International Narcotics Control Board (INCB), Vienna.
79. International Trade Centre UNCTAD/WTO (ITC), Geneva.
80. International Union for the Protection of New Varieties of Plants (UPOV), Geneva.
81. World Tourism Organisation (WTO/OMT), Madrid.
82. World Food Council (WFC).
83. United Nations Social Defence Research Institute (UNSDRI).
84. United Nations Statistical Office (UNSCO).

XI. Other International Organisations

85. United Nations Outer Space Committee.
86. International Sugar Organisation, London.
87. Asian Productivity Organisation, Tokyo.
88. Asian and Pacific Development Administration, Kuala Lumpur.
89. Asian African Legal Consultative Committee, New Delhi.
90. Asia/Pacific Cultural Centre for UNESCO (ACCU), Japan.
91. Commonwealth Secretariat, London.
92. Afro-Asian Rural Reconstruction Organisation (AARRO), New Delhi.
93. Centre on Integrated Rural Development for Asia and the Pacific, (CIRDAP), Dhaka.

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94. International Centre for Genetic Engineering and Biotechnology (ICGEB), New Delhi.
95. Asia and Pacific Centre of Transfer of Technology (APCTT), New Delhi.
96. Centre for Science and Technology of the Non-Aligned and Other Developing Countries (NAM S&T Centre). New Delhi.
97. Commonwealth Agricultural Bureaux International (CABI), UK.
98. The Asia Pacific Association of Agricultural Research Institution (APAARI), Bangkok
99. The Regional Co-ordination centre for Research and Development of coarse Grains, Pulses, Roots and Tubercrops in the Humid Tropics of Asia and the Pacific (CGPRT Centre), Indonesia.
100. The Regional Network for Agriculture Machinery (RNAM), Bangkok.
101. Commission on Genetic Resources for Food and Agriculture (CGRFA), Rome.
102. The International Seeds Testing Association (ISTA), Zurich.
103. International Water Management Institute (IMI), Sri Lanka. *(Notified in the Gazette of India, Extraordinary, Part II-Section 3- Sub-section (ii) vide S.O. No. 1014 (E) dated the 13th November, 2000).*
104. World Trade Organisation (WTO), Geneva, Switzerland
105. International Organisation for Standardisation (ISO), Geneva, Switzerland
106. Common Fund for Commodities (CFC), Amsterdam, Netherlands
107. International Cotton Advisory Committee, Washington, USA
108. The Global Fund to Fight Aids, Tuberculosis and Malaria, Geneva, Switzerland. *(Added vide Gazette of India, Extraordinary, Part II-Section 3- Sub-section (ii) vide S.O. No. 1133 (E) dated the 1st May, 2009).*
109. Global Development Network (GDN) *(Added vide Gazette of India, Extraordinary, Part II-Section 3- Sub-section (ii) vide S.O. No.1433 (E) dated the 20th June, 2011).*

Chapter 9

Guidelines for Accepting Foreign Hospitality

The provisions of the Act/Rules relating to 'foreign hospitality' and guidelines to be followed for consideration of proposals for acceptance of the same are set out in this Chapter.

Section 2 (1) (i): "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 boarding, lodging, transport or medical treatment

Section 2 (1) (j): "Foreign source" includes –

- (i) the Government of any foreign country or territory and any agency of such Government;
- (ii) any international agency, not being the United Nations or any of its specialized agencies, the World Bank, International Monetary Fund or such agency as the Central Government may, by notification, specify in this behalf;
- (iii) a foreign company;
- (iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;
- (v) a multi-national corporation referred to in sub-clause (iv) of clause (g)*;
- (vi) a company within the meaning of the Companies Act, 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) corporation 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

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(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 of individuals formed or registered outside India;
- (x) a citizen of a foreign country

*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 branch or 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.

Section 2 (1) (k): “Legislature” means –

- (A) either House of Parliament;
- (B) the Legislative Assembly of a State, or in the case of a State having a Legislative Council, either House of the Legislature of that State;
- (C) Legislative Assembly of a Union Territory constituted under the Government of Union Territories Act, 1963;
- (D) Legislative Assembly for the National Capital Territory of Delhi referred to in the Government of National Capital Territory of Delhi Act, 1991;
- (E) Municipality as defined in clause (e) of article 243P of the Constitution;
- (F) District Councils and Regional Councils in the States of Assam, Meghalaya, Tripura and Mizoram as provided in the Sixth Schedule to the Constitution;
- (G) Panchayat as defined in clause (d) of article 243 of the Constitution; or
- (H) Any other elective body as may be notified by the Central Government.

Section 2 (1) (m): “person” includes:-

- (i) an individual;

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- (ii) a Hindu undivided family;
- (iii) an association;
- (iv) a company registered under section 25 of the Companies Act, 1956.

Section 2 (1) (n): "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 set up 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;
- (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.

Section 6 - Restriction on acceptance of foreign hospitality:

No member of a Legislature or office-bearer of a political party or Judge or Government servant or employee of any corporation or any other body owned or controlled by the Government shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality:

Provided that it shall not be necessary to obtain any such permission for an emergent medical aid needed on account of sudden illness contracted during a visit outside India, but, where such foreign hospitality has been received, the person receiving such hospitality shall give, within one month from the date of receipt of such hospitality an intimation to the Central Government as to the receipt of such hospitality, and the source from which, and the manner in which, such hospitality was received by him.

Section 9 - Power of the Central Government to prohibit receipt of foreign hospitality in certain cases –

The Central Government may –

- require any person or class of persons, not specified in section 6, to obtain prior permission of the Central Government before accepting any foreign hospitality; (clause b)

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- require any person or class of persons, not specified in section 6, to furnish intimation, within such time and in such manner as may be prescribed, as to the receipt of any foreign hospitality, the source from which and the manner in which such hospitality was received; (clause e)

Provided that no such prohibition or requirement shall be made unless the Central Government is satisfied that the acceptance of foreign contribution by such person or class of persons, as the case may be, or the acceptance of foreign hospitality by such person, is likely to affect prejudicially –

- (i) the sovereignty and integrity of India; or
- (ii) public interest; or
- (iii) freedom or fairness of election to any Legislature; or
- (iv) friendly relations with any foreign State; or
- (v) harmony between religious, racial, social, linguistic or regional groups, castes or communities.

3. Provisions under the Rules:

The relevant provisions of FCRR, 2011 are reproduced below:

Rule 7 - Receiving foreign hospitality by specifies categories of persons. –

- (1) Any person belonging to any of the categories specified in Section 6 who wishes to avail of foreign hospitality shall apply to the Central Government in Form FC-2 for prior permission to accept such foreign hospitality.
- (2) Every application for acceptance of foreign hospitality shall be accompanied by an invitation letter from the host or the host country, as the case may be, and administrative clearance of the Ministry or Department concern in case of visits sponsored by a Ministry or Department of the Government.
- (3) The application for grant of permission to accept foreign hospitality must reach the appropriate authority ordinarily two weeks before the proposed date of onward journey
- (4) In case of emergent medical aid needed on account of sudden illness during a visit abroad, the acceptance of foreign hospitality shall be required

Guidelines for Accepting Foreign Hospitality

to be intimated to the Central Government within sixty days of such receipt giving full details including the source, approximate value in Indian Rupees, and the purpose for which and the manner in which it was utilized.

Provided that no such intimation is required if the value of such hospitality in emergent medical aid is upto one lakh rupees or equivalent thereto.

6. The following cases need not be submitted to this Ministry for grant of permission to accept 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.
- (ii) Where the proposed foreign visit is being undertaken by a person in his/her personal capacity and the entire expenditure thereon is being met by the person concerned.
- (iii) Where the foreign hospitality is being provided by an Indian national living in a foreign country or territory.
- (iv) Cases involving acceptance of an assignment on salary, fee or remuneration etc.
- (v) Cases involving funding offered by an agency/organization mentioned in Annexure-2.
- (vi) Cases involving visits undertaken by the Members of an Indian Parliamentary delegation under bilateral exchange.
- (vii) 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 Economics Affairs).
- (viii) Cases involving long term/short term foreign training courses approved by the Ministry of Personnel, Training and Public Grievances.

7. The responsibility of ensuring full compliance with the provisions FCRA, 2010 lies with the person proposing to avail the foreign hospitality. It should, therefore, be ensured that the foreign visit involving acceptance of foreign hospitality is undertaken only after obtaining the requisite permission under the said Act.

8. Permission accorded under FCRA, 2010 to accept foreign hospitality should not be construed as equivalent to administrative clearance, which has

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to be obtained separately by the person concerned from the competent authority in the concerned Ministry/Department.

9. All Ministries/Departments are requested to ensure that the following points have been complied with while forwarding application to the Ministry of Home Affairs, Foreigners Division:

- (i) All columns in Form FC-2 must be filled up.
- (ii) All proposals for acceptance of foreign hospitality should be accompanied with a specific recommendation of the Administrative Ministry/Department.
- (iii) The Administrative Ministry /Department should certify the essentiality of the foreign visit. It should also be clearly indicated whether the proposal has the approval of the Ministry of External Affairs, the cadre controlling authority (applicable in respect of training programme/workshop/seminar/study tour organized by international agencies), and the competent authority.
- (iv) A copy of the offer/invitation containing details of the foreign hospitality being offered should be invariably enclosed with each application.
- (v) Each application for grant of permission to accept foreign hospitality, complete in all respects, should reach the Ministry of Home Affairs, Foreigners Division at least 10 working days before the scheduled date of departure of the person(s) concerned.

Chapter 10

FCRA Online Services

Link: www.fcraonline.nic.in

To facilitate the recipients of foreign contributions, Ministry of Home Affairs, Government of India has introduced online services.

These services include the following:

- Online filing of application for grant of FCRA Registration
- Online filing of application for grant of FCRA Prior Permission
- Online filing of Application for Accepting Foreign Hospitality under FCRA
- Online filing of FCRA Annual Returns

The links for availing these services are as follows

Services	Link
FCRA Online Services	http://fcraonline.nic.in/
Online filing of application for grant of FCRA registration	http://fcraonline.nic.in/fc_login.aspx
Online filing of application for grant of FCRA prior permission	http://fcraonline.nic.in/fc_login.aspx
Online filing of application for accepting Foreign Hospitality under FCRA	http://fcraonline.nic.in/fc_h_midtlene_w.aspx
Online filing of FCRA Annual Returns	http://fcraonline.nic.in/fc_login.aspx

Online process for grant of FCRA Registration

Instructions for filing online FC-3 Form for grant of Registration under Sec. 11(1) of the FC(R) Act, 2010.

1. For online filing of application for registration a user ID is required to be created.

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2. After successful registration applicant/user can login to the 'FCRA Online Services' and select the option for the type of application one wishes to fill and click 'Login'. For online submission of application for Registration (FC-3 Form), select the option 'FCRA Registration'
3. After the successful login, FC-3 form will be displayed.
4. Form FC-3 has been divided into three parts to facilitate simple online filing of application for grant of Registration under Sec. 11(1) of the FC(R) Act, 2010
5. Start with Click at 'FCRA Registration' of the menu item. Fill in the requisite details in the Form FC-3. Click 'Save details and Next' after filling the details, the details will be saved and next part is displayed to fill the details of Executive Committee/Governing Council, etc. .
6. Fill in the details of the members of the Executive Committee/Governing Council etc. followed by click at button 'Add'. The details will be shown in the lower part of the screen.

Details shown in the lower portion of screen can be updated by clicking the 'Edit' link provided in the requisite row. The details will be shown in the top portion of the screen. Modify the details as needed followed by click on the 'Update' button. For deleting the details 'Delete' link of the requisite row may be clicked.

The details of all members of Executive Committee/Governing Council, etc. are necessary for submitting the application. After completing the details 'Save details and Next' may be clicked

7. After Clicking on Save and Next Button the following screen will be displayed. for filling Expenditure incurred and major activities during last 3 years.

8. On filling the remaining details of the Form FC-3, the button 'Save Details', 'View Application' and 'Final Submit to the Ministry' may be clicked to submit the application to Ministry of Home Affairs. First after filling details click at the 'Save Details' button. After this click at 'View Application' button to see the complete filled application, you may take printout for checking and correction, if any, can be done by clicking at 'Registration' on the menu. Finally if the details filled are as per your satisfaction, then click 'Final Submit to the Ministry' (please note: Correction after Final submission is not allowed). Note the file reference number appearing on the screen after final

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submission to the Ministry as acknowledgement and for further correspondence and online status enquiry

Click 'Print Application' option of the menu item to print the filled-in Form FC-3. It will show the details filled by you. Printout of the same may be taken which needs to be signed and submitted to Ministry of Home Affairs with relevant enclosures expeditiously.

Enclose following documents, wherever applicable, along with the signed copy of application before submitting that to Ministry of Home Affairs.

- (i.) Certified copy of Registration Certificate under the relevant statute, Memorandum of Association 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 (Assets and Liabilities, Receipts and Payment, Income and Expenditure account).
- (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.
- (v.) Certificate of the competent authority on official status under signature and seal on prescribed format in original (this is optional). This certificate allows granting of registration and conducting field enquiry.
- (vi.) An amount of Rs. 2000/- by demand draft or banker's cheque (Banker's cheque is to be obtained from the Bank only. Personal cheque or Association's Cheque is not acceptable) in favour of the "Pay and Accounts Officer, Ministry of Home Affairs" Payable at New Delhi
- (vii.) Any additional information which the applicant wishes to submit (enclosed a copy of Permanent Account Number card (PAN card) issued by the Income tax department).
- (viii) Please attach all the enclosures and bind them with the application duly numbered starting from covering letter.

9. Furnish information exactly in the manner asked for in the Form FC-3, especially the names and addresses of the members of the Executive Committee/Governing Council etc.

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10. Submit the hard copy of the completed application along with relevant documents within 15 days of submission of online application to the Ministry of Home Affairs, Government of India.
11. Click 'Instructions for filing' to get the instructions regarding how to file and submit the FC-3 Form.
12. Click 'Change Password' of the menu to change your password. The new password will be effective from next login.
13. Click 'Logout' to stop using FCRA Online Services.
14. For any problem in online filing of application for Registration, please send an e-Mail to clsharma@nic.in mentioning details of the problem encountered.
15. You may send e-Mail to ds-fcra@nic.in for any suggestions and queries regarding FC(R) Act, 2010.

Note: Concealment of any material fact or false representation etc. will lead to penal action (refer to Sections 3 and 35 of FC(R) Act, 2010).

Online process for grant of FCRA Prior Permission

Instructions for filing online FC - 4 Form for Application seeking Prior Permission to accept foreign contribution by an Association having a definite cultural, economic, educational, religious or social programme under sub-section(2) of Section 11 of the FC(R)A Act, 2010.

1. For online filing of application form seeking Prior Permission a user ID is required to be created.
2. After successful registration applicant/user can login to the 'FCRA Online Services' and select the option for the type of application you wish to fill and click 'Login'. For online submission of application for seeking Prior Permission (FC-4 Form), select the option 'FC-4 Prior Permission'
3. After successful login, FCRA Prior Permission Menu will be displayed.
4. Form FC-4 form has been divided into four parts to facilitate simple online filing of application for grant of Prior Permission under sub-section (2) of Sec.11 of the FC(R) Act, 2010
5. Start with Click at 'Prior Permission' of the menu item or 'Click here to file Prior Permission'. Fill in the requisite details in the Form FC-4. Click

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'Save and Next' after filling the details, the details will be saved and next part is displayed to fill the details of Executive Committee/Governing Council, etc.

6. If you have already filled in the details and application has not been finally submitted the Ministry then click at 'Click here to complete' to continue filing the FC-4 online. The menu will also provide the details of the previous applications filed by the association along with their status. This screen also provides the latest status of the FC-4 submission to the Ministry by the association.

7. Fill in the details of the members of the Executive Committee/Governing Council etc. followed by click at button 'Add'. The details will be shown in the lower part of the screen

Details shown in the lower portion of screen can be updated by clicking the 'Edit' link provided in the requisite row. The details will be shown in the top portion of the screen. Modify the details as needed followed by click on the 'Update' button. For deleting the details 'Delete' link of the requisite row may be clicked.

The details of all members of Executive Committee/Governing Council, etc. are necessary for submitting the application. After completing the details 'Save details and Next' may be clicked, the details will be saved and third part is displayed

8. Fill in the requisite details of the Form FC-4, the button 'Save and Next' may be clicked. The filled details will be saved and last part of the Form FC-4 will be displayed.

9. Filing the requisite details in the FC-4 pertaining to donors. Fill in the requisite donor details and click at 'Add Donor'. The details of donor will be saved and information displayed at the lower portion of the screen. Fill in the details of additional donors, if any. Details shown in the lower portion of screen can be updated by clicking the 'Edit' link provided in the requisite row. The details will be shown in the top portion of the screen. Modify the details as needed followed by click on the 'Update' button. For deleting the details 'Delete' link of the requisite row may be clicked.

Please check thoroughly the filled details in parts 1 to 4. Click at 'View Application' button to see the filled application, you may take printout for checking and corrections, if any, can be done by clicking at 'Prior Permission' on the menu. Finally if the details filled are as per your satisfaction, then click

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at 'Final Submit to the Ministry' (Please Note correction after Final Submission is not allowed). Note the file reference number appearing on the screen after final submission to the Ministry as acknowledgement and for further correspondence and online status enquiry.

10. Click 'Print Application' option of the menu item to print the filled-in Form FC-4. It will show the details filled by you. Printout of the same may be taken which needs to be signed and submitted to Ministry of Home Affairs along with relevant enclosures expeditiously

11. Enclose following documents that have been mentioned at various places in the form along with the signed copy of application (FC-4) printout of the online submit form and send to Ministry of Home Affairs:-

- (i) Processing fee of Rs. 1000/- by demand draft or banker's cheque (Banker's cheque is to be obtained from the Bank only. Personal cheque or Association's Cheque is not acceptable) in favour of the "Pay and Accounts Officer, Ministry of Home Affairs" Payable at New Delhi as mentioned in the column 2 of FC-4.
- (ii) Copy of Registration Certificate under the relevant statute, Memorandum of Association or Trust deed, as the case may be.
- (iii) Commitment letter from the donor(s).
- (iv) Project Report along with budget break-up as per Column 12(d).
- (v) If the project report is voluminous (more than 10 pages it should be accompanied by a gist giving the details of the project in short along with budget break-up in 2-3 pages.) The project report should essentially state how it would meet the objective.
- (vi) 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.
- (vii) Certificate of the competent recommending authority on official stationery under signature and seal on prescribed format in original (this is optional). This certificate facilitates early disposal of the case. In case the area of operation is not tribal/coastal, a border area and the amount is small it must be stated in the covering letter.
- (viii) Any additional information which the applicant wishes to submit must be given in the covering letter.

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- (ix) A copy of FC>Returns in respect of all the foreign contribution received earlier with the prior permission of MHA.
- (x) Please attach all the enclosures and bind them securely with the application duly numbered starting from covering letter.
- 12. Furnish information exactly in the manner asked for in the Form FC-4, especially the names and addresses of the members of the Executive Committee/Governing Council etc.
- 13. While mentioning the amount proposed to be received in the relevant column [No. 12(a)], it should be ensured that the amount and currency should be the same as in the commitment letter (C/L). In any case, the amount for which prior permission sought should not be more than the amount committed by the donor. It should also be ensured that the donor is a foreign source and that it should also be ensured that the column for name/address of the do-nor should give the name and address of the donor only.
- 14. If the association is a new one no activity/audit report is required to be enclosed.
- 15. Submit the hard copy of the completed application, duly signed along with relevant documents within 7 days of submission of online application to the Ministry of Home Affairs, Government of India. In case the Hard Copy is not furnished within 30 days from the date of online application, it will automatically cease to exist.
- 16. Click 'How to apply' to get the instructions regarding how to file and submit the FC-4 Form.
- 17. Click 'Change Password' of the menu to change your password. The new password will be effective from next login.
- 18. Click 'Logout' to stop using FCRA Online Services.
- 19. For any problem in online filing of application for Registration, send an e-Mail to clsharma@nic.in mentioning details of problem.
- 20. You may send e-Mail to ds-fcra@nic.in for any suggestions and queries regarding FC(R) Act, 2010.

Note: Concealment of any material fact or false representation etc. will lead to penal action under (refer to Section 3 & 35 of FC(R) Act, 2010)

Online process for Accepting Foreign Hospitality under FCRA

1. Type the URL <http://fcraonline.nic.in/> in your web browser (Internet explorer recommended). In the screen that will appear, Click on the link online filing of Application for Accepting Foreign Hospitality under FCRA
2. After Click on Apply Online you have to fill in the required details/information. After that click on Save Details and Next
3. After click you will get a temporary file number. Note down this file no for later updation of application. Then click "Click Here" to Continue
4. In 2nd page you have to fill in your visiting details. Add all the visiting place(s) by clicking "Add Record" After that click Save Details and move to Next
5. In 3rd page Add host(s) details .First you have to select host type. Individual, organization and Both Individual and organization All Individual hosts can be added by click Add Record.
6. If you have selected organization or Both Individual and organization in previous Page you have to enter organization office bearers details by selecting organization
- 6.1. Here you have to add the nature and duration of hospitality by clicking Add Record. After that enter total expenditure on hospitality. Click on 'Save All' to save all the details entered by you. After click "View Application" to view your application in pdf format.
7. After that click on Final Submit to Ministry. After clicking this button you can't update your application any further.
8. After Final Submit you will get a permanent file no. Note down that file no for print of application later. Click the Print Application for taking Hard copy of filed Application (Please sign the Hard copy of the application (FC-II) along with date and place and scan it to upload). You can also upload the relevant document by clicking Upload/View Document button.

Uploading of relevant documents is mandatory.

You need to upload the following documents

- (I) The application form (FC-II) in the prescribed format duly signed by applicant.

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- (II) A Copy of Invitation Letter issued by Organizational /Individual providing foreign hospitality. (If you are invited by an individual please attach copy of Passport of the individual from whom you got invitation along with invitation letter as a single document.)
- (III) A Copy of Recommendation letter issued by Nodal / Department / Organization / Ministry office to the Ministry of Home Affairs (Recommendation letter/OM letter should be mark to FCRA division, Ministry of Home Affairs)

Be sure that POP UP window is allowed in your browser (i.e. After click on UPLOAD/VIEW button if no new window is open then allow pop up in your browser)

8. A. Instruction for Uploading document

- (I) Make sure that each document is in PDF format size below 500 Kb. While scanning the document try to scan in text mode/black white mode with low DPI.
- (II) If any document size exceeds 500 kb then compress the document using any PDF compressor software.

9. You can Update your Application by entering temporary file no (9 digit) If you finally submit your application you cannot modify it. You can also take print out of your filed application by entering your permanent file no (10 digit). For uploading relevant document select Print Application/Letter(s)/Upload/View Document

If the Ministry has uploaded the letter(s) after receiving your application, you can view after entering credentials.

Online process for filing of FCRA Annual Returns

Instructions for online filing of annual account in FC- 6 Form

1. For online filing of annual accounts, user ID is required to be created by the user through online registration.

Online submission of account of receipts and utilization of

Foreign Contribution for the year should be in Form FC - 6

Instructions for online filing of annual account in Form FC-61

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1. For online filing of annual accounts, user ID is required to be created by the user through online registration.
2. After successful registration, applicant/user can login to the 'FCRA Online Services' and select the option for the type of application to be filed, and click 'Login'. For online filing and submitting Annual Account of Foreign Contribution (FC-6 Form), 'FC-6 Returns' may be selected.
3. After successful login, registration number, State and District may be filled in appropriate columns in the 'FC-6 Returns Login'. Click at the 'File online returns' to file annual account in FC-6 Form
4. The FC-6 form has been divided into three parts to facilitate online submission of account of foreign contribution for the year.
5. Start with Click at 'FC- Part-1' of the menu item and fill the amount details. Click 'Save Data' after filling the amounts
6. For updating the above filled - in amount click at 'FC- Part-1' of the menu item again and modify the amount as desired followed by clicking at 'Update'.
7. Click at 'FC - Part-2' of the menu item to fill - in the details of the purposes for which foreign contribution has been received and utilized during the year. The amount of interest earned on the foreign contribution during the year should be shown under the purpose. Activities other than those mentioned above should be given as second/subsequent recipient. After entering amount for each purpose(s), click 'Save data'

The details entered will be shown in the lower portion of screen. You can update any details by clicking the 'Edit' link provided in the row. The details will be shown in the top portion of the screen, complete the modification followed by click on the ' Update ' button. For deleting the details for any purpose click at the ' Delete ' link of the row.

On completion of the details for the purposes for which foreign contribution has been received and/or utilized, ensure that total of receipts during the year tallies with the total amount of foreign contribution received and interest earned on foreign contribution during the year as filed in 'FC - Part-1'.

7A . After Completing FC - Part - 2' user has to fill up FC - Purpose Address. In this page user has to give details of Purpose (s) for which foreign contribution has been Received and utilized - Places with addresses of specific activities for each purpose selected in page FC- Part - 2

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8. If the total amount of foreign contribution received during the year is 'zero' and interest earned on the foreign contribution is also 'zero', then click at ' Final Submit' of the menu item and click at ' Final Submit' button to submit the returns to the Ministry (you are not required to fill details in 'FC - Part - 3' of the menu item).
9. Click at 'FC- Part- 3' to fill details of donor wise receipts of foreign contribution during the year. The steps to fill the details are as under:
 - (i) Select donor type i.e. institutional donor or individual donor.
 - (ii) Select country of the donor.
 - (iii) Select name of the donor from the list. If the same is not available in the list, click ' Add new donor' button and new window gets opened. Fill the details of donor, i.e. Name and Address. After adding donor details, click ' Save Data' and click ' Back to Part - 3 ' to continue entering the amount details. You can go back without adding new donor by clicking ' Back to Part - 3'
 - (iv) Now select the name of the donor from the list.
 - (v) Select the purpose of the foreign receipt.
 - (vi) Enter the date of receipt of amount (DD/MM/YYYY).
 - (vii) Enter the amount of receipt.
 - (viii) Click 'Save Data'
 - (ix) The data will be displayed in the lower window.
 - (x) For deleting the data click the link ' Delete' of the desired row.
 - (xi) For modifying the data click the link 'Edit' of the desired row. The data will be displayed in the upper portion of the window, modify and click ' Update'.
 - (xii) At any stage of data entry, you can check whether the amount tallies with the amount filled in 'FC - Part - 1' of the menu item by clicking at the 'Is amount tallied?' button.
 - (xiii) The amount of interest earned on the foreign contribution during the year should be shown as amount received from Country – India and Donor – Others.
 - (xiv) The user has to mention at least one donor details in FC - Part3 for each purpose mention in FC- Part2

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10. On completion of details of the receipts from institutional and individual donors, Click at 'Final Submit' of the menu item. It will show the total of the amount filled in 'FC - Part - 1' and shows whether total of amount filled in 'FC- Part- 2' and 'FC -Part- 3' tallies or does not tally with total of amount filled in 'FC - Part - 1'. The returns can be submitted after the amount tallies. You can edit the relevant FC - Part for tallying the amounts. When the amount tallies then click ' Final Submit ' button to submit the FC -6 Returns to the Ministry of Home Affairs.

Note: Please see that the amount of interest earned on the foreign contribution during the year is properly shown in 'As second/subsequent recipient' in 'FC - Part - 2' and as amount received from Country – India and Donor – Others in 'FC - Part - 3'

11 . Click ' FC - Form Print ' option of the menu item to print the filled - in Form FC -6. It will show the details filled by you. You have to take printout of the same, sign it and submit to the Ministry of Home Affairs with relevant documents (audit reports, exclusive Receipt & Payment accounts and balance sheets, etc.). To take the print out please select orientation ' landscape ' mode at ' page setup ' of ' File ' menu of the browser.

12 . Any additional information may be sent along with printed copy of the online return, together with authenticated undertaking and certificate from the Chartered Accountant, within 7 days of submission of online FC - 6 returns to the Ministry of Home Affairs, Government of India.

13. Click ' Instructions for filing ' to get the instructions to file and submit the FC - 6 Form.

14 . Click ' Logout ' to stop using FCRA Online Services.

15. Mail to dirfcr@nic.in for any suggestions and queries and clsharma@nic.in for any problems in online filing

Note: Concealment of any material fact or false representation etc. will lead to penal action (refer to Sections 6(1A) and 23 of FC(R) Act, 1976)

Chapter 11

Important Judicial Pronouncements

The law relating to FCRA is of a recent origin (enacted in 1976). Hence there are not many legal cases and legal pronouncements available on the subject. It may also be due to the very clear and precise requirements spelt out in the law, making it unnecessary for any possible litigants to approach the Courts for any interpretation. The very fact that there are not many legal cases and pronouncements on the subject law points out that there is clarity in the purpose and requirements on the foreign contributions.

The Act gives required powers to the Central Government to control, manage, and regulate receipt of foreign contributions and also their utilization. Thus one can safely conclude, as of now, that there are not many loopholes or any grey areas in the legislation warranting clarifications or interpretations.

There are some landmark judgements involving Foreign Contribution Regulation Act. Some more cases are still under scrutiny. A very important judicial pronouncement by US Supreme Court is also cited below.

Madras High Court

1. Usmania Trust, Coimbatore (Registered) v. Union of India (1991)

Any applicant organization desirous of getting the required registration for receiving foreign contribution can apply to the Ministry of Home Affairs; it is a right given under the Foreign Contribution Regulation Act. The Court has held that the Government cannot deny this arbitrarily. The Court has further noted in this case that the Government has passed a cryptic or laconic order, without assigning any reason for rejection of the application. The Court stated that the Government should consider granting of any registration under the Act, taking note of the object and purpose of the applicant organization and for what purpose the amount is sought by way of foreign contribution from a foreign source. Finally, the Court set aside the impugned order of rejection and directed the Central Government to consider the issue after giving an opportunity to the petitioner and pass orders on merits.

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Foreign Contribution Regulation Act 1976, provides for receipt of foreign contribution by organizations which have not been prohibited specifically by the Central Government. However, they are to apply to the Central Government in the prescribed format for prior permission. There was a prevailing view that the Central Government can accept or reject such applications for registration without assigning any reason whatsoever. However, this view was challenged in the Court and the Court has held that the Central Government does not have any powers to pass such cryptic or laconic orders without assigning any reasons for the rejection of applications for registration. The Court has held that the Central Government should provide sufficient opportunity to the applicant organization before granting or rejecting registration requests.

This is a landmark judgement in the administration of Foreign Contribution Regulation Act 1976.

Supreme Court

2. M.Kurien, Chief Functionary of the Cross v. Union of India (2001)

Foreign Contribution Regulation Act 1976 Sections 6 (1) (b) and 23 – Receipt of contribution and depositing the same in a bank other than the bank indicated in the application Form FC-1, would be a violation of the provisions of Section 6(1) (b) itself in as much as no association is entitled to accept foreign contribution, unless the association agrees to receive the foreign contribution only through such one of the branches of the bank, as it may specify in the application for registration – The violation being a violation of the provisions of Section 6 (1) (b), it would constitute an offence under Section 23.

Foreign Contribution Regulation Act 1976 – Sections 6 (1) (b) and 23 – Foreign Contribution Regulation Rules 1976 – Form FC-1 prescribed under Rule 3 for obtaining permission to receive foreign contribution is statutory form – Violation of the terms of the form constitutes an offence under Section 6 and 23.

It was held that a conjoint reading of Section 6 (1) (b) and Section 23 of the Act read with Section 3 (a) and the prescribed form FC-1, required to be filed, seeking permission of the Central Government for accepting foreign contribution would unequivocally indicate that the contravention and / or

Important Judicial Pronouncements

violation of any terms and conditions contained in the very application form, would constitute the contravention of the provisions of the Rules made under the Act and as such would be punishable under Section 23 of the Act. The Act has been enacted to regulate the acceptance and utilization of foreign contribution or foreign hospitality by persons or associations with a view to ensure that Parliamentary institutions, political associations and other voluntary organizations may function in a manner consistent with the values of a sovereign democratic republic. Any contravention of the provisions of the Act or the Rules made there under should be strictly construed and on being so construed, if an applicant indicates the mode or channel of foreign contribution in his application and in violation of the same receives through a different mode or channel, that would constitute an infraction of the relevant provisions of the Rules and such infraction must be held to be punishable under Section 23 of the Act.

This is yet another land mark judgement in the interpretation and administration of Foreign Contribution Regulation Act 1976.

Funding of Political Parties

In Feb 2014, the Delhi High Court sought responses from AAP and its founding members, on a plea for registration of a criminal case on the ground that the newly formed party allegedly received foreign funding in violation of various laws.

The High Court stated that the Centre should look "afresh" into the accounts of AAP to find out the source of money received by it after its inception. The Centre had earlier submitted before the court that the issue raised by the petitioner in his PIL has already been investigated and a report was prepared on them by the Government.

In May 2014, the Central Government informed the Delhi High Court that its probe into the foreign funding received by the AAP was under process and donations received by the party from Indians living abroad was not in violation of the Foreign Contribution Regulation Act (FCRA).

The Central Government informed the court that eight people with foreign addresses made donations to Aam Aadmi Party (AAP). Their passport numbers as mentioned in the contribution report of Election Commission were checked and it was found that they possessed Indian passports and NRIs holding Indian passports are not a foreign sources, it added.

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A Division Bench comprising of Chief Justice G. Rohini and Justice R.S. Endlaw, after a brief hearing, posted the matter for further hearing.

The court was hearing a public interest litigation that alleged that AAP has been receiving foreign funds in violation of the FCRA.

Earlier, the court had directed the Central government to go through details of the money donated to the AAP since its inception Nov 26, 2012 and to take action if anything was found in violation of the FCRA.

Foreign funds: Court rap for political parties

In March 2014, The Delhi High Court ordered the Election Commission (EC) and the Home Ministry to look into the accounts of the Congress and BJP for traces of foreign funds and take action within six months.

The verdict came after the court found both parties flouting the norms of the Foreign Contribution (Regulation) Act (FCR) by accepting donations from UK-based Vedanta Resources and its subsidiary companies in India. Section 4 of the FCR Act prohibits a political party or legislator from accepting foreign contributions.

The Court rejected the Government's contention that Vedanta's two subsidiaries – Sterlite and Sesa – were incorporated in India under the Companies Act and their donations could not be construed as 'foreign contribution'.

The Association for Democratic Reforms, the petitioner in the case, claimed that Vedanta donated nearly \$2 million to political causes, either through a trust or directly, in respect to the Lok Sabha polls.

The court also ordered a probe into donations worth Rs. 1 lakh each made by two public sector undertakings: State Trading Corporation of India, and Metals and Minerals Corporation of India to National Students Union of India (NSUI) through the Indian National Congress (INC).

US Supreme Court Upholds Foreign Campaign Contribution Ban

In Jan 2012, the U.S. Supreme Court took a step back from its new expansive view of campaign spending as protected free speech, ruling against foreign nationals who wanted to make contributions to candidates for public office and political organizations.

Important Judicial Pronouncements

After dismantling campaign spending restrictions on corporations in its 2010 Citizens United decision, the justices issued a terse one-sentence ruling that slammed the door on an effort to allow foreigners who legally reside in the U.S. to spend money on politicians.

The Supreme Court affirmed a lower court ruling against Benjamin Bluman, a Canadian citizen who wanted to make donations to Democrats, and Asenath Steiman, a dual citizen of Canada and Israel who supported Republicans and wanted to donate to anti-tax Club for Growth group.

Bluman and Steiman argued in a case against the Federal Elections Commission that they are entitled to First Amendment protection as legal, temporary residents of America, though they are not U.S. citizens. They sought to overturn a prohibition on foreigners from making campaign expenditures in support or against a candidate and campaign contributions to political parties and outside groups.

The issue was on the minds of the Supreme Court's four liberal justices who dissented in Citizens United, which dealt with corporate campaign spending near Election Day, rather than political spending from foreigners.

Former Justice John Paul Stevens, who wrote the strongly-worded dissent, said his colleagues in the majority would afford the same protection to multinational corporations controlled by foreigners as to individual Americans.

The notion that Congress might lack the authority to distinguish foreigners from citizens in the regulation of electioneering would certainly have surprised the Framers, whose obsession with foreign influence derived from a fear that foreign powers and individuals had no basic investment in the well-being of the country, Stevens added.

Despite silence from the majority on the issue of foreign campaign spending, a three-judge panel for the D.C. Circuit Court of Appeals decided in August 2011 that the majority opinion in Citizens United was entirely consistent with a ban on foreign expenditures.

Chapter 12

International Scenario

Every country - developed or developing, democratic capitalist or communist – has its own decrees, legislations or regulations to control, regulate and manage contributions, donations, gifts and presents from foreign nationals and non residents. In this Chapter, some comparable legislations, provisions and regulations prevailing in some select countries are briefly explained.

United States of America

The ban on political contributions and expenditures by foreign nationals in the United States of America was first enacted in 1966, as part of the amendments to the Foreign Agents Registration Act (FARA), an “internal security” statute. The goal of the FARA was to minimize foreign intervention in U.S. elections by establishing a series of limitations on foreign nationals. These included registration requirements for the agents of foreign principals and a general prohibition on political contributions by foreign nationals. In 1974, the prohibition was incorporated into the Federal Election Campaign Act (the FECA), giving the Federal Election Commission (FEC) jurisdiction over its enforcement and interpretation.

The Federal Election Campaign Act (FECA) prohibits any foreign national from contributing, donating or spending funds in connection with any federal, state, or local election in the United States, either directly or indirectly. It is also unlawful to help foreign nationals violate that ban or to solicit, receive or accept contributions or donations from them. Persons who knowingly and willfully engage in these activities may be subjected to fines and/or imprisonment.

The Act prohibits knowingly soliciting, accepting or receiving contributions or donations from foreign nationals. In this context, “knowingly” means that a person:

- Has actual knowledge that the funds solicited, accepted, or received are from a foreign national
- Is aware of facts that would lead a reasonable person to believe that the funds solicited, accepted, or received are likely to be from a foreign national;

International Scenario

- Is aware of facts that would lead a reasonable person to inquire whether the source of the funds solicited, accepted or received is a foreign national.

Pertinent facts that may lead to inquiry by the recipient include, but are not limited to the following: A donor or contributor uses a foreign passport, provides a foreign address, makes a contribution from a foreign bank, or resides abroad. Obtaining a copy of a current and valid U.S. passport would satisfy the duty to inquire whether the funds solicited, accepted, or received are from a foreign national.

People's Republic of China

The People's Bank of China in, February 27, 1996 laid down very clear and precise guidelines on the use of foreign exchange vide its Administrative Regulations on Foreign Exchange Conversion, Sales and Payment in Experimental Regions.

China released a detailed regulation on the management of large-volume foreign exchange transactions in financial institutions. The Regulation, published on the website of the State Administration of Foreign Exchange on 26th October 2004, and effective since October 12, is aimed at tightening the monitoring of suspicious foreign exchange transactions. The rule also adds a new weapon to the Chinese financial authorities' arsenal in the anti-money laundering war. The regulation sets detailed criteria for the foreign exchange watchdog and the public security agency to judge whether a transaction should be reported, and if it demands close attention. It also provides for suspected money laundering cases to be dealt with efficiently. The regulation also clarifies the liabilities of relevant financial institutions on the matter as well as the procedure for handling reports. It says that financial institutions should improve their internal control mechanisms against money laundering and appoint special agencies or individuals to look after the matter. The institutions should try to get sufficient information of the credit status of the clients in foreign exchange business, and implement their obligations in reporting, and tracing suspected crimes. Large-volume foreign exchange transactions refer to daily cash transactions of US\$10,000 or more by an individual or an enterprise, as well as non-cash daily transactions that are worth US\$100,000 or more by an individual or US\$500,000 or more by an enterprise, the rules said. But exceptions will be allowed in certain cases, when such transactions do not need to be reported. The onus of conforming

A Study on Foreign Contribution (Regulation) Act, 2010

to and confirming the nature of transaction as genuine and permitted will therefore naturally be falling on the recipients of such foreign remittances. Again, since all foreign exchange transactions are to be routed through banking channels, the banks will also be required to satisfy themselves on the genuineness of such transactions.

United Kingdom

The Political Parties, Elections and Referendum Act came into force in February 2001, forcing all parties to publicly declare the names and contributions of donors giving Stg.Pds.5,000 or more and outlawing all donations from overseas. This law banning foreign donations to political parties was brought in after successive funding scandals rocked the United Kingdom. Only individuals on the UK electoral roll and UK-registered companies, trade unions, partnerships and trusts can donate. If parties fail to return prohibited donations within 30 days, they can be made to and can face prosecution. This Act covers in detail registration and finances of political parties and donations and expenditure for political parties in addition to provisions with regard to setting up of an Election Commission.

The UK Act is more elaborate when compared with equivalent legislations in other countries. A sample of the coverage is furnished below:

- Financial structure of the registered party, adoption of scheme and accounting units.
- Statement of accounts, annual statements of accounts, annual audits, supplementary provisions about auditors, delivery of statements of accounts, public inspection of parties' statements of accounts, criminal penalty for failure to submit proper statement of accounts, revision of statements of accounts, revision of defective statements of accounts.
- Control of donations to registered parties and their members, sponsorships, payments, services not to be regarded as donations, value of donations, restrictions on donations to registered parties, permissible donations, permissible donors, payments which are (or are not) to be treated as donations by permissible donors, acceptance or return of donations, return of donations where donor is unidentified, forfeiture of certain donations, forfeiture of donations made by impermissible or unidentifiable donors.

International Scenario

- Offences concerned with evasion of restrictions on donations, reporting of donations to registered parties, quarterly donation reports, weekly donation reports during general election periods, submission of donation reports to Election Commission, declaration by treasurer in donation report, reports to be made by donors, reporting of multiple small donations.
- Register of donations, register of recordable donations, control of donations to individuals and members of associations, donations to recognized third parties, control of donations to recognized third parties, donations to permitted participants, control of donations to candidates, control of political donations, control of political donations by companies, disclosure of political donations and expenditure.

Singapore

Singapore has a more stringent legislation to prohibit donations to political parties, political associations, and candidates in parliamentary election or presidential elections by persons and bodies who/which are not permissible donors. It also requires political parties, associations and candidates to report large donations that they have received. The Political Donations Act was passed by Singapore Parliament in May 2000. The Political Donations Act seeks to prevent foreign groups from interfering in domestic politics through donations to political associations, parliamentary election candidates and presidential election candidates. The Act prohibits political parties, organizations gazetted as political associations under the Act and candidates of parliamentary or presidential elections from accepting donations from persons or bodies that are not permissible donors. It also requires political parties, organizations gazetted as political associations under the Act and election candidates to report large donations that they have received. The Act and its subsidiary legislation came into operation on 15th February, 2001.

The Act aims to prohibit political parties, political associations and candidates from accepting donations from foreign sources by treating these as impermissible. UK Political Parties Elections and Referendum Act, political associations and candidates are allowed to accept donations, so long as these come from permissible sources. Similar to the approach taken in the UK legislation, Singapore has chosen to define who is a permissible source or who the permissible donors are because it is easier to define who is

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permissible rather than who is impermissible. Any donations other than those from the defined permissible sources would constitute impermissible donations. If political parties, associations or candidates receive any donations from impermissible sources, they would have to return the donation to the donor. If they are unable to do so, they would have to surrender the donation to the Government's Consolidated Fund. Political parties and associations and candidates would also be required to report large donations, to ensure that they keep proper records of these donations.

The Singapore legislation clearly deals with the definition of donations and how the donations are valued. These provisions are adapted from the UK Political Parties, Elections and Referendums Act. Donations are defined broadly to include all goods or services, such as gifts of money or property, subscription and affiliation fees, loans, property, services and other facilities provided to the candidate or political association that are not on commercial terms. For example, if the goods or services are rendered to a political association at less than commercial rates, the value of the donation would be the difference between the actual cost to the association and the cost which the association would have incurred if it had been provided on commercial terms. Donations would not include any notional benefits of airtime during lawful party political broadcasts, or any postage-free election communications authorized by written law. These benefits are granted by or pursuant to written laws, and would not be considered as donations. Like the UK law, donations would also not include any voluntary services by an individual. It is neither practical nor feasible to put a value to voluntary services. For example, if an individual contributes, in his own time, professional services within his own sphere of expertise, such as accounting expertise, to a political party, this service would not be regarded as a donation. He could be self-employed, or he could take leave from his employer to provide his service to the political party. As long as he volunteers his services in his own time, it would not be regarded as a donation. However, if the individual is paid by his employer while providing services to a political party, the services would count as a donation by the employer to the political party. The value of the donation is the commercial rate of providing the services.

This legislation aims to keep foreign interference out of Singapore's domestic political process. It does not prevent political associations and candidates from accepting donations, so long as the donations are from Singaporeans or Singapore-controlled companies.

Zimbabwe

The Political Parties (Finance) Act prohibits political parties and candidates for public office from receiving funds from foreign donors, whether channeled directly or indirectly. There is a presumption that donations accepted by a member of a party were accepted by the party itself, unless the receiver \ discloses the donation to the party. Contravention of this provision is punishable with a fine equal to the value of the donation, or Z\$100 000 (whichever is the greater amount) and the forfeiture of the donation to the State. If the donation is returned to the donor within 30 days of the donation being made, the donation is deemed not have been made. The law further provides that no foreign citizens may solicit donations for a political party or candidate, with the same penalties applying for contravention of this provision as for the receiving of foreign funds.

Canada

The extant regulations stipulate

- No foreign donations are allowed to fund political parties
- Maximum amount for permitted individual donation is \$5,000
- Maximum amount for permitted corporate or trade-union donation is only \$1,000
- Minimum amount that must be disclosed is \$200 for parties and candidates (and third parties that spend over \$500) must disclose identity of all contributions over \$200 from a single source
- Expenditure limits are Pre-selection: 20% of election expenses in that district during the last general election. Candidates: sliding scale. \$41,450 for 25,000 electors + \$0.52 per additional elector. Parties: \$0.70 per elector in constituencies contested. Third parties: \$150,000 including no more than \$3,000 in a particular constituency race

Australia

Unlike a number of other countries, foreign donations are not banned in any Australian jurisdiction.

The extant regulations stipulate

- Foreign donations allowed, no limits to amounts donated

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- No Maximum amount for individual donation,
- No Maximum amount for corporate or trade-union donation,
- Minimum amount that must be disclosed. Donors can contribute up to \$1,500 before any declaration is made
- Expenditure limits, No maximum amount

Awareness has already been raised and there is a demand for legislation on political donations. There is a view that some donors specifically the large donations to the pursuit of specific outcomes they want achieve in their self interest. To combat this form of corruption there is a felt need for a comprehensive regulatory system that legally requires the publication of explicit details of the true sources of donations to political parties. It is only then that one will be able to properly prevent, or at least discourage, corrupt, illegal or improper conduct in the formulation or execution of public policy. Such mechanisms of accountability would see a revival of faith in the integrity of the political system amongst the wider public and the protection of politicians from the undue influence of donors.

Council of Europe

The Committee of Ministers of the Council of Europe has adopted in its 835th meeting held on 8th April 2003 certain common rules against corruption in the funding of political parties and electoral campaigns in the member States. Considering that political parties are a fundamental element of the democratic systems of States and are an essential tool of expression of the political will of citizens and considering that political parties and electoral campaigns funding in all states should be subject to standards in order to prevent and fight against the phenomenon of corruption, the Committee was convinced that corruption represents a serious threat to the rule of law and that raising public awareness on the issue of prevention and fight against corruption in the field of funding of political parties is essential to the good functioning of democratic institutions and therefore recommended that the Governments of member States adopt, in their national legal systems, rules against corruption in the funding of political parties and electoral campaigns which are inspired by the common rules which include:-

- External sources of funding of political parties
- Definition of donation to a political party

International Scenario

- General principles of donations
- Tax deductibility of donations
- Donations by legal entities
- Donations to entities connected with a political party
- Donations from foreign donors

Chapter 13

Responsibilities on Banks regarding Foreign Contribution

Banks have a very crucial role in ensuring that the provisions of the Foreign Contribution (Regulation) Act, 2010 (FCRA, 2010) and the Foreign Contribution (Regulation) Rules, 2011 (FCRR, 2011) are scrupulously followed by the associations who have been granted prior permission/registration under FCRA, 2010 as also by all other person(s), as defined in the Act. No bank should credit any foreign contribution to the account of an association/NGO unless it produces documentary evidence of having obtained registration/prior permission from the Central Government for the same. In case any foreign contribution is credited to the account of an NGO/Association/Trust directly, the bank should not allow utilization of such fund and inform the NGO/Association/Trust concerned to obtain necessary permission/registration from the Central Government for the same. Simultaneously, the bank should inform the Deputy Secretary (FCRA), Ministry of Home Affairs, Govt. of India, New Delhi about such receipt. Non-compliance of the above by the bank will constitute a violation and will render the defaulting bank liable for appropriate action by the Reserve Bank of India. Attention of the Banks is drawn specifically to the following provisions of FCRA, 2010 and FCRR, 2011:

“Section 17:

(1) Every person who has been granted a certificate or given prior permission under Section 12 shall receive foreign contribution in a single account only through such one of the branches of a bank as he may specify in his application for grant of certificate;

Provided that such person may open one or more accounts in one or more banks for utilising the foreign contribution received by him.

Provided further that no funds other than foreign contribution shall be received or deposited in such account or accounts.

(2) Every bank or authorised person in foreign exchange shall report to such authority as may be specified-

Responsibilities on Banks regarding Foreign Contribution

- (a) prescribed amount of foreign remittance;
- (b) the source and manner in which the foreign remittance was received;
and
- (c) other particulars,

in such form and manner as may be prescribed.

“Section 18: -

(1) Every person who has been granted a certificate or given prior approval under this Act shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government, and such other authority as may be specified by the Central Government, as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received, and the purposes for which, and the manner in which such foreign contribution was utilised by him.

(2) Every person receiving foreign contribution shall submit a copy of a statement indicating therein the particulars of foreign contribution received duly certified by officer of the bank or authorised person in foreign exchange and furnish the same to the Central Government along with the intimation under sub-section(1).”

“Rule-16: - Reporting by banks of receipt of foreign contribution:-

(1) Every bank shall send a report to the Central Government within thirty days of any transaction in respect of receipt of foreign contribution by any person who is required to obtain a certificate of registration or prior permission under the Act, but who was not granted such certificate or prior permission as on the date of receipt of such remittance.

(2) The report referred to in sub-rule(1) shall contain the following details:-

- (a) Name and address of the donor.
- (b) Name and address of the recipient.
- (c) Account number.
- (d) Name of the Bank and Branch.
- (e) Amount of foreign contribution (in foreign currency as well as Indian Rupees).

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- (f) Date of receipt.
 - (g) Manner of receipt of foreign contribution (cash/cheque/electronic transfer etc.).
- (3) The bank shall send a report to the Central Government within thirty days from the date of such last transaction in respect of receipt of any foreign contribution in excess of one crore rupees or equivalent thereto in a single transaction or in transactions within a duration of thirty days, by any person, whether registered or not under the Act and such report shall include the following details:-
- (a) Name and address of the donor.
 - (b) Name and address of the recipient.
 - (c) Account number.
 - (d) Name of the Bank and Branch.
 - (e) Amount of foreign contribution (in foreign currency as well as Indian Rupees).
 - (f) Date of receipt.
 - (g) Manner of receipt of foreign contribution (cash/cheque/electronic transfer etc.).”

Chapter 14

Professional Opportunities for Chartered Accountants

Since the Foreign Contribution (Regulation) Act, 2010 (FCRA, 2010) is a national security legislation; associations are required to exercise extreme care and caution in dealing with foreign contribution from the time of its receipt to its final utilization. As Chartered Accountants audit the accounts of the associations and certify the accounts before submission to the Government, they are required to provide proper guidance to the associations who are either applying for grant of prior permission/registration or who have been granted prior permission/registration under FCRA, 2010. Chartered Accountants are requested to get themselves thoroughly familiarised with FCRA, 2010 and the Foreign Contribution (Regulation) Rules, 2011 (FCRR, 2011) so that they can help the associations in the following areas:-

- To verify whether the associations are eligible to receive foreign contribution.
- To guide the applicant organization in submission of application for registration/prior permission:-
- To ensure that the association receives and utilises the foreign contributions through its bank account exclusively opened for the purpose in accordance with the provisions of FCRA, 2010 and FCRR, 2011 and that foreign contribution is not deposited or utilised from the bank account being used for domestic funds.
- To assist in the proper maintenance of prescribed books of accounts in accordance with the provisions of FCRA, 2010 and FCRR, 2011;
- To ensure that the annual returns of an association have been prepared in accordance with the provisions of FC(R) Act, 2010 and FCRR, 2011.

Role

The role of chartered accountants has been undergoing a sea change. What was once a regulatory function has now evolved to a compendium of roles

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dealing with finance. Globalization and diversification of work have now become an integral part of chartered accountancy scope. For the voluntary sector, FCRA remains the most mysterious piece of law. Partly this is due to the manner in which it has been interpreted at different times and partly it is due to the secrecy surrounding its implementation.

The work of many Indian NGO's is dependent on foreign funds. And they live under a constant fear of FCRA -- for they do not know when their FCRA number may be snatched away. Also, the role of chartered accountants comes to play when "Money Laundering" laws are in place in India and the fact that NGO's are targets. The term Money laundering is typically used to refer to any financial transaction that is not kept transparent. Needless to say, the practice is illegal and large penalties, fines or imprisonment may ensue.

Scope

A Chartered Accountant has an important role to play under the Foreign Contribution (Regulation) Act, 1976. The areas in which Chartered Accountants can play important roles includes application and administration of the principles of FCRA and guiding NGO's.

Following are broad areas wherein CA's can play important role:-

1. Making application for registration, prior permission etc.
2. Maintenance of Accounts
3. Audit of Accounts, Furnishing Returns.
4. Representation
5. Charter for Chartered Accountants
6. Filing of Returns
7. Preparation of Balance Sheet
8. Certification

Secretarial Practice

The following services can be extended by Chartered Accountants in their secretarial practice.

- (i) To guide the intending organizations on the receipt and utilization of foreign contribution.

Professional Opportunities for Chartered Accountants

- (ii) To guide the intending organizations on their eligibility criteria.
- (iii) To guide the intending organizations after satisfying their eligibility to receive foreign contribution, facilitate the organisation to apply for registration.
- (iv) To guide the intending certain select organizations after satisfying their eligibility to receive foreign contribution, facilitate the organisation to apply for prior permission.
- (v) To facilitate the politicians / journalists /judges / government servants / employees of corporations / political parties or office bearers in accepting gift from close relatives not exceeding Rs.8,000 without prior permission and reporting to Central Government in the forms prescribed.
- (vi) To facilitate Indian students in receiving scholarship, stipend or payment of like nature exceeding Rs.36,000 during an academic year and helping them to file Form FC-5.
- (vii) To facilitate a candidate for election who receives foreign contribution within 180 days preceding the date of nomination as a candidate for election in filing the required intimation with the authorities concerned.
- viii. To facilitate political organizations to seek prior permission of Central Government to accept foreign contribution.
- (viii) To facilitate a member of a legislature / office bearer of a political party/ judge / government servant / employee of a corporation who accepts foreign hospitality in case of medical emergency to give intimation to Central Government within 30 days of accepting such hospitality.
- (ix) To facilitate unregistered association to obtain prior permission to accept foreign contribution.
- (x) To facilitate registered associations in filing Form FC-3 correctly within the prescribed time and in prescribed manner.
- (xi) To facilitate associations who are registered under the ACT to receive foreign contribution to maintain prescribed accounts and records properly.
- (xii) To attest in the form FC-3 to be submitted every year after satisfying with the contents of the form and also after verification of the proper books and records maintained by the associations / organizations

Annexure 1

Foreign Contribution (Regulation) Act, 2010

रजिस्ट्री सं० डी० एल—(एन)04/0007/2003—10

REGISTERED NO. DL—(N)04/0007/2003—10



असाधारण

EXTRAORDINARY

भाग II — खण्ड I

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 51]

नई दिल्ली, सोमवार, सितम्बर 27, 2010 / आश्विन 5, 1932

No. 51]

NEW DELHI, MONDAY, SEPTEMBER 27, 2010 / ASVINA 5, 1932

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 27th September, 2010/Asvina 5, 1932 (Saka)

The following Act of Parliament received the assent of the President on the 26th September, 2010, and is hereby published for general information:—

THE FOREIGN CONTRIBUTION (REGULATION) ACT, 2010

No. 42 of 2010

[26th September, 2010.]

An Act to consolidate the law to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Foreign Contribution (Regulation) Act, 2010.

(2) It extends to the whole of India, and it shall also apply to—

(a) citizens of India outside India; and

Short title,
extent,
application
and com-
mencement.

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(b) associate branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “association” means an association of individuals, whether incorporated or not, having an office in India and includes a society, whether registered under the Societies Registration Act, 1860, or not, and any other organisation, by whatever name called; 21 of 1860.

(b) “authorised person in foreign exchange” means an authorised person referred to in clause (c) of section 2 of the Foreign Exchange Management Act, 1999; 42 of 1999.

(c) “bank” means a banking company as referred to in clause (c) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(d) “candidate for election” means a person who has been duly nominated as a candidate for election to any Legislature;

(e) “certificate” means certificate of registration granted under sub-section (3) of section 12;

(f) “company” shall have the meaning assigned to it under clause (17) of section 2 of the Income-tax Act, 1961; 43 of 1961.

(g) “foreign company” means any company or association or body of individuals incorporated outside India and includes—

(i) a foreign company within the meaning of section 591 of the Companies Act, 1956; 1 of 1956.

(ii) a company which is a subsidiary of a foreign company;

(iii) 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);

(iv) a multi-national corporation.

Explanation.— For the purposes of this sub-clause, 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;

(h) “foreign contribution” means the donation, delivery or transfer made by any foreign source,—

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

(ii) of any currency, whether Indian or foreign;

(iii) of any security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and includes any foreign security as defined in clause (o) of section 2 of the Foreign Exchange Management Act, 1999. 42 of 1956. 42 of 1999.

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Explanation 1.— A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 2.— The interest accrued on the foreign contribution deposited in any bank referred to in sub-section (1) of section 17 or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 3.— Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent of a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause;

(i) “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 boarding, lodging, transport or medical treatment;

(j) “foreign source” includes,—

(i) the Government of any foreign country or territory and any agency of such Government;

(ii) any international agency, not being the United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify in this behalf;

(iii) a foreign company;

(iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;

(v) a multi-national corporation referred to in sub-clause (iv) of clause (g);

1 of 1956.

(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 of individuals formed or registered outside India;

(x) a citizen of a foreign country;

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(k) "Legislature" means —

(A) either House of Parliament;

(B) the Legislative Assembly of a State, or in the case of a State having a Legislative Council, either House of the Legislature of that State;

(C) Legislative Assembly of a Union territory constituted under the Government of Union Territories Act, 1963; 20 of 1963.

(D) Legislative Assembly for the National Capital Territory of Delhi referred to in the Government of National Capital Territory of Delhi Act, 1991; 1 of 1992.

(E) Municipality as defined in clause (e) of article 243P of the Constitution;

(F) District Councils and Regional Councils in the States of Assam, Meghalaya, Tripura and Mizoram as provided in the Sixth Schedule to the Constitution;

(G) Panchayat as defined in clause (d) of article 243 of the Constitution;
or

(H) any other elective body as may be notified by the Central Government;

(l) "notification" means notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(m) "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; 1 of 1956.

(n) "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 43 of 1951.

(B) which has set up 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;

(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;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "prescribed authority" means an authority specified as such by rules made by the Central Government under this Act;

(q) "registered newspaper" means a newspaper registered under the Press and Registration of Books Act, 1867; 25 of 1867.

(r) "relative" has the meaning assigned to it in clause (41) of section 2 of the Companies Act, 1956; 1 of 1956.

(s) "scheduled bank" shall have the meaning assigned to it under clause (e) of section 2 of the Reserve Bank of India Act, 1934; 2 of 1934.

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SEC. 1]

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- 1 of 1956. (i) "subsidiary" and "associate" shall have the meanings, respectively assigned to them in the Companies Act, 1956;
- 16 of 1926. (u) "trade union" means a trade union registered under the Trade Unions Act, 1926;
- 43 of 1950. (2) Words and expressions used herein and not defined in this Act but defined in the Representation of the People Act, 1950 or the Representation of the People Act, 1951 or the Foreign Exchange Management Act, 1999 shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

REGULATION OF FOREIGN CONTRIBUTION AND FOREIGN HOSPITALITY

3. (1) No foreign contribution shall be accepted by any—

Prohibition to accept foreign contribution.

- (a) candidate for election;
- (b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;
- (c) Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;
- (d) member of any Legislature;
- (e) political party or office-bearer thereof;
- (f) organisation of a political nature as may be specified under sub-section (1) of section 5 by the Central Government;
- 21 of 2000. (g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 or any other mode of mass communication;
- (h) correspondent or columnist, cartoonist, editor, owner of the association or company referred to in clause (g).

1 of 1956. *Explanation.*—In clause (c) and section 6, the expression "corporation" means a corporation owned or controlled by the Government and includes a Government company as defined in section 617 of the Companies Act, 1956.

(2) (a) No person, resident in India, and no citizen of India resident outside India, shall accept any foreign contribution, or acquire or agree to acquire any currency from a foreign source, on behalf of any political party, or any person referred to in sub-section (1), or both.

(b) No person, resident in India, shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to any person if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to any political party or any person referred to in sub-section (1), or both.

(c) No citizen of India resident outside India shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to—

(i) any political party or any person referred to in sub-section (1), or both; or

(ii) any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a political party or to any person referred to in sub-section (1), or both.

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(3) No person receiving any currency, whether Indian or foreign, from a foreign source on behalf of any person or class of persons, referred to in section 9, shall deliver such currency—

(a) to any person other than a person for which it was received, or

(b) to any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a person other than the person for which such currency was received.

Persons to whom section 3 shall not apply.

4. Nothing contained in section 3 shall apply to the acceptance, by any person specified in that section, of any foreign contribution where such contribution is accepted by him, subject to the provisions of section 10,—

(a) by way of salary, wages or other remuneration due to him or to any group of persons working under him, from any foreign source or by way of payment in the ordinary course of business transacted in India by such foreign source; or

(b) by way of payment, in the course of international trade or commerce, or in the ordinary course of business transacted by him outside India; or

(c) as an agent of a foreign source in relation to any transaction made by such foreign source with the Central Government or State Government; or

(d) by way of a gift or presentation made to him as a member of any Indian delegation, provided that such gift or present was accepted in accordance with the rules made by the Central Government with regard to the acceptance or retention of such gift or presentation; or

(e) from his relative; or

(f) by way of remittance received, in the ordinary course of business through any official channel, post office, or any authorised person in foreign exchange under the Foreign Exchange Management Act, 1999; or

42 of 1999.

(g) by way of any scholarship, stipend or any payment of like nature:

Provided that in case any foreign contribution received by any person specified under section 3, for any of the purposes other than those specified under this section, such contribution shall be deemed to have been accepted in contravention of the provisions of section 3.

Procedure to notify an organisation of a political nature.

5. (1) The Central Government may, having regard to the activities of the organisation or the ideology propagated by the organisation or the programme of the organisation or the association of the organisations with the activities of any political party, by an order published in the Official Gazette, specify such organisation as an organisation of a political nature not being a political party, referred to in clause (f) of sub-section (1) of section 3:

Provided that the Central Government may, by rules made by it, frame the guidelines specifying the ground or grounds on which an organisation shall be specified as an organisation of a political nature.

(2) Before making an order under sub-section (1), the Central Government shall give the organisation in respect of whom the order is proposed to be made, a notice in writing informing it of the ground or grounds, on which it is proposed to be specified as an organisation of political nature under that sub-section.

(3) The organisation to whom a notice has been served under sub-section (2), may, within a period of thirty days from the date of the notice, make a representation to the Central Government giving reasons for not specifying such organisation as an organisation under sub-section (1):

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Provided that the Central Government may entertain the representation after the expiry of the said period of thirty days, if it is satisfied that the organisation was prevented by sufficient cause from making the representation within thirty days.

(4) The Central Government may, if it considers it appropriate, forward the representation referred to in sub-section (3) to any authority to report on such representation.

(5) The Central Government may, after considering the representation and the report of the authority referred to in sub-section (4), specify such organisation as an organisation of a political nature not being a political party and make an order under sub-section (1) accordingly.

(6) Every order under sub-section (1) shall be made within a period of one hundred and twenty days from the date of issue of notice under sub-section (2):

Provided that in case no order is made within the said period of one hundred and twenty days, the Central Government shall, after recording the reasons therefor, make an order under sub-section (1) within a period of sixty days from the expiry of the said period of one hundred and twenty days.

6. No member of a Legislature or office-bearer of a political party or Judge or Government servant or employee of any corporation or any other body owned or controlled by the Government shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality: Restriction on acceptance of foreign hospitality.

Provided that it shall not be necessary to obtain any such permission for an emergent medical aid needed on account of sudden illness contracted during a visit outside India, but, where such foreign hospitality has been received, the person receiving such hospitality shall give, within one month from the date of receipt of such hospitality an intimation to the Central Government as to the receipt of such hospitality, and the source from which, and the manner in which, such hospitality was received by him.

7. No person who —

(a) is registered and granted a certificate or has obtained prior permission under this Act; and

(b) receives any foreign contribution,

shall transfer such foreign contribution to any other person unless such other person is also registered and had been granted the certificate or obtained the prior permission under this Act: Prohibition to transfer foreign contribution to other person.

Provided that such person may transfer, with the prior approval of the Central Government, a part of such foreign contribution to any other person who has not been granted a certificate or obtained permission under this Act in accordance with the rules made by the Central Government.

8. (1) Every person, who is registered and granted a certificate or given prior permission under this Act and receives any foreign contribution,— Restriction to utilise foreign contribution for administrative purpose.

(a) shall utilise such contribution for the purposes for which the contribution has been received:

Provided that any foreign contribution or any income arising out of it shall not be used for speculative business:

Provided further that the Central Government shall, by rules, specify the activities or business which shall be construed as speculative business for the purpose of this section;

(b) shall not defray as far as possible such sum, not exceeding fifty per cent. of such contribution, received in a financial year, to meet administrative expenses:

Provided that administrative expenses exceeding fifty per cent. of such contribution may be defrayed with prior approval of the Central Government.

(2) The Central Government may prescribe the elements which shall be included in the administrative expenses and the manner in which the administrative expenses referred to in sub-section (1) shall be calculated.

9. The Central Government may—

(a) prohibit any person or organisation not specified in section 3, from accepting any foreign contribution;

(b) require any person or class of persons, not specified in section 6, to obtain prior permission of the Central Government before accepting any foreign hospitality; Power of Central Government to prohibit receipt of foreign contribution, etc., in certain cases.

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(c) require any person or class of persons not specified in section 11, to furnish intimation within such time and in such manner as may be prescribed as to the amount of any foreign contribution received by such person or class of persons as the case may be, and the source from which and the manner in which such contribution was received and the purpose for which and the manner in which such foreign contribution was utilised;

(d) without prejudice to the provisions of sub-section (1) of section 11, require any person or class of persons specified in that sub-section to obtain prior permission of the Central Government before accepting any foreign contribution;

(e) require any person or class of persons, not specified in section 6, to furnish intimation, within such time and in such manner as may be prescribed, as to the receipt of any foreign hospitality, the source from which and the manner in which such hospitality was received:

Provided that no such prohibition or requirement shall be made unless the Central Government is satisfied that the acceptance of foreign contribution by such person or class of persons, as the case may be, or the acceptance of foreign hospitality by such person, is likely to affect prejudicially—

(i) the sovereignty and integrity of India; or

(ii) public interest; or

(iii) freedom or fairness of election to any Legislature; or

(iv) friendly relations with any foreign State; or

(v) harmony between religious, racial, social, linguistic or regional groups, castes or communities.

Power to prohibit payment of currency received in contravention of the Act.

10. Where the Central Government is satisfied, after making such inquiry as it may deem fit, that any person has in his custody or control any article or currency or security, whether Indian or foreign, which has been accepted by such person in contravention of any of the provisions of this Act, it may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing with, in any manner whatsoever, such article or currency or security save in accordance with the written orders of the Central Government and a copy of such order shall be served upon the person so prohibited in the prescribed manner, and thereupon the provisions of sub-sections (2), (3), (4) and (5) of section 7 of the Unlawful Activities (Prevention) Act, 1967 shall, so far as may be, apply to, or in relation to, such article or currency or security and references in the said sub-sections to moneys, securities or credits shall be construed as references to such article or currency or security.

37 of 1967.

CHAPTER III

REGISTRATION

Registration of certain persons with Central Government.

11. (1) Save as otherwise provided in this Act, no person having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution unless such person obtains a certificate of registration from the Central Government:

Provided that any association registered with the Central Government under section 6 or granted prior permission under that section of the Foreign Contribution (Regulation) Act, 1976, as it stood immediately before the commencement of this Act, shall be deemed to have been registered or granted prior permission, as the case may be, under this Act and such registration shall be valid for a period of five years from the date on which this section comes into force.

49 of 1976.

(2) Every person referred to in sub-section (1) may, if it is not registered with the Central Government under that sub-section, accept any foreign contribution only after

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obtaining the prior permission of the Central Government and such prior permission shall be valid for the specific purpose for which it is obtained and from the specific source:

49 of 1976. Provided that if the person referred to in sub-sections (1) and (2) has been found guilty of violation of any of the provisions of this Act or the Foreign Contribution (Regulation) Act, 1976, the unutilised or unreceived amount of foreign contribution shall not be utilised or received, as the case may be, without the prior approval of the Central Government.

(3) Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, specify—

(i) the person or class of persons who shall obtain its prior permission before accepting the foreign contribution; or

(ii) the area or areas in which the foreign contribution shall be accepted and utilised with the prior permission of the Central Government; or

(iii) the purpose or purposes for which the foreign contribution shall be utilised with the prior permission of the Central Government; or

(iv) the source or sources from which the foreign contribution shall be accepted with the prior permission of the Central Government.

12. (1) An application by a person, referred to in section 11 for grant of certificate or giving prior permission, shall be made to the Central Government in such form and manner and along with such fee, as may be prescribed.

Grant of certificate of registration

(2) On receipt of an application under sub-section (1), the Central Government shall, by an order, if the application is not in the prescribed form or does not contain any of the particulars specified in that form, reject the application.

(3) If on receipt of an application for grant of certificate or giving prior permission and after making such inquiry as the Central Government deems fit, it is of the opinion that the conditions specified in sub-section (4) are satisfied, it may, ordinarily within ninety days from the date of receipt of application under sub-section (1), register such person and grant him a certificate or give him prior permission, as the case may be, subject to such terms and conditions as may be prescribed:

Provided that in case the Central Government does not grant, within the said period of ninety days, a certificate or give prior permission, it shall communicate the reasons therefor to the applicant:

Provided further that a person shall not be eligible for grant of certificate or giving prior permission, if his certificate has been suspended and such suspension of certificate continues on the date of making application.

(4) The following shall be the conditions for the purposes of sub-section (3), namely:—

(a) the person making an application for registration or grant of prior permission under sub-section (1),—

(i) is not fititious or *benami*;

(ii) has not been prosecuted or convicted for indulging in activities aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another;

(iii) has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country;

(iv) has not been found guilty of diversion or mis-utilisation of its funds;

(v) is not engaged or likely to engage in propagation of sedition or advocate violent methods to achieve its ends;

(vi) is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes;

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(vii) has not contravened any of the provisions of this Act;

(viii) has not been prohibited from accepting foreign contribution;

(b) the person making an application for registration under sub-section (1) has undertaken reasonable activity in its chosen field for the benefit of the society for which the foreign contribution is proposed to be utilised;

(c) the person making an application for giving prior permission under sub-section (1) has prepared a reasonable project for the benefit of the society for which the foreign contribution is proposed to be utilised;

(d) in case the person being an individual, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offence pending against him;

(e) in case the person being other than an individual, any of its directors or office bearers has neither been convicted under any law for the time being in force nor any prosecution for any offence is pending against him;

(f) the acceptance of foreign contribution by the person referred to in sub-section (1) is not likely to affect prejudicially—

(i) the sovereignty and integrity of India; or

(ii) the security, strategic, scientific or economic interest of the State; or

(iii) the public interest; or

(iv) freedom or fairness of election to any Legislature; or

(v) friendly relation with any foreign State; or

(vi) harmony between religious, racial, social, linguistic, regional groups, castes or communities;

(g) the acceptance of foreign contribution referred to in sub-section (1),—

(i) shall not lead to incitement of an offence;

(ii) shall not endanger the life or physical safety of any person.

(5) Where the Central Government refuses the grant of certificate or does not give prior permission, it shall record in its order the reasons therefor and furnish a copy thereof to the applicant:

Provided that the Central Government may not communicate the reasons for refusal for grant of certificate or for not giving prior permission to the applicant under this section in cases where is no obligation to give any information or documents or records or papers under the Right to Information Act, 2005.

22 of 2005.

(6) The certificate granted under sub-section (3) shall be valid for a period of five years and the prior permission shall be valid for the specific purpose or specific amount of foreign contribution proposed to be received, as the case may be.

Suspension of
certificate.

13. (1) Where the Central Government, for reasons to be recorded in writing, is satisfied that pending consideration of the question of cancelling the certificate on any of the grounds mentioned in sub-section (1) of section 14, it is necessary so to do, it may, by order in writing, suspend the certificate for such period not exceeding one hundred and eighty days as may be specified in the order.

(2) Every person whose certificate has been suspended shall —

(a) not receive any foreign contribution during the period of suspension of certificate:

Provided that the Central Government, on an application made by such person, if it considers appropriate, allow receipt of any foreign contribution by such person on such terms and conditions as it may specify;

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(b) utilise, in the prescribed manner, the foreign contribution in his custody with the prior approval of the Central Government .

14. (1) The Central Government may, if it is satisfied after making such inquiry as it may deem fit, by an order, cancel the certificate if — Cancellation of certificate.

(a) the holder of the certificate has made a statement in, or in relation to, the application for the grant of registration or renewal thereof, which is incorrect or false; or

(b) the holder of the certificate has violated any of the terms and conditions of the certificate or renewal thereof; or

(c) in the opinion of the Central Government, it is necessary in the public interest to cancel the certificate; or

(d) the holder of certificate has violated any of the provisions of this Act or rules or order made thereunder; or

(e) if the holder of the certificate has not been engaged in any reasonable activity in its chosen field for the benefit of the society for two consecutive years or has become defunct.

(2) No order of cancellation of certificate under this section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

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

15. (1) The foreign contribution and assets created out of the foreign contribution in the custody of every person whose certificate has been cancelled under section 14 shall vest in such authority as may be prescribed. Management of foreign contribution of person whose certificate has been cancelled.

(2) The authority referred to in sub-section (1) may, if it considers necessary and in public interest, manage the activities of the person referred to in that sub-section for such period and in such manner, as the Central Government may direct and such authority may utilise the foreign contribution or dispose of the assets created out of it in case adequate funds are not available for running such activity.

(3) The authority referred to in sub-section (1) shall return the foreign contribution and the assets vested upon it under that sub-section to the person referred to in the said sub-section if such person is subsequently registered under this Act.

16. (1) Every person who has been granted a certificate under section 12 shall have such certificate renewed within six months before the expiry of the period of the certificate. Renewal of certificate.

(2) The application for renewal of the certificate shall be made to the Central Government in such form and manner and accompanied by such fee as may be prescribed.

(3) The Central Government shall renew the certificate, ordinarily within ninety days from the date of receipt of application for renewal of certificate subject to such terms and conditions as it may deem fit and grant a certificate of renewal for a period of five years:

Provided that in case the Central Government does not renew the certificate within the said period of ninety days, it shall communicate the reasons therefor to the applicant:

Provided further that the Central Government may refuse to renew the certificate in case where a person has violated any of the provisions of this Act or rules made thereunder.

CHAPTER IV

ACCOUNTS, INTIMATION, AUDIT AND DISPOSAL OF ASSETS, ETC.

17. (1) Every person who has been granted a certificate or given prior permission under section 12 shall receive foreign contribution in a single account only through such one of the branches of a bank as he may specify in his application for grant of certificate: Foreign contribution through scheduled bank.

Provided that such person may open one or more accounts in one or more banks for utilising the foreign contribution received by him:

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Provided further that no funds other than foreign contribution shall be received or deposited in such account or accounts.

(2) Every bank or authorised person in foreign exchange shall report to such authority as may be specified—

(a) prescribed amount of foreign remittance;

(b) the source and manner in which the foreign remittance was received;

and

(c) other particulars,

in such form and manner as may be prescribed.

Intimation. 18. (1) Every person who has been granted a certificate or given prior approval under this Act shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government, and such other authority as may be specified by the Central Government, as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received, and the purposes for which, and the manner in which such foreign contribution was utilised by him.

(2) Every person receiving foreign contribution shall submit a copy of a statement indicating therein the particulars of foreign contribution received duly certified by officer of the bank or authorised person in foreign exchange and furnish the same to the Central Government along with the intimation under sub-section (1).

Maintenance of accounts. 19. Every person who has been granted a certificate or given prior approval under this Act shall maintain, in such form and manner as may be prescribed,—

(a) an account of any foreign contribution received by him; and

(b) a record as to the manner in which such contribution has been utilised by him.

Audit of accounts. 20. Where any person who has been granted a certificate or given prior permission, fails to furnish any intimation under this Act within the time specified therefor or the intimation so furnished is not in accordance with law or if, after inspection of such intimation, the Central Government has any reasonable cause to believe that any provision of this Act has been, or is being, contravened, the Central Government may, by general or special order, authorise such gazetted officer, holding a Group A post under the Central Government or any other officer or authority or organisation, as it may think fit, to audit any books of account kept or maintained by such person and thereupon every such officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of auditing the said books of account:

Provided that any information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of this Act.

Intimation by candidate for election. 21. Every candidate for election, who had received any foreign contribution, at any time within one hundred and eighty days immediately preceding the date on which he is duly nominated as such candidate, shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government or prescribed authority or both as to the amount of foreign contribution received by him, the source from which, and the manner in which, such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by him.

Disposal of assets created out of foreign contribution. 22. Where any person who was permitted to accept foreign contribution 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 Central Government may, having regard to the nature of assets created out of foreign contribution received under this Act, by notification, specify that all such assets shall be disposed off by such authority, as it may specify, in such manner and procedure as may be prescribed.

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CHAPTER V

INSPECTION, SEARCH AND SEIZURE

23. If the Central Government has, for any reason, to be recorded in writing, any ground to suspect that any provision of this Act has been or is being, contravened by—

Inspection of accounts or records.

- (a) any political party; or
- (b) any person; or
- (c) any organisation; or
- (d) any association,

it may, by general or special order, authorise such gazetted officer, holding a Group A post under the Central Government or such other officer or authority or organisation, as it may think fit (hereinafter referred to as the inspecting officer), to inspect any account or record maintained by such political party, person, organisation or association, as the case may be, and thereupon every such inspecting officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of inspecting the said account or record.

24. If, after inspection of an account or record referred to in section 23, the inspecting officer has any reasonable cause to believe that any provision of this Act or of any other law relating to foreign exchange has been, or is being, contravened, he may seize such account or record and produce the same before the court, authority or tribunal in which any proceeding is brought for such contravention:

Seizure of accounts or records.

Provided that the authorised officer shall return such account or record to the person from whom it was seized if no proceeding is brought within six months from the date of such seizure for the contravention disclosed by such account or record.

25. If any gazetted officer, authorised in this behalf by the Central Government by general or special order, has any reason to believe that any person has in his possession or control any article exceeding the value specified in sub-clause (i) of clause (h) of sub-section (1) of section 2 or currency or security whether Indian or foreign, in relation to which any provision of this Act has been or is being, contravened, he may seize such article or currency or security.

Seizure of article or currency or security received in contravention of the Act.

26. (1) The Central Government, may, having regard to the value of article or currency or security, their vulnerability to theft or any relevant consideration, by notification, specify such article or currency or security which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner, as the Central Government may, from time to time, determine after following the procedure hereinafter specified.

Disposal of seized article or currency or security.

(2) The article or currency or security seized shall be forwarded without unnecessary delay to such officer as may be specified.

(3) Where any article or currency or security has been seized and forwarded to such officer, the officer referred to in sub-section (1), shall prepare an inventory of such article or currency or security containing such details relating to their description, value or such other identifying particulars as the officer referred to in that sub-section may consider relevant to the identity of the article or the currency or security and make an application to any Magistrate for the purposes of certifying the correctness of the inventory so prepared.

(4) Where an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application.

1 of 1872.

2 of 1974.

(5) Notwithstanding anything contained in the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, every court trying an offence under this Act, shall treat the inventory, as certified by the Magistrate, as primary evidence in respect of such offence.

(6) Every officer acting under sub-section (3) shall forthwith report the seizure to the Court of Session or Assistant Sessions Judge having jurisdiction for adjudging the confiscation under section 29.

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Seizure to be made in accordance with Act 2 of 1974.

27. The provisions of the Code of Criminal Procedure, 1973 shall apply in so far as they are not inconsistent with the provisions of this Act to all seizures made under this Act.

CHAPTER VI

ADJUDICATION

Confiscation of article or currency or security obtained in contravention of the Act.

28. Any article or currency or security which is seized under section 25 shall be liable to confiscation if such article or currency or security has been adjudged under section 29 to have been received or obtained in contravention of this Act.

Adjudication of confiscation.

29. (1) Any confiscation referred to in section 28 may be adjudged—

(a) without limit, by the Court of Session within the local limits of whose jurisdiction the seizure was made; and

(b) subject to such limits as may be prescribed, by such officer, not below the rank of an Assistant Sessions Judge, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) When an adjudication under sub-section (1) is concluded by the Court of Session or Assistant Sessions Judge, as the case may be, the Sessions Judge or Assistant Sessions Judge may make such order as he thinks fit for the disposal by confiscation or delivery of seized article or currency or security, as the case may be, to any person claiming to be entitled to possession thereof or otherwise, or which has been used for the commission of any offence under this Act.

Procedure for confiscation.

30. No order of adjudication of confiscation shall be made unless a reasonable opportunity of making a representation against such confiscation has been given to the person from whom any article or currency or security has been seized.

CHAPTER VII

APPEAL AND REVISION

Appeal.

31. (1) Any person aggrieved by any order made under section 29 may prefer an appeal,—

(a) where the order has been made by the Court of Session, to the High Court to which such Court is subordinate; or

(b) where the order has been made by any officer specified under clause (b) of sub-section (1) of section 29, to the Court of Session within the local limits of whose jurisdiction such order of adjudication of confiscation was made,

within one month from the date of communication to such person of the order:

Provided that the appellate court may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of one month, allow such appeal to be preferred within a further period of one month, but not thereafter.

(2) Any organisation referred to in clause (f) of sub-section (1) of section 3, or any person or association referred to in section 6 or section 9, aggrieved by an order made in pursuance of section 5 or by an order of the Central Government refusing to give permission under this Act, or by any order made by the Central Government under sub-section (2) or sub-section (4) of section 12, or sub-section (1) of section 14, as the case may be, may, within sixty days from the date of such order, prefer an appeal against such order to the High Court

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		<p>within the local limits of whose jurisdiction the appellant ordinarily resides or carries on business or personally works for gain, or, where the appellant is an organisation or association, the principal office of such organisation or association is located.</p> <p>(3) Every appeal preferred under this section shall be deemed to be an appeal from an original decree and the provisions of Order XLI of the First Schedule to the Code of Civil Procedure, 1908, shall, as far as may be, apply thereto as they apply to an appeal from an original decree.</p> <p>32. (1) The Central Government may, either of its own motion or on an application for revision by the person registered under this Act, call for and examine the record of any proceeding under this Act in which any such order has been passed by it and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon as it thinks fit.</p> <p>(2) The Central Government shall not of its own motion revise any order under this section if the order has been made more than one year previously.</p> <p>(3) In the case of an application for revision under this section by the person referred to in sub-section (1), the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:</p> <p>Provided that the Central Government may, if it is satisfied that such person was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.</p> <p>(4) The Central Government shall not revise any order where an appeal against the order lies but has not been made and the time within which such appeal may be made has not expired or such person has not waived his right of appeal or an appeal has been filed under this Act.</p> <p>(5) Every application by such person for revision under this section shall be accompanied by such fee, as may be prescribed.</p> <p><i>Explanation.</i>— An order by the Central Government declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to such person.</p>	Revision of orders by Central Government
5 of 1908.			
		CHAPTER VIII	
		OFFENCES AND PENALTIES	
		<p>33. Any person, subject to this Act, who knowingly, —</p> <p>(a) gives false intimation under sub-section (c) of section 9 or section 18; or</p> <p>(b) seeks prior permission or registration by means of fraud, false representation or concealment of material fact,</p> <p>shall, on conviction by a court, be liable to imprisonment for a term which may extend to six months or with fine or with both.</p>	Making of false statement, declaration or delivering false accounts.
		<p>34. If any person, on whom any prohibitory order has been served under section 10, pays, delivers, transfers or otherwise deals with, in any manner whatsoever, any article or currency or security, whether Indian or foreign, in contravention of such prohibitory order, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying such contravention may also impose on the person convicted an additional fine equivalent to the market value of the article or the amount of the currency or security in respect of which the prohibitory order has been contravened by him or such part thereof as the court may deem fit.</p>	Penalty for article or currency or security obtained in contravention of section 10.
2 of 1974.			

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[PART II—

Punishment for contravention of any provision of the Act.

35. Whoever accepts, or assists any person, political party or organisation in accepting, any foreign contribution or any currency or security from a foreign source, in contravention of any provision of this Act or any rule or order made thereunder, shall be punished with imprisonment for a term which may extend to five years, or with fine, or with both.

Power to impose additional fine where article or currency or security is not available for confiscation.

36. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying a person, who, in relation to any article or currency or security, whether Indian or foreign, does or omits to do any act which act or omission would render such article or currency or security liable to confiscation under this Act, may, in the event of the conviction of such person for the act or omission aforesaid, impose on such person a fine not exceeding five times the value of the article or currency or security or one thousand rupees, whichever is more, if such article or currency or security is not available for confiscation, and the fine so imposed shall be in addition to any other fine which may be imposed on such person under this Act. 2 of 1974.

Penalty for offences where no separate punishment has been provided.

37. Whoever fails to comply with any provision of this Act for which no separate penalty has been provided in this Act shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

Prohibition of acceptance of foreign contribution.

38. Notwithstanding anything contained in this Act, whoever, having been convicted of any offence under section 35 or section 37, in so far as such offence relates to the acceptance or utilisation of foreign contribution, is again convicted of such offence shall not accept any foreign contribution for a period of five years from the date of the subsequent conviction.

Offences by companies.

39. (1) Where an offence under this Act or any rule or order made thereunder has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or any rule or order made thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm, society, trade union or other association of individuals; and

(b) “director”, in relation to a firm, society, trade union or other association of individuals, means a partner in the firm or a member of the governing body of such society, trade union or other association of individuals.

Bar on prosecution of offences under the Act.

40. No court shall take cognizance of any offence under this Act, except with the previous sanction of the Central Government or any officer authorised by that Government in this behalf.

Composition of certain offences.

41. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act (whether committed by an individual or association or any officer or employee thereof), not being an offence punishable with imprisonment only, may, before the institution of any prosecution, be compounded by such officers or authorities and for such sums as the Central Government may, by notification in the Official Gazette, specify in this behalf. 2 of 1974.

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(2) Nothing in sub-section (1) shall apply to an offence committed by an individual or association or its officer or other employee within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

Explanation.— For the purposes of this section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(3) Every officer or authority referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Central Government.

(4) Every application for the compounding of an offence shall be made to the officer or authority referred to in sub-section (1) in such form and manner along with such fee as may be prescribed.

(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(6) Every officer or authority referred to in sub-section (1), while dealing with a proposal for the compounding of an offence for a default in compliance with any provision of this Act which requires by an individual or association or its officer or other employee to obtain permission or file or register with, or deliver or send to, the Central Government or any prescribed authority any return, account or other document, may, direct, by order, if he or it thinks fit to do so, any individual or association or its officer or other employee to file or register with, such return, account or other document within such time as may be specified in the order.

CHAPTER IX

MISCELLANEOUS

42. Any inspecting officer referred to in section 23 who is authorised in this behalf by the Central Government may, during the course of any inspection of any account or record maintained by any political party, person, organisation or association in connection with the contravention of any provision of this Act, —

Power to call for information or document

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or rule or order made thereunder;

(b) require any person to produce or deliver any document or thing useful or relevant to such inspection;

(c) examine any person acquainted with the facts and circumstances of the case related to the inspection.

2 of 1974.

43. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act may also be investigated into by such authority as the Central Government may specify in this behalf and the authority so specified shall have all the powers which an officer-in-charge of a police station has while making an investigation into a cognizable offence.

Investigation into cases under the Act.

44. The prescribed authority shall furnish to the Central Government at such time and in such form and manner such returns and statements as may be prescribed.

Returns by prescribed authority to Central Government.

45. No suit or other legal proceedings shall lie against the Central Government or the authority referred to in section 44 or any of its officers in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or, any rule or order made thereunder.

Protection of action taken in good faith.

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[PART II—

Power of
Central
Government to
give directions.

46. The Central Government may give such directions as it may deem necessary to any other authority or any person or class of persons regarding the carrying into execution of the provisions of this Act.

Delegation of
powers.

47. The Central Government may, by notification, direct that any of its powers or functions under this Act, except power to make rule under section 48, shall, in relation to such matters and subject to such conditions, if any, may be specified in the notification, be exercised or discharged also by such authority as may be specified.

Power to
make rules.

48. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the value of the article which may be specified under sub-clause (i) of clause (h) of sub-section (1) of section 2;

(b) the authority which may be specified under clause (p) of sub-section (1) of section 2;

(c) acceptance or retention of gift or presentation under clause (d) of section 4;

(d) guidelines specifying the ground or grounds on which an organisation may be specified as an organisation of political nature under sub-section (1) of section 5;

(e) the activities or business which shall be construed as speculative business under the proviso to clause (a) of sub-section (1) of section 8;

(f) the elements and the manner in which the administrative expenses shall be calculated under sub-section (2) of section 8;

(g) the time within which and the manner in which any person or class of persons or an association may be required to furnish intimation regarding the amount of foreign contribution received under clause (c) of section 9;

(h) the time within which and the manner in which any person or class of persons may be required to furnish intimation regarding foreign hospitality under clause (e) of section 9;

(i) the manner in which the copy of the order of the Central Government shall be served upon any person under section 10;

(j) the form and manner in which the application for grant of certificate of registration or giving of prior permission under sub-section (1) of section 12;

(k) the fee to be accompanied by the application under sub-section (1) of section 12;

(l) the terms and conditions for granting a certificate or giving prior permission under clause (g) of sub-section (4) of section 12;

(m) the manner of utilising the foreign contribution under clause (b) of sub-section (2) of section 13;

(n) the authority with whom the foreign contribution to be vested under sub-section (1) of section 15;

(o) the period within which and the manner in which the foreign contribution shall be managed under sub-section (2) of section 15;

(p) the form and manner in which the application for a renewal of certificate of registration shall be made under sub-section (2) of section 16;

(q) the fee to be accompanied by the application for renewal of certificate under sub-section (2) of section 16;

(r) the prescribed amount of foreign remittance, the form and manner in which the foreign remittance received by every bank or authorised person in foreign exchange shall be reported under sub-section (2) of section 17;

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(s) the time within which and the manner in which the person who has been granted certificate of registration or given prior permission under this Act shall give intimation under section 18;

(t) the form and manner in which account of any foreign contribution and the manner in which such contribution has been utilised shall be maintained under section 19;

(u) the time within which and the manner in which a candidate for election shall give intimation under section 21;

(v) the manner and procedure to be followed in disposing of the assets under section 22;

(w) the limits subject to which any confiscation may be adjudged under clause (b) of sub-section (1) of section 29;

(x) the fee to be accompanied along with every application for revision under sub-section (5) of section 32;

(y) the form and manner for making of an application for compounding of an offence and the fee therefor under sub-section (4) of section 41;

(z) the form and manner in which and the time within which returns and statements to be furnished by the prescribed authority under section 44;

(za) any other matter which is required to be, or may be, prescribed.

49. Every order made under section 5 and every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or rule or both Houses agree that the order or rule should not be made, the order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order or rule.

Orders and rules to be laid before Parliament.

50. If the Central Government is of opinion that it is necessary or expedient in the interests of the general public so to do, it may, by order and subject to such conditions as may be specified in the order, exempt any person or association or organisation (not being a political party), or any individual (not being a candidate for election) from the operation of all or any of the provisions of this Act and may, as often as may be necessary, revoke or modify such order.

Power to exempt in certain cases.

51. Nothing contained in this Act shall apply to any transaction between the Government of India and the Government of any foreign country or territory.

Act not to apply to certain Government transactions.

52. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Application of other laws not barred.

53. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

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Repeal and
saving.

54. (1) The Foreign Contribution (Regulation) Act, 1976 (hereafter referred to as the repealed Act) is hereby repealed. 49 of 1976

(2) Notwithstanding such repeal,—

(a) anything done or any action taken or purported to have been done or taken under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) any organisation of a political nature, not being a political party, to whom the prior permission was granted under section 5 of the repealed Act, shall continue to be the organisation of a political nature, not being a political party, under clause (f) of sub-section (1) of section 3 of this Act, till such permission is withdrawn by the Central Government;

(c) permission to accept foreign hospitality granted under section 9 of the repealed Act shall be deemed to be the permission granted under section 6 of this Act until such permission is withdrawn by the Central Government;

(d) any association prohibited from accepting any foreign contribution under clause (a) of section 10 of the repealed Act, in so far as it is not inconsistent with the provisions of this Act, shall be deemed to be an association prohibited from accepting any foreign contribution under section 9 of this Act;

(e) permission obtained under clause (b) of section 10 of the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to be the permission until such permission is withdrawn by the Central Government;

(f) any order issued under section 12 of the repealed Act shall be deemed to be an order issued under section 10 of this Act;

(g) any order issued under section 31 of the repealed Act exempting any association or any individual shall be deemed to be an order under section 50 of this Act till such order is varied or revoked.

(3) Save as provided in sub-section (2), mention of particular matters in that sub-section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeal.

10 of 1897.

V.K. BHASIN,
Secy. to the Govt. of India.

PRINTED BY THE GENERAL MANAGER, GOVT. OF INDIA PRESS, MINTO ROAD, NEW DELHI AND
PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI-2010.

GMGIPMRND—4639GI(S3)—29-09-2010.

Annexure 2

Foreign Contribution (Regulation) Rules, 2011

[PUBLISHED IN THE GAZETTE OF INDIA, PART II, SECTION 3, SUB-SECTION (ii)]

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

New Delhi, dated the 29th April, 2011

Notification

G.S.R. - In exercise of the powers conferred by section 48 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010), the Central Government hereby makes the following rules, namely: -

1. **Short title and commencement.** - (1) These rules may be called the Foreign Contribution (Regulation) Rules, 2011.

(2) They shall come into force on the date on which the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) shall come into force.

2. **Definitions.** - (1) In these rules unless the context otherwise requires,

- (a) "Act" means the Foreign Contribution (Regulation) Act 2010;
- (b) "chartered accountant" shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949;
- (c) "Form" means a form appended to these rules;
- (d) "section" means section of the Act;
- (e) "year" means the financial year commencing from the 1st day of April and ending on the 31st day of March of the next calendar year;

(2) Words and expressions used and not defined herein but defined in the Act shall have the meaning assigned to them in the Act.

Foreign Contribution (Regulation) Rules, 2011

3. Guidelines for declaration of an organisation to be of a political nature, not being a political party. -The Central Government may specify any organisation as organisation of political nature on one or more of the following grounds:

- (i) organisation having avowed political objectives in its Memorandum of Association or bylaws;
- (ii) any Trade Union whose objectives include activities for promoting political goals;
- (iii) any voluntary action group with objectives of a political nature or which participates in political activities;
- (iv) front or mass organisations like Students Unions, Workers' Unions, Youth Forums and Women's wing of a political party;
- (v) organisation of farmers, workers, students, youth based on caste, community, religion, language or otherwise, which is not directly aligned to any political party, but whose objectives, as stated in the Memorandum of Association, or activities gathered through other material evidence, include steps towards advancement of political interests of such groups;
- (vi) any organisation, by whatever name called, which habitually engages itself in or employs common methods of political action like 'bandh' or 'hartal', 'rasta roko', 'rail roko' or 'jail bharo' in support of public causes.

4. Speculative activities. (1) The following activities shall be treated as speculative activities:-

- (a) any activity or investment that has an element of risk of appreciation or depreciation of the original investment, linked to market forces, including investment in mutual funds or in shares;
- (b) participation in any scheme that promises high returns like investment in chits or land or similar assets not directly linked to the declared aims and objectives of the organisation or association.

(2) A debt-based secure investment shall not be treated as speculative investment.

(3) Every association shall maintain a separate register of investments.

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(4) Every register of investments maintained under sub-rule (3) shall be submitted for audit.

5. **Administrative expenses.** - The following shall constitute administrative expenses:

- (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;
- (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.

6. **Intimation of receiving foreign contribution from relatives.** - Any person receiving foreign contribution in excess of one lakh rupees or equivalent thereto in a financial year from any of his relatives shall inform the Central

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Government in Form FC-1 within thirty days from the date of receipt of such contribution.

7. Receiving foreign hospitality by specified categories of persons. -

(1) Any person belonging to any of the categories specified in section 6 who wishes to avail of foreign hospitality shall apply to the Central Government in Form FC-2 for prior permission to accept such foreign hospitality.

(2) Every application for acceptance of foreign hospitality shall be accompanied by an invitation letter from the host or the host country, as the case may be, and administrative clearance of the Ministry or department concerned in case of visits sponsored by a Ministry or department of the Government.

(3) The application for grant of permission to accept foreign hospitality must reach the appropriate authority ordinarily two weeks before the proposed date of onward journey.

(4) 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 sixty days of such receipt giving full details including the source, approximate value in Indian Rupees, and the purpose for which and the manner in which it was utilised.

Provided that no such intimation is required if the value of such hospitality in emergent medical aid is upto one lakh rupees or equivalent thereto.

8. Action in respect of article, currency or security received in contravention of the Act.

(1) The Central Government may issue a prohibitory order for contravention of the Act in respect of any article, currency or securities.

(2) The prohibitory order issued under sub-rule (1) shall be served on the person concerned in the following manner :-

- (a) by delivering or tendering it to that person or to his duly authorised agent; or
- (b) by sending it to him by 'registered post with acknowledgement due' or 'speed post' to the address of his last known place of residence or the place where he carries on, or is known to have last carried on, business or the place where he personally works for gain or is known to have last worked for gain and, in case the person is an

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organisation or an association, to the last known address of the office of such organisation or association; or

- (c) if it cannot be served in any of the manner aforesaid, by affixing it on the outer door or some other conspicuous part of the premises in which that person resides or carries on, or is known to have last carried on, business or personally works for gain, or is known to have last worked personally for gain and, in case the person is an organisation or an association, on the outer door or some other conspicuous part of the premises in which the office of that organisation or association is located, or is known to have been last located, and the written report whereof should be witnessed by at least two persons.

9. Application for obtaining 'registration' or 'prior permission' to receive foreign contribution. -

- (1) (a) An application under sub-section (1) of section 11 for registration of a person for acceptance of foreign contribution shall be made electronically on-line in Form FC-3, and shall be followed by forwarding the hard copy of the on-line application duly signed by the Chief Functionary of the association together with the required documents.
 - (b) The hard copy of the on-line application referred in clause (a) shall reach the Central Government within thirty days of the submission of the on-line application, failing which the request of the person shall be deemed to have ceased.
 - (c) Any person whose request has ceased under clause (b) of sub-rule (1) may prefer a fresh on-line application with the Central Government only after six months from the date of cessation of the previous application.
 - (d) A person seeking registration shall be required to open an exclusive bank account to receive the foreign contribution.
 - (e) The person may open one or more accounts in one or more banks for the purpose of utilising the foreign contribution after it has been received and, in all such cases, intimation on plain paper shall be furnished to the Secretary, Ministry of Home Affairs, New Delhi within fifteen days of the opening of any account.
- (2) (a) An application under sub-section (2) of section 11 for obtaining prior permission of the Central Government to receive foreign contribution shall

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be made electronically on-line in Form FC-4 and shall be followed by forwarding the hard copy of the on-line application duly signed by the Chief Functionary of the Association together with the required documents.

- (b) The hard copy of the on-line application shall reach the Central Government within thirty days of filing of the on-line application, failing which the request of the person shall be deemed to have ceased.
 - (c) Any person whose request has ceased under clause (b) of sub-rule (2) may prefer a fresh on-line application with the Central Government only after six months from the date of cessation of the previous application.
 - (d) A person seeking prior permission under this rule shall be required to open an exclusive bank account for the receipt of foreign contribution.
 - (e) A person seeking prior permission under this rule may open one or more accounts in one or more banks for the purpose of utilising the foreign contribution after it has been received and in all such cases intimation on plain paper shall be furnished to the Secretary, Ministry of Home Affairs, New Delhi within fifteen days of the opening of any account.
- (3) No person shall prefer a second application for registration or prior permission within a period of six months after submitting an application either for the grant of prior permission for the same project or for registration.
- (4) (a) An application made for the grant of prior permission shall be accompanied by a fee of Rs.1000/- (One Thousand only).
- (b) An application made for the grant of the registration shall be accompanied by a fee of 2000/- (Two Thousand only).
- (c) The fee may be revised by the Central Government from time to time.
- (d) The fee, as applicable, shall be remitted by demand draft or banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.
- (5) Notwithstanding anything contained in sub-rules (1) to (4), every application made for registration or prior permission under the Foreign Contribution (Regulation) Act, 1976 (49 of 1976) but not disposed of before the date of commencement of these rules shall be deemed to be an application for registration or prior permission, as the case may be, under these rules, subject to the condition that the applicant furnishes the prescribed fees for such registration or prior permission, as the case may be.

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10. **Validity of certificate.** -Every certificate of registration granted to a person under the Act shall be valid for a period of five years from the date of its issue.

11. **Maintenance of accounts** - Every person who has been granted registration or prior permission under section 12 shall maintain a separate set of accounts and records, exclusively, for the foreign contribution received and utilised.

12. **Renewal of registration certificate.**

- (1) Every certificate of registration issued to a person shall be liable to be renewed after the expiry of five years from the date of its issue on proper application.
- (2) Every person shall apply to the Central Government in Form FC-5, six months before the date of expiry of the certificate of registration, for its renewal.
- (3) A person implementing an ongoing multi-year project shall apply for renewal twelve months before the date of expiry of the certificate of registration.
- (4) An application made for renewal of the certificate of registration shall be accompanied by a fee of Rs.500/- (Five Hundred only).
- (5) The fee for renewal of the certificate of registration shall be remitted by demand draft or banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.
- (6) In case no application for renewal of registration is received or such application is not accompanied by the requisite fee, the validity of the certificate of registration of such person shall be deemed to have ceased from the date of completion of the period of five years from the date of the grant of registration.

Illustration. - A certificate of registration granted on the 1st January, 2012 shall be valid till the 31st December, 2016. A request for renewal of the registration certificate shall reach the Central Government, accompanied by the requisite fee, by the 30th June, 2016. If no application is received or is not accompanied by the renewal fee, the validity of the registration certificate issued on the 1st January 2012 shall be deemed to have lapsed with effect from the close of the day on 31st December, 2016.

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- (7) If the validity of the certificate of registration of a person has ceased in accordance with the provisions of these rules, a fresh request for the grant of a certificate of registration may be made by the person to the Central Government as per the provisions of rule 9.
- (8) In case a person provides sufficient grounds, in writing, explaining the reasons for not submitting the certificate of registration for renewal within the stipulated time, his application may be accepted for consideration along with the requisite fee, but not later than four months after the expiry of the original certificate of registration.

13. In the event of receipt of foreign contribution in excess of one crore rupees in a financial year. -

In case a person who has been granted a certificate of registration or prior permission receives foreign contribution in excess of one crore rupees, or equivalent thereto, in a financial year, he/it shall place the summary data on receipts and utilisation of the foreign contribution pertaining to the year of receipt as well as for one year thereafter in the public domain. Besides, the Central Government shall also display or upload the summary data of such persons on its website for information of the general public.

14. Extent of amount that can be utilised in case of suspension of the certificate of registration. - The unspent amount that can be utilised in case of suspension of a certificate of registration may be as under: -

- (a) In case the certificate of registration is suspended under sub-section (1) of section 13 of the Act, up to twenty-five per cent of the unutilised 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.
- (b) The remaining seventy-five per cent of the unutilised foreign contribution shall be utilised only after revocation of suspension of the certificate of registration.

15. Custody of foreign contribution in respect of a person whose certificate has been cancelled. -

- (1) The amount of foreign contribution lying unutilised in the exclusive foreign contribution bank account of a person whose certificate of registration has been cancelled shall vest with the banking authority concerned till the Central Government issues further directions in the matter.

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(2) If a person whose certificate of registration has been cancelled transfers/has transferred the foreign contribution to any other person, the provisions of sub-rule (1) of this rule shall apply to the person to whom the fund has been transferred.

16. Reporting by banks of receipt of foreign contribution. -

(1) Every bank shall send a report to the Central Government within thirty days of any transaction in respect of receipt of foreign contribution by any person who is required to obtain a certificate of registration or prior permission under the Act, but who was not granted such certificate or prior permission as on the date of receipt of such remittance.

(2) The report referred to in sub-rule (1) shall contain the following details: -

- (a) Name and address of the donor.
- (b) Name and address of the recipient.
- (c) Account number.
- (d) Name of the Bank and Branch.
- (e) Amount of foreign contribution (in foreign currency as well as Indian Rupees).
- (f) Date of receipt.
- (g) Manner of receipt of foreign contribution (cash/cheque/electronic transfer etc.).

(3) The bank shall send a report to the Central Government within thirty days from the date of such last transaction in respect of receipt of any foreign contribution in excess of one crore rupees or equivalent thereto in a single transaction or in transactions within a duration of thirty days, by any person, whether registered or not under the Act and such report shall include the following details:-

- (a) Name and address of the donor.
- (b) Name and address of the recipient.
- (c) Account number.
- (d) Name of the Bank and Branch.
- (e) Amount of foreign contribution (in foreign currency as well as Indian Rupees).

Foreign Contribution (Regulation) Rules, 2011

- (f) Date of receipt.
- (g) Manner of receipt of foreign contribution (cash/cheque/electronic transfer etc.).

17. Intimation of foreign contribution by the recipient. –

(1) Every person who receives foreign contribution under the Act shall submit a report in Form FC-6, accompanied by an income and expenditure statement, receipt and payment account, and balance sheet for every financial year beginning on the 1st day of April within nine months of the closure of the financial year, to the Secretary to the Government of India, Ministry of Home Affairs, New Delhi.

(2) The annual return in Form FC-6 shall reflect the foreign contribution received in the exclusive bank account and include the details in respect of the funds transferred to other bank accounts for utilisation.

(3) If the foreign contribution relates only to articles, the intimation shall be submitted in Form FC-7.

(4) If the foreign contribution relates to foreign securities, the intimation shall be submitted in Form FC-8.

(5) Every report submitted under sub-rules (2) to (4) shall be duly certified by a chartered accountant.

(6) Every such return in Form FC-6 shall also be accompanied by a copy of a statement of account from the bank where the exclusive foreign contribution account is maintained by the person, duly certified by an officer of such bank.

(7) The accounting statements referred to above in the preceding sub-rule shall be preserved by the person for a period of six years.

(8) A 'NIL' report shall be furnished even if no foreign contribution is received during a financial year.

18. Foreign contribution received by a candidate for election. -Foreign contribution received by a candidate for election, referred to in section 21, shall be furnished in Form FC-9 within forty-five days from the date on which he is duly nominated as a candidate for election.

19. Limit to which a judicial officer, not below the rank of an Assistant Sessions Judge may make adjudication or order confiscation. - An officer referred in clause (b) of sub-section (1) of section 29 may adjudge confiscation in

A Study on Foreign Contribution (Regulation) Act, 2010

relation to any article or currency seized under section 25, if the value of such article or the amount of such currency seized does not exceed Rs.10,000,000/- (Ten Lakh only).

20. **Revision.** - An application for revision of an order passed by the competent authority under section 32 of the Act shall be made to the Secretary, Ministry of Home Affairs, Government of India, New Delhi on a plain paper. It shall be accompanied by a fee of Rs.1000/- (One Thousand only) in the form of a demand draft or a banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.

21. **Compounding of offence.** -An application for the compounding of an offence under section 41 may be made to the Secretary, Ministry of Home Affairs, New Delhi on a plain paper and shall be accompanied by a fee of Rs.1000/- (One Thousand only) in the form of a demand draft or a banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.

22. **Returns by the Investigating Agency to the Central Government.** - The Central Bureau of Investigation or any other Government investigating agency that conducts any investigation under the Act shall furnish reports to the Central Government, on a quarterly basis, indicating the status of each case that was entrusted to it, including information regarding the case number, date of registration, date of filing charge sheet, court before which it has been filed, progress of trial, date of judgment and the conclusion of each case.

23. **Authority to whom an application or intimation to be sent.** - Any information or intimation about political or speculative activities of a person as mentioned in rule 3 or rule 4, shall be furnished to the Secretary to the Government of India in the Ministry of Home Affairs, New Delhi. Such information or intimation shall be sent by registered post.

24. **Procedure for transferring foreign contribution to other registered or unregistered persons.** -

(1) Any person intending to transfer the foreign contribution may make an application to the Central Government in Form FC-10.

(2) The Central Government may permit the transfer in respect of a person who has been granted the certificate of registration or prior permission under section 11 of the Act, in case the recipient person has not been proceeded against under any provision of the Act.

Foreign Contribution (Regulation) Rules, 2011

- (3) Any transfer of foreign contribution shall be reflected in the returns in Form FC-6 as well as in Form FC-10 by the transferor and the recipient.
- (4) In case the foreign contribution is proposed to be transferred to a person who has not been granted a certificate of registration or prior permission by the Central Government, the person concerned may apply for permission to the Central Government to transfer a part of the foreign contribution, not exceeding ten per cent, of the total value of the foreign contribution received. The application shall be countersigned by the District Magistrate having jurisdiction in the place where the transferred funds are sought to be utilised. The District Magistrate concerned shall take an appropriate decision in the matter within sixty days of the receipt of such request from the person. The donor shall not transfer any foreign contribution until the Central Government has approved the transfer.

[F. No. II/21022/10(1)/2010-FC-III]

(G.V.V. SARMA)
Joint Secretary to the Government of India

Annexure 3

FCRA Forms

FORM FC-I [See rule 6]

The Secretary to the Government of India,
Ministry of Home Affairs,
FCRA Wing / Foreigners Division,
“NDCC-II Building”,
Jai Singh Road, OFF Parliament Street,
New Delhi – 110001.

Subject: Intimation to the Central Government of receipt of foreign contribution by way of gift from relative:

1. Name of the recipient in full (*in block letters*):
2. Date of birth:
3. Name of Father/Husband:
4. Permanent address:
5. P.A.N. of the recipient in India:
6. Amount of foreign contribution received, if it exceeds Rs. 1 lakh or equivalent in a financial year:
7. Amount and the Number of the Bank Draft or telegraphic transfer or other communication including the Bank Details:
8. Income-tax registration number of the relative abroad and the name of the country of residence:
9. Name of the relative and relationship thereof, nationality and passport details:

DECLARATION

I hereby declare that the above particulars furnished by me are true and correct.

Place:

Date:

Signature of the applicant
(Name, in block letters)

FORM FC -2

[See rule 7(1)]

The Secretary to the Government of India,
Ministry of Home Affairs,
FCRA Wing / Foreigners Division,
“NDCC-II Building”,
Jai Singh Road, OFF Parliament Street,
New Delhi – 110001.

Subject: Application for seeking prior permission of the Central Government to accept foreign hospitality:

[Note: For foreign hospitality availed in case of emergent medical aid situation, intimation to be given on plain paper to the Secretary, Ministry of Home Affairs at the address mentioned in FORM FC-2, within sixty days of such receipt of foreign hospitality.]

1. Name in full (block letters):
2. Date of Birth:
3. Name of father/husband:
4. Present address:
5. Permanent address:
6. Passport particulars *(if already in possession)*:
7. Status: -
 - (a) Member of Legislature:
 - (b) Office bearer of a political party:
 - (c) Judge of Supreme Court/High Court:
 - (d) Government servant:
 - (e) Employee of a Company/Corporation:
 - (f) Any other person or class of persons not specified in section 6
8. Names of countries/places to be visited with duration of stay:
9. The countries and places where foreign hospitality is to be accepted:

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10. Duration and purpose of visit to the country(s)/place(s) mentioned in Column 9 with specific dates:
11. Particulars of host(s): -
 - (a) If an individual, his personal particulars including name, present address, permanent address, nationality, profession:
 - (b) If an Organisation/ Institution/ Association/ Trust/ Foundation/ Trade Union etc., full particulars thereof including –
 - (i) Full name and complete address:
 - (ii) Address of Head office/Principal office:
 - (iii) Aims and Objects:
 - (iv) Particulars of important office bearers:
12. @Full particulars, as in Column 11(a) and (b) of the foreign source, in case the actual source extending the hospitality is located in a country other than actually proposed to be visited:
13. Nature and duration of foreign hospitality* proposed to be accepted with specific dates and with specific details:
14. Nature of connection/dealing with the host and/or foreign source extending the hospitality:
15. Approximate expenditure to be incurred on hospitality:
16. Any other information of significance which the applicant may like to furnish:

DECLARATION

I hereby declare that the above particulars furnished by me are true and correct.

Place:

Date:

Signature of the applicant
(Name, *in block letters*)

@ Delete if not applicable.

FORM FC -3
[See rule 9 (1) (a)]

No _____

Date _____

The Secretary to the Government of India,
Ministry of Home Affairs,
FCRA Wing / Foreigners Division,
"NDCC-II Building",
Jai Singh Road, OFF Parliament Street,
New Delhi – 110001.

Sub: Application for 'registration' under section 11(1) of the Foreign Contribution (Regulation) Act, 2010 for the acceptance of foreign contribution by an Association having definite cultural, economic, educational, religious or social programme:

Sir,

I _____ on behalf of the Association named hereafter apply for registration of the Association under clause (a) of sub-section (1) of section 11 of the Act for the acceptance of foreign contribution as per details given below:

1. (i) Name of the Association and its complete postal address:

Name:

Address:

Town/City:

District:

State:

Pin Code:

(c) Telephone No. of the Association (with STD code):

(d) Telephone no. (with STD code) / Mobile no. ~ of the Chief Functionary:

(e) e-Mail address:

(ii) If the Association is a registered Trust or Society please indicate its:

(a) registration number:

(b) place of registration:

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- (c) date of registration:
(certified copy of the registration certificate to be attached).
- (d) PAN No.:
- (iii) Nature of Association:
(a) religious (b) cultural (c) economic (d) educational (e) social
Note: If a religious Association, state whether (a) Hindu (b) Sikh (c) Muslim (d) Christian (e) Buddhist (f) Others.
- (iv) Please indicate:
(a) Main aim(s) and object(s) of the Association (enclose a copy of the Memorandum of Association and/or the Articles of Association, if applicable);
(b) Main object(s) and definite programme(s) for which the foreign contribution is to be accepted/utilised:
- (v) Details of names and addresses of the members of the Executive Committee/Governing Council etc. of the Association, starting with the Chief Functionary, in the following table:

Sl. No.	Name	Name of father/husband	Nationality	Occupation with address of place of work (<i>at the time of filing the application. Phone/mobile no. if available.</i>)	Post held in the Association	Relationship with other Member(s) of the Exe. Council / Governing body	Address for correspondence

2. Enclosed/attached, fee of Rupees (*in words*) _____ only remitted by _____ (*name of Bank & branch*) Demand Draft/Bankers Cheque No. _____ dated _____ (*in day/mm/year format*)

3. Whether any Member of the Executive Committee /Governing Council etc. of the Association, including the Chief Functionary has, in the discharge of his/her official functions or private conduct:

- (a) been convicted by any court of law:

FCRA Forms

- (b) a prosecution for any offence pending against him/her:
- (c) been found guilty of diversion or mis-utilisation of funds of the Association or any other Association in the past:
- (d) has been prohibited from accepting foreign contribution:
- (e) is a Member or Chief Functionary of any other Association against whom an order under section 13 or 14 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) has been passed:

4 Whether the applicant Association:

- (a) is a branch/unit/associate of foreign based organisation or another Association already registered or granted prior permission under the Act. If so, name and address of the parent organisation should be furnished:
- (b) attracts section 10 of the Act, if so details of the order passed by the Central Government:
- (c) section 11(3) of the Act:
- (c) has been directed in terms of section 9 (a) of the Act to seek prior permission by the Central Government. If so, the number and date of the relevant order:
- (d) had earlier been proceeded against as per provision of the Foreign Contribution (Regulation) Act 1976 (49 of 1976):

5. Whether:

- (i) (a) the association was granted prior permission to receive foreign contribution under the Act or the Foreign Contribution (Regulation) Act, 1976 (49 of 1976) in the past. If so, the Ministry of Home Affairs letter number with date granting such prior permission:
- (b) whether the account of the receipt and utilisation of the foreign contribution received above was sent to the Central Government in the prescribed Form. If so, the date of submission of the accounts:
- (ii) Whether:
- (a) the Association has received foreign contribution without the prior permission under the Act in the past. If so, full particulars of the foreign contribution received along with complete address of the bank

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branch and bank account number in which deposited should be furnished:

- (b) said violation has been condoned by the Central Government:
- (c) Association has been prohibited from accepting foreign contribution under the Act:

6. Whether the Association is functioning as editor, owner, printer or publisher of a publication required to be registered as “newspaper” under the Press and Registration of Books Act, 1867 (25 of 1867). If so, the details there of:

7. Whether:

- (i) the Association ever applied for registration under the Foreign Contribution (Regulation) Act 2010 (42 of 2010), and if so,
 - (a) the number & date of submission of application for registration:
 - (b) the number & date of the last communication, if any, received from the Ministry:
 - (c) whether registration was refused:
 - (d) whether application for registration is still pending:
 - (ii) whether the Association ever applied for prior permission under the Foreign Contribution (Regulation) Act 2010 (42 of 2010), and if so,
 - (a) the number & date of submission of application for prior permission:
 - (b) the number & date of the last communication, if any, received from the Ministry:
 - (c) whether prior permission was refused:
 - (d) whether application for prior permission is still pending:
 - (iii) whether the Association has close links with another Association, or its unit or branch which has been,
 - (a) refused registration / prior permission under the Act:
 - (b) prohibited from accepting foreign contribution:
8. Details of:
- (i) the activities of the Association during the past three years:

FCRA Forms

- (ii) the audited statement of accounts of the Association for the past three years:
 - (iii) the area(s) of operation:
9. Whether the Association has been specified as an organisation of a political nature, not being a political party, under section 5 of the Act. If so, the details of the notification should be furnished:
10. Details of Bank:
- (i) the name and address of the branch of the bank through which the foreign contribution shall be received:
 - (ii) the account number in the said branch of the bank:
11. Whether the Organisation/Association has been blacklisted/debarred from receiving any aid and/or assistance by any other Ministry/Department of Central Government and/or State Government or Statutory Authority, if so the details thereof:
12. Whether a recommendation certificate from any competent authority is attached, (and if so, the details):
13. Any other information, which the Association may like to furnish:

Yours faithfully,

Signature of the Chief Functionary
[Name of the Chief Functionary *in block letters*]
(Seal of the Association)

Declaration and Undertaking

I hereby declare that the above particulars furnished by me are true and correct and undertake to:

- (i) to inform the Central Government (Ministry of Home Affairs) within thirty days, if any change takes place in regard to the name of the Association, its address, its registration, its nature, its aims and objects together with documentary evidence effecting the change.
- (ii) to obtain prior permission for change of Members of the Executive Committee / Governing Council, if, at any point of time, such change causes

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replacement of 50% or more of such Members as were mentioned in the application no. _____ dated _____ for registration under the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) and undertake further not to accept any foreign contribution except with prior permission till the permission to replace the office-bearer(s) has been granted.

(iii) not to change the Bank and/or branch of the Bank without prior permission of the Central Government [the reason(s) for change of bank or branch of the bank shall have to be relevant and justifiable] and,

Note: Proforma for change of Bank (or in the branch of the existing bank where exclusive foreign account number is being maintained) or Bank account is available in Ministry of Home Affairs web site _____

(iv) not to accept any foreign contribution unless either registration certificate, as applied for hereinabove, or prior permission of the Central Government under the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) is granted.

Place:

Date:

List of enclosures attached

With this application:

- 1.
- 2.
- 3.

Signature of the Chief Functionary
[Name of the Chief Functionary in block letters]
(Seal of the Organisation/Association)

Note:

1. Receipt of application for registration is not a commitment for grant of registration by the Central Government.

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2. An incomplete application i.e., without necessary document(s)/ detail(s)/explanation(s) is liable to be rejected summarily.
3. In case the space against any column is insufficient, separate sheet should be attached.
4. Please use BLOCK LETTERS.
5. The application should be signed by the Chief Functionary of the Association.

CERTIFICATE

Recommending grant of registration to receive foreign contribution under the Foreign Contribution (Regulation) Act, 2010 (42 of 2010)

This is to certify that the _____ (*Name of the Association*) having its registered office at _____ (*Address*) has been engaged in undertaking welfare activities in its chosen _____ (Economic, Educational, Cultural, Religious or Social)@ field. Its aims and objects are to

The antecedents of the Association and the Member(s) of the Executive Committee / Governing Council (including the Chief Functionary) have been verified and nothing adverse has come to notice.

2. It has undertaken commendable welfare activities in the area and has incurred substantial expenditure (*excluding administrative expenditure*) amounting to Rs _____ during the last three years on its chosen _____ (Economic, Educational, Cultural, Religious or Social) field of activity.

3. Grant of registration to the aforementioned Association to accept foreign contribution under the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) is recommended.

(Recommending Authority)**
(Seal of the Recommending Authority)

@ Strike out which is not applicable

- ** (i) District Collector / District Magistrate
(ii) Ministry/Department of the State Government
(iii) Ministry /Department of the Central Government.

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FORM FC – 4
[See rule 9 (2) (a)]

No _____

Date _____

The Secretary to the Government of India,
Ministry of Home Affairs,
FCRA Wing / Foreigners Division,
“NDCC-II Building”,
Jai Singh Road, OFF Parliament Street,
New Delhi – 110001.

Sub: Application for ‘prior permission’ under sub-section (2) of section 11 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) for the acceptance of foreign contribution by an Association having definite cultural, economic, educational, religious or social programme:

Sir,

I _____, as an individual*, Hindu Undivided Family/association/company registered under section 25 of the Companies Act 1956 (1 of 1956), furnish the following details and apply for prior permission of the Central Government for the acceptance of foreign contribution under the proviso to sub-section (2) of section 11 of the Act:

1. (i) Name of the Association and its complete postal address:

(a) Name:

(b) Address:

Town/City:

District:

State:

Pin Code:

(c) Telephone No. of the Association (with STD code):

(d) Telephone no. (with STD code) / Mobile no. ~ of the Chief Functionary:

(e) e-Mail address:

(ii) If the Association is a registered Trust or Society please indicate its:

(a) registration number:

(b) place of registration:

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- (c) date of registration:
(certified copy of the registration certificate to be attached).
- (d) PAN No.:
- (iii) Nature of Association:
(a) religious (b) cultural (c) economic (d) educational (e) social:
Note: If a religious Association, state whether (a) Hindu (b) Sikh (c) Muslim (d) Christian (e) Buddhist (f) Others.
- (iv) Please indicate:
- (a) Main aim(s) and object(s) of the Association (*enclose a copy of the Memorandum of Association and/or the Articles of Association, if applicable*);
- (b) Main object(s) and definite programme(s) for which the foreign contribution is to be accepted/utilised:
- (v) Details of names and addresses of the members of the Executive Committee/Governing Council etc. of the Association, starting with the Chief Functionary, in the following table:

Sl. No.	Name	Name of father/husband	Nationality	Occupation with address of place of work (<i>at the time of filing the application. Phone/mobile no. if available.</i>)	Post held in the Association	Relationship with other Member(s) of the Exe. Council / Governing body	Address for correspondence

- (vi) If this association is branch/unit/associate of any organisation based abroad or of another association already registered or granted prior permission under the Act, the name and address of the parent organisation:

2. Details of Fee: An amount of Rs. _____
(Rupees in words _____)
towards obtaining prior permission for receipt of foreign contribution is remitted by way of demand draft/bankers cheque drawn in favour of the "Pay and Accounts Officer, Ministry of Home Affairs viz. DD No. _____
dated _____ Name of the Bank _____

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3. Whether any Member of the Executive Committee /Governing Council etc. of the Association, including the Chief Functionary has, in the discharge of his/her official functions or private conduct**:

- (a) been convicted by any court of law:
- (b) a prosecution for any offence pending against him/her:
- (c) been found guilty of diversion or mis-utilisation of funds of the Association or any other Association in the past:
- (d) has been prohibited from accepting foreign contribution:

4. Whether:

(i) the Association ever applied for registration under the Foreign Contribution (Regulation) Act 2010 (42 of 2010), and if so,

- (a) the number & date of submission of application for registration:
- (b) the number & date of the last communication, if any, received from the Ministry:

(c) whether registration was refused:

(d) whether application for registration is still pending:

(ii) whether the Association ever applied for prior permission under the Foreign Contribution (Regulation) Act 2010 (42 of 2010), and if so, -

- (a) the number & date of submission of application for prior permission:
- (b) the number & date of the last communication, if any, received from the Ministry:

(c) whether prior permission was refused:

(d) whether application for prior permission is still pending:

(iii) whether the Association has close links with another Association, or its unit or branch which has been,

(a) refused registration / prior permission under the Act:

(b) prohibited from accepting foreign contribution:

5. Whether the applicant Association:

- (a) is a branch/unit/associate of foreign based organisation or another Association already registered or granted prior permission under the Act. If so, name and address of the parent organisation should be furnished:

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- (b) attracts section 10 of the Act, if so details of the order passed by the Central Government:
- (c) attracts sub-section 3 of section 11 clause (a) of the Act:
- (d) has been directed in terms of clause (a) of section 9 (a) of the Act to seek prior permission by the Central Government. If so, the number and date of the relevant order:
- (d) had earlier been proceeded against as per the provisions of the Foreign Contribution (Regulation) Act 1976 (49 of 1976):

6. Whether:

- (i) (a) the association was granted prior permission to receive foreign contribution under the Act . If so, the Ministry of Home Affairs letter number with date granting such prior permission:
- (b) whether the account of the receipt and utilisation of the foreign contribution received above was sent to the Central Government in the prescribed FC-3 Form. The date of submission of the accounts be indicated:
- (ii) Whether:
 - (a) the Association has received foreign contribution without the prior permission under the Act in the past. If so, full particulars of the foreign contribution received along with complete address of the bank branch and bank account number in which deposited should be furnished:
 - (b) said violation has been condoned by the Central Government:

7. I affirm that the applicant Association is not an owner, printer, publisher, editor of a publication which is registered as “newspaper” under the Press and Registration of Books Act, 1867 (25 of 1867).

8. I affirm that the applicant association is not engaged in the production or broadcast of audio/visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000) or any other mode of mass communication.

9. I affirm that the Organisation/Association has not been blacklisted/ debarred from receiving any aid and/or assistance by any other Ministry/ Department of Central and/or State Government or Statutory Authority.

10. I am enclosing the documents showing the detailed activities of the association during the past three years.

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11. I am enclosing the copies of audited statement of accounts of the association for the past three years duly certified by the Chartered Accountant.

12. Data on commitment receipt from donor:

- (a) Nature (cash/kind) and value of the foreign contribution to be received:
- (b) Purpose for which foreign contribution is proposed to be received and utilised indicating the geographical area(s) to be covered:
- (c) A copy of the latest commitment letter from the donor is furnished:
- (d) A copy of the proposal/project which has been approved by the foreign source for funding, including projected outlays, budget breakups is enclosed.

13. Details of Bank:

- (i) Name and address of the branch of the bank through which the foreign contribution is proposed to be received:
- (ii) The account number in the said branch of the bank:

14. Details of foreign source/sources*** from which the foreign contribution is proposed to be received:

- (i) If an individual, the personal particulars including name, present address, permanent address, nationality and profession:
- (ii) If an organisation/institution/ association/ trust/ trade union etc full particulars thereof, including
 - (a) Full name and complete address:
 - (b) Address of the Head Office/Principal Office
 - (c) Particulars of Chief Functionary and Important Office Bearers:
- (iii) Whether the foreign source is a Government of a Foreign Country or agency thereof, if so, give details:

Yours faithfully,
Signature of the Chief Functionary
[Name of the Chief Functionary *in block letters*]
(Seal of the Association)

Declaration and Undertaking

I hereby declare that the above particulars furnished by me are true and correct and undertake to:

- (i) to inform the Central Government (Ministry of Home Affairs) within thirty days, if any change takes place in regard to the name of the Association, its address, its registration, its nature, its aims and objects together with documentary evidence effecting the change.
- (ii) to intimate within thirty days regarding the change of Members of the Executive Committee/Governing Council, if, at any point of time, such change causes replacement of 50% or more of such Members as were mentioned in the application no. _____ dated _____ for registration under the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) and undertake further not to accept any foreign contribution except with prior permission till the permission to replace the office-bearer(s) has been granted.
- (iii) not to change the Bank and/or branch of the Bank without prior permission of the Central Government [*the reason(s) for change of bank or branch of the bank shall have to be relevant and justifiable*] and,

Note: Proforma for change of Bank (or in the branch of the existing bank where exclusive foreign account number is being maintained) or Bank account is available in Ministry of Home Affairs web site
- (iv) not to accept any foreign contribution unless either registration certificate, as applied for hereinabove, or prior permission of the Central Government under the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) is granted.

Place:

Date:

List of enclosures attached with this application:

- 1.
- 2.
- 3.

Signature of the Chief Functionary
[Name of the Chief Functionary in block letters]
(Seal of the Organisation/Association)

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Instructions for filling up the form:

* Please strike off which ever is not applicable. The same instruction applies in respect of choices provided elsewhere in this form.

** If any of the replies to the four parts in item 3 is "yes", then full details of the case including the present status of the case must be given, if required on a separate page.

*** If the foreign contribution, whether currency or article, is to be received from any person or association who has received the same as first, second or subsequent recipient, particulars of such person or association should be given against column 11 above.

1. Receipt of application for prior permission is not a commitment for approval by the Central Government.
2. An incomplete application i.e., without necessary document(s)/ detail(s)/explanation(s) is liable to be rejected summarily.
3. In case the space against any column is insufficient, separate sheet should be attached.
4. Please use BLOCK LETTERS.

CERTIFICATE

Recommending grant of prior permission to receive foreign
contribution under the Foreign Contribution (Regulation) Act,
2010 (42 of 2010)

This is to certify that the _____ (*Name of the Association*) having its registered office at _____ (*Address*) has been engaged in undertaking welfare activities in its chosen _____ (Economic, Educational, Cultural, Religious or Social)@ field. Its aims and objects are to

The antecedents of the Association and the Member(s) of the Executive Committee / Governing Council (including the Chief Functionary) has been verified and nothing adverse have come to notice.

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2. It has undertaken commendable welfare activities in the area and has incurred substantial expenditure (*excluding administrative expenditure*) amounting to Rs _____ during the last three years on its chosen _____(Economic, Educational, Cultural, Religious and Social) field of activity.

3. Grant of prior permission to the aforementioned Association to accept foreign contribution under the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) is recommended.

(Recommending Authority)**
(Seal of the Recommending Authority)

@ Strike out which is not applicable

- ** (i) District Collector / District Magistrate
(ii) Ministry/Department of the State Government
(iii) Ministry /Department of the Central Government.

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FORM FC -5
[See rule 12(2)]

The Secretary to the Government of India,
Ministry of Home Affairs,
FCRA Wing / Foreigners Division,
"NDCC-II Building",
Jai Singh Road, OFF Parliament Street,
New Delhi – 110001.

Sub: Application for seeking renewal of 'registration certificate' under section 13 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010). (Application for renewal to be submitted six months before the date of expiry of the certificate of registration):

Dear Sir,

I _____, on behalf of the Association named hereafter apply for seeking renewal of 'registration certificate', as per details given below:

1. Name of the Association and its complete postal address:
 - (a) Name:
 - (b) Address:
Town/City:
District:
State:
Pin Code:
 - (c) Telephone No. of the Association (with STD code):
 - (d) Telephone no. (with STD code) / Mobile no. ~ of the Chief Functionary:
 - (e) e-Mail address:
 - (f) Details of names and addresses of the members of the Executive Committee/Governing Council etc. of the Association, starting with the Chief Functionary, in the following table:

FCRA Forms

Sl. No.	Name	Name of father/husband	Nationality	Occupation with address of place of work (<i>at the time of filing the application. Phone/mobile no. if available.</i>)	Post held in the Association	Relationship with other Member(s) of the Exe. Council / Governing body	Address for correspondence

2. Nature of Association:
3. Registration number:
 - (a) place of registration:
 - (b) date of registration:
 - (c) Date of expiry:
 - (d) PAN No., if any
(certified copy of the registration certificate to be attached).
4. Foreign Contribution received, if any, since its registration with yearly breakup:
5. Details of utilisation of funds:
6. Whether various provisions as stipulated in the Foreign Contribution (Regulation) Act , 2010 (42 of 2010) adhered to:
7. Reasons for seeking renewal of certificate:
8. Details of Fee: An amount of Rs. _____
(Rupees in words _____)
towards renewal of registration is remitted by way of demand draft/bankers cheque drawn in favour of "Pay and Accounts Officer, Ministry of Home Affairs viz. DD/Bankers Cheque No. _____ dated _____
Name of the Bank _____
9. Whether the organisation/Association has been blacklisted/debarred from receiving any aid and/or assistance by any other Ministry/Department of Central and/or State Government or Statutory Authority. If so, the details thereof:

A Study on Foreign Contribution (Regulation) Act, 2010

10. Any other information which the Association may like to furnish:

I hereby declare that the information furnished above is true and correct.

Signature of the Chief Functionary
[Name of the Chief Functionary in block letters]
(Seal of the Association)

FCRA Forms

FORM FC -6
[See rule 17 (1)]

The Secretary to the Government of India,
Ministry of Home Affairs,
FCRA Wing / Foreigners Division,
"NDCC-II Building",
Jai Singh Road, OFF Parliament Street,
New Delhi – 110001.

Subject: Account of Foreign Contribution for the year ending on the 31st
March_____

1. Associations details:
 - (i) Name and address (in block letters):
 - (ii) Registration number and date [*under the Foreign Contribution (Regulation) Act, 2010*] (42 of 2010):
 - (iii) Prior permission number and date, if (ii) above is not applicable:
 - (iv) Nature of the Association: (a) Cultural (b) Economic (c) Educational (d) Religious (e) Social
 - (v) Denomination in case of religious Association: (a) Hindu (b) Sikh (c) Muslim (d) Christian (e) Buddhist (f) Others:
2. (i) Total amount of foreign contribution received during the financial year:
 - (ii) Interest earned on the foreign contribution during the financial year -
 - (a) In the designated bank account:
 - (b) On investments made (Fixed Deposit Receipt etc.) during the year or in the preceding years:
3. Purposes for which foreign contribution has been received and utilised:

(in Rupees)

S. No.	Purpose	Previous Balance		Receipt during the year					Utilised		Balance		Places with address es of specific activities
				As first recipient		As second/subsequent recipient		Total					
		In cash	In kind (value)	In cash	In kind	In cash	In kind	5+6+7+8	In cash	In kind (value)	In cash	In kind (value)	
1	2	3	4	5	6	7	8	9	10	11	12	13	14

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1. Celebration of national event (Independence / Republic day) / festivals etc.
2. Theatre / Films.
3. Maintenance of places of historical and cultural importance.
4. Preservation of ancient / tribal art forms.
5. Research.
6. Cultural shows.
7. Setting up and running handicraft centre / cottage and Khadi industry / social forestry projects.
8. Animal husbandry projects.
9. Income generation projects / schemes.
10. Micro-finance projects, including setting up banking co-operatives and self-help groups.
11. Agricultural activity.
12. Rural Development.
13. Construction and maintenance of school / college.
14. Construction and running of hostel for poor students.
15. Grant of stipend / scholarship / assistance in cash and kind to poor / deserving children.
16. Purchase and supply of educational material – books, notebooks etc.
17. Conducting adult literacy programs.

FCRA Forms

18. Education / Schools for the mentally challenged.
19. Non-formal education projects / coaching classes.
20. Construction / Repair / Maintenance of places of worship.
21. Religious schools / education of priests and preachers.
22. Publication and distribution of religious literature.
23. Religious functions.
24. Maintenance of priests / preachers / other religious functionaries.
25. Construction / Running of hospital / dispensary / clinic.
26. Construction of community halls etc.
27. Construction and Management of old age home.
28. Welfare of the aged / widows.
29. Construction and Management of Orphanage.
30. Welfare of the orphans.
31. Construction and Management of dharamshala / shelter.
32. Holding of free medical / health / family welfare / immunization camps.
33. Supply of free medicine, and medical aid, including hearing aids, visual aids, family planning aids etc.
34. Provision of aids such as Tricycles, calipers etc. to the handicapped.

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35. Treatment / Rehabilitation of persons suffering from leprosy.
36. Treatment / Rehabilitation of drug addicts.
37. Welfare / Empowerment of women.
38. Welfare of children.
39. Provision of free clothing / food to the poor, needy and destitute.
40. Relief / Rehabilitation of victims of natural calamities.
41. Help to the victims of riots / other disturbances.
42. Digging of bore wells.
43. Sanitation including community toilets etc.
44. Vocational training – tailoring, motor repairs, computers etc.
45. Awareness Camp / Seminar / Workshop / Meeting / Conference.
46. Providing free legal aid / Running legal aid centre.
47. Holding sports meet.
48. Awareness about Acquired Immune Deficiency Syndrome (AIDS) / Treatment and rehabilitation of persons affected by AIDS.
49. Welfare of the physically and mentally challenged.
50. Welfare of the Scheduled Castes.
51. Welfare of the Scheduled Tribes.

52. Welfare of the Other Backward Classes.
53. Environmental programs.
54. Survey for socio-economic and other welfare programs.
55. Establishment expenses -
 - (i) Asset building:
 - (a) Establishment of Corpus Fund, and
 - (b) Purchase of land:
 - (ii) Construction / Extension / Maintenance of office, administrative and other buildings, salaries / honorarium:
 - (iii) Publication of newsletter / literature / books etc:
 - (iv) Other expenses:
56. Activities other than those mentioned above (Furnish details).

Total

Caution: Submission of false information or concealment of material facts shall attract the relevant provisions of The Foreign Contribution (Regulation) Act, 2010 (42 of 2010), warranting appropriate action

4.. Name and address of the designated branch of the Bank and account number (*as specified in the application for registration / prior permission or permitted by the Central Government*).

A/c No:

Bank:.....

Branch:

Address:

.....

.....

A Study on Foreign Contribution (Regulation) Act, 2010

5. Donor wise receipt of foreign contribution:

Sl. No.	Institutional/ individual/ other donors	Name(s) & address(es)	Purpose(s)	Date & month of receipt	Amount
1	2	3	4	5	6

(i) From institutional donors: _____

(ii) From individual donor(s), above Rupees One lac: _____

(iii) From individual donor(s), below Rupees One lac: _____

Total [(i)+(ii)+(iii)]:

Declaration

I hereby declare that the above particulars furnished by me are true and correct. I also affirm that the foreign contribution has been utilised for the purpose(s) for which the Association has been granted registration or prior permission by the Central Government, to the best of my knowledge. I have not concealed or suppressed any fact.

Place:

Date:

Signature of the Chief Functionary
(Name of the Chief Functionary in block letters)
(Seal of the Association)

Certificate to be given by Chartered Accountant

I/We have audited the account of _____
(name of Association and its full address including State, District and Pin Code, if registered society, its registration number and State of registration)
for the year ending the 31st March _____ and examined all relevant books and vouchers and certify that according to the audited account:

(i) the brought forward foreign contribution at the beginning of the year was Rs _____;

FCRA Forms

- (ii) foreign contribution of/worth Rs_____ was received by the Association during the year _____;
- (iii) the balance of unutilised foreign contribution with the Association at the end of the year_____ was Rs _____;
- (iv) Certified that the Association has maintained the accounts of foreign contribution and records relating thereto in the manner specified in section 19 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) read with rule 16 of the Foreign Contribution (Regulation) Rules, 2011.
- (v) The information in this certificate and in the enclosed Balance Sheet and statement of Receipt and Payment is correct as checked by me/us.

Place:

Date:

Signature of Chartered Accountant
(Seal, Address and Registration number)

A Study on Foreign Contribution (Regulation) Act, 2010

FORM FC –7 [See rule 17 (3)]

The Secretary to the Government of India,
Ministry of Home Affairs,
FCRA Wing / Foreigners Division,
“Jaisalmer House”,
26, Mansingh Road,
New Delhi – 110 011.

Subject: Intimation about Foreign Contribution (Articles) Account:

DESCRIPTION OF THE ARTICLE: _____

Receipt						Utilisation/ Disposal				Quantity					
Date	Name and address of the person from whom received	Mode of receipt	Purpose of receipt	Quantity received	Approximate value of articles received	Date of intimation sent to the Central Government	Date	Name and address of the person to whom issued sold or otherwise transferred	Purpose for which issued or otherwise transferred	Utilised by the Organisation	sold	Otherwise transferred	if sold then amount for which sold	Reference to entry in the Foreign Contribution (Currency) Account	Balance in Stock
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

DECLARATION

I hereby declare that the above particulars furnished by me are true and correct.

Place:

Date:

Signature of the Chief Functionary
(Name of the Chief Functionary in block letters)
(Seal of the Association
Certificate to be given by Chartered Accountant

FCRA Forms

I/We have audited the account of _____
(name of Association and its full address including State, District and Pin Code, if
registered society, its registration number and State of registration) for the year
ending the 31st March _____ and examined all relevant books and
vouchers and certify that according to the audited account:

- (i) the brought forward foreign contribution, in kind, at the beginning of the
year was Rs _____;
- (ii) foreign contribution, in kind worth Rs _____ was received by the
Association during the year _____;
- (iii) (a) the balance of unutilised foreign contribution, in kind, with the
Association at the end of the year _____ was worth Rs
_____;
- (b) That the whole of foreign contribution received in kind has been utilised,
leaving no balance at the end of the financial year (*strike out whichever is
not applicable*)
- (iv) Certified that the Association has maintained the accounts of foreign
contribution and records relating thereto in the manner specified in section
13 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) read
with sub-rule (1) of rule 8 of the Foreign Contribution (Regulation) Rules,
2011.
- (v) The information in this certificate and in the enclosed Balance Sheet and
statement of Receipt and Payment is correct as checked by me/us.

Place:

Date:

Signature of Chartered Accountant
(Seal, Address and Registration number)

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FORM FC – 8
[See rule 17(4)]

The Secretary to the Government of India,
Ministry of Home Affairs,
FCRA Wing / Foreigners Division,
“Jaisalmer House”,
26, Mansingh Road,
New Delhi – 110 011.

Subject: Intimation about foreign contribution (securities) Account:

(Description to be provided in the existing format (old) ~ Rule 8(c), Foreign
Contribution (Regulation) Rules, 1976 refers)

1. Name of Securities:
2. Nominal value of each security:

Date	Name & address of the person from whom received	Distinguishing number of each security	Total of securities	Total nominal value of securities	Particulars of permission of the Reserve Bank of India to acquire or to hold Foreign securities	Particulars of intimation sent to the Central Government	Date	Dividends or interest received	Dates upto which dividend or interest has been received.
1	2	3	4	5	6	7	8	9	10

Details of dividends/interest received

Reference to the Credit entry in the Foreign Contribution Currency Account	Date	Name and address of the person to whom sold/transferred	Total No. of Securities sold/transferred	distinguishing no. of each security transferred	Total amount for which sold/transferred	Particulars of permission of the RBI to sell/transfer	Particulars of intimation sent to the Central Government	Reference to the entry in the Foreign Contribution Currency Account.
11	12	13	14	15	16	17	18	19

DECLARATION

I hereby declare that the above particulars furnished by me are true and correct.

Place:

Date:

Signature of the Chief Functionary
(Name of the Chief Functionary in block letters)
(Seal of the Association)

Certificate to be given by Chartered Accountant

I/We have audited the account of _____
(name of Association and its full address including State, District and Pin Code, if
registered society, its registration number and State of registration) for the year
ending the 31st March _____ and examined all relevant books and
vouchers and certify that according to the audited account:

- (i) the brought forward investment(s) in securities at the beginning of the year
was Rs _____;
- (ii) that further investment(s) in securities worth Rs _____ was made by
the Association during the year _____;
- (iii) the total value of investment in securities made by the Association at the
end of the year _____ was worth Rs _____;
- (iv) Certified that the Association has maintained the accounts of foreign
contribution and records relating thereto in the manner specified in
Section 13 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010)
read with sub-rule (1) of rule 8 of the Foreign Contribution (Regulation)
Rules, 2011.
- (v) The information in this certificate and in the enclosed Balance Sheet and
statement of Receipt and Payment is correct as checked by me/us.

Place:

Date:

Signature of Chartered Accountant
(Seal, Address and Registration number)

A Study on Foreign Contribution (Regulation) Act, 2010

FORM FC -9

[See rule 18]

The Secretary to the Government of India,
Ministry of Home Affairs,
FCRA Wing / Foreigners Division,
"Jaisalmer House",
26, Mansingh Road,
New Delhi – 110 011.

Subject: Intimation to the Central Government of Receipt of Foreign Contribution received by a candidate for Election [section 21 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010):

(Every Candidate for election shall intimate to the Central Government, within 45 days from the date on which he is duly nominated as a candidate for election, the details of the foreign contribution received by him, any time within 180 days immediately preceding the date of his nomination, in Form FC-9)

1. Name in full (*in block letters*):
2. Date of birth:
3. Name of father:
4. Present Address:
5. Permanent Address:
6. Date on which duly nominated as a candidate for election to a Legislature and particulars of Legislature: (*See section 21 of the Act*)
7. Full particulars of foreign contribution received within 180 days immediately preceding the date on which duly nominated as a candidate for election:
8. Nature (cash and/or kind) and full details of foreign contribution including value:
9. The mode, channel of receipt:
10. Purpose for which contribution was received:
11. Particulars of the foreign source from which contribution received:
 - (a) If an individual, his personal particulars including name, present address, permanent address, nationality, profession:

FCRA Forms

- (b) If an Organisation / Institution / Association / Trust / Foundation / Trade Union etc. full particulars thereof including:
 - (i) Full name and complete address.
 - (ii) Address of Head Office/Principal Office.
 - (iii) Aims and objects.
 - (iv) Particulars of important office bearers.
- 12. Nature of connection/dealings with the foreign source(s):
- 13. Details of actual utilisation of the contribution:
 - (a) Specific purposes for which utilised.
 - (b) Full description of the manner in which utilised.
- 14. Any other information of significance which the applicant may like to furnish:

DECLARATION

I hereby declare that the above particulars furnished by me are true and correct.

Place:

Date:

Signature of the candidate
(Name, *in block letters*)

CERTIFICATE

Certified that the above declaration was signed by Smt/Shri/Ku.....
S/o.....resident ofa candidate for
election to (*).....before me, on this date day of
month & year.

Signature (Name, *in block letters*)

Designation

(to be signed by a Group A Gazetted Officer** or 1st Class Magistrate).

* Here specify 'Legislature' as defined in section 21 of the Act. ** of the State/Central Government.

A Study on Foreign Contribution (Regulation) Act, 2010

FORM FC –10
[See rule 24 (1)]

The Secretary to the Government of India,
Ministry of Home Affairs,
FCRA Wing / Foreigners Division,
"Jaisalmer House",
26, Mansingh Road,
New Delhi – 110 011.

Subject: Application for seeking permission for transfer of foreign contribution to other registered/unregistered persons:

Sir,

I _____, on behalf of the Association named hereafter apply for seeking permission of the Central Government under section.....of Foreign Contribution (Regulation) Act, 2010 (42 of 2010) for transfer of foreign contribution to other registered/un-registered persons, as per details given below:

1. Details of the applicant/ transferor association:
 - (a) Name:
 - (b) Address:
Town/City:
District:
State:
Pin Code:
 - (c) Telephone No. of the Association (with STD code):
 - (d) Telephone no. (with STD code)/Mobile no.~of the Chief Functionary:
 - (e) e-Mail address:
 - (f) Registration certificate/Prior permission order details:
 - (i) Registration No. (Under FCRA):
 - (ii) If not registered under FCRA, prior permission order no. with date: (Certified copy of the *registration certificate/prior permission order to be attached*)
2. Details of the recipient /transferee association:
 - (a) Name:

FCRA Forms

- (b) Address:
Town/City:
District:
State:
Pin Code:
 - (c) Telephone No. of the Association (with STD code):
 - (d) Telephone no. (with STD code)/Mobile no.~of the Chief Functionary:
 - (e) e-Mail address
 - (f) Whether registered under the Foreign Contribution Regulation Act, 1976 (49 of 1976) : yes/no
 - (a) if yes, details thereof (registration no., date of registration):
(certified copy of the registration certificate to be attached)
 - (b) If no, furnish the details if it is registered under the Indian Trust Act 1882 (2 of 1882) or the Societies Registration Act 1860 (21 of 1860) or the Companies Act 1956 (1 of 1956).
 - (a) Registration number:
 - (b) Place of registration:
 - (c) Date of registration: *(certified copy of the registration certificate to be attached).*
 - (d) PAN No., if any:
 - 3. Amount of Foreign contribution to be transferred:
 - 4. Mode of the proposed transfer of foreign contribution (cash/cheque/ electronic etc):
 - 5. Bank details and account no., in which FC is proposed to be transferred:
 - (I) Account No. :
 - (II) Name of the Bank:
 - (III) Address:
 - 6. Any other information which the Association may like to furnish:
- I hereby declare that the information furnished above is true and correct.

Signature of the Chief Functionary
[Name of the Chief Functionary *in block letters*]
(Seal of the Association)

A Study on Foreign Contribution (Regulation) Act, 2010

Application form for change of Bank Account/Bank

[Application form for seeking change in the designated Bank Account/Bank of the association granted registration/prior permission under FCRA.

No..... Date.....

To

The Secretary to the Government of India
Ministry of Home Affairs, NDCC-II Building,
Jai Singh Road, Off Parliament Street, New Delhi-110 0 01

Subject : Application for change in the designated Bank/ Bank Account of association registered/ granted prior permission under Foreign Contribution (Regulation) Act.

Sir,

I _____ on behalf of the Association, whose details are given below, apply for change in the designated Bank Account/Bank of association registered/granted prior permission under the Foreign Contribution (Regulation) Act,1976/Foreign Contribution (Regulation) Act, 2010.

1. Name of the association and its complete postal address:

Name :

Address :

Town/City :

District :

State :

PIN Code :

Phone/Fax No.:

e-Mail :

2. FCRA Registration No./Prior Permission letter No.....dated..... (Copy of the registration/prior permission letter to be enclosed)

FCRA Forms

3. Nature of Association:

(a) religious (b) cultural (c) economic (d) educational (e) social

Note : If religious association, state whether – (a) Hindu (b) Sikh (c) Muslim (d) Christian (e) Buddhist (f) Others.

4. Name and addresses of the members of the Executive Committee/Governing Council etc. of the association, including the Chief functionary in the following manner:

Sl. No.	Name	Name of Father/Husband	Nationality	Occupation	Office held in the association	Relationship with office bearers, if any	Address
1	2	3	4	5	6	7	8

5. Please indicate date of submission of Last three Annual FC-3 returns.

	Year	Date
1		
2		
3		

6. Please indicate whether the Association is functioning as editor, owner, printer or publisher of a Publication required to be registered as 'newspaper' under the Press and Registration of Book Act, 1867. If so, the details thereof.

7. Please indicate whether the association has close links with another association, or its unit or branch which has been-

(a) refused registration under the Act;

(b) Prohibited from accepting foreign contribution.

A Study on Foreign Contribution (Regulation) Act, 2010

8. Please indicate- Existing Proposed
- (i) The name and address of the branch of the bank through which foreign contribution is to be received.
- (ii) The account number in the said branch of the Bank.
9. Justification for proposed change

Yours faithfully,

Signature of the Applicant
(Name of the Chief Functionary or authorised office Bearer)
(with the seal of the association)

Declaration and Undertaking

I hereby affirm that the information furnished above is correct.

Place:

Date:

Signature of the Applicant
(Name of the Chief Functionary or authorised office Bearer)
(with the seal of the association)

Instructions:

1. Fill in all the details carefully and correctly.
2. Strike off columns which are not applicable.
3. Following documents are to be attached with the application:
 - (i) Resolution of Governing Body for proposed change of Bank/Bank Account.
 - (ii) Copy of letter granting Registration Number;
 - (iii) Certificate from the Bank for the Account to be opened/opened exclusively for FCRA purposes.

FCRA Forms

Application form for change of name/address

[Application form for seeking change in the name/address of the association granted registration/prior permission under FCRA.

No..... Date.....

To

The Secretary to the Government of India
Ministry of Home Affairs, NDCC-II Building,
Jai Singh Road, OFF Parliament Street, New Delhi-110 001

Subject : Application for change in the name/address of association registered/granted prior permission under Foreign Contribution (Regulation) Act.

Sir,

I _____ on behalf of the Association, whose details are given below, apply for change in the name/address of association registered/granted prior permission under the Foreign Contribution (Regulation) Act, 1976/ Foreign Contribution (Regulation) Act, 2010.

1. Name of the association and its complete postal address:

Existing Proposed

Name :

Address :

Town/City :

District :

State :

PIN Code :

Phone/Fax No.:

e-Mail :

2. FCRA Registration No./Prior Permission letter No.....
dated..... (copy of the registration/prior permission letter to be enclosed)

A Study on Foreign Contribution (Regulation) Act, 2010

3. Nature of Association:

(a) religious (b) cultural (c) economic (d) educational (e) social

Note : If religious association, state whether – (a) Hindu (b) Sikh (c) Muslim (d) Christian (e) Buddhist (f) Others.

4. Name and addresses of the members of the Executive Committee/Governing Council etc. of the association, including the Chief functionary in the following manner:

Sl. No.	Name	Name of Father/Husband	Nationality	Occupation	Office held in the association	Relationship with office bearers, if any	Address
1	2	3	4	5	6	7	8

5. Please indicate date of submission of Annual FC-3 return of last 3 years

	Year	Date
1		
2		
3		

6. Please indicate whether the Association is functioning as editor, owner, printer or publisher of a Publication required to be registered as 'newspaper' under the Press and Registration of Book Act, 1867. If so, the details thereof.

7. Please indicate whether the association has close links with another association, or its unit or branch which has been-

(a) refused registration under the Act;

(b) prohibited from accepting foreign contribution.

FCRA Forms

8. Please indicate-
- (i) The name and address of the branch of the Bank through which foreign contribution is received.
 - (ii) Please specify the designated Bank account number in the said branch of the bank.
9. Justification for proposed change

Yours faithfully,

Signature of the Applicant
(Name of the Chief Functionary or authorised office bearer)
(with the seal of the association)

Declaration and Undertaking

I hereby affirm that the information furnished above is correct.

Place:

Date:

Signature of the Applicant
(Name of the Chief Functionary or authorised office bearer)
(with the seal of the association)

Instructions:

1. Fill in all the details carefully and correctly.
2. Strike off columns which are not applicable.
3. Following documents are to be attached with the application:-
 - (i) Resolution of Governing Body for proposed change of name/address;
 - (ii) Copy of letter granting Registration Number;
 - (iii) Copy of revised certificate of Registration under Societies Act/Trust Act/Companies Act, whichever is applicable, in the case of change of name request.

Annexure 4

Frequently Asked Questions

Q.1. What is foreign contribution?

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

- 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 rules made by it in this behalf;
- of any currency, whether Indian or foreign;
- of any security as defined in clause (h) of section 2 of the securities Contracts(Regulation) Act, 1956 and includes any foreign security as defined in clause (o) of Section 2 of the Foreign Exchange Management Act, 1999.

Explanation 1 – A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution with the meaning of this clause.

Explanation 2 – The interest accrued on the foreign contribution deposited in any bank referred to in sub-section (1) of Section 17 or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 3 – Any amount received, by a person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent or a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause.

Frequently Asked Questions

* In terms of FCRA, 2010 "person" includes – (i) an individual; (ii) a Hindu undivided family; (iii) an association; and (iv) a company registered under section 25 of the Companies Act, 1956.

**The sum, as stated at (i) above, has been specified as Rs. 25,000/- vide the Foreign Contribution (Regulation) Amendment Rules, 2012 [G.S.R. 292 (E) dated 12th April, 2012].

Q.2 Whether earnings from foreign client(s) by a person in lieu of goods sold or services rendered by it is treated as foreign contribution?

Ans. No. As clarified at Explanation 3 above, foreign contribution excludes earnings from foreign client(s) by a person in lieu of goods sold or services rendered by it as this is a transaction of commercial nature.

Q.3 Section 2(c)(i) of repealed FCRA, 1976 inter alia defined foreign contribution as the donation, delivery or transfer made by any foreign source of any 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. What limit has been prescribed in FCRA, 2010 in respect of such articles?

Ans. The limit has been specified as Rs. 25000/- through insertion of the following Rule 6A in FCRR, 2011 vide the Foreign Contribution (Regulation) Amendment Rules, 2012 [G.S.R. 292 (E) dated 12th April, 2012]:

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

Q.4 What is a foreign source?

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

- the Government of any foreign country or territory and any agency of such Government;
- 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;

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- a foreign company;
- a corporation, not being a foreign company, incorporated in a foreign country or territory;
- a multi-national corporation referred to in sub-clause (iv) of clause (g);
- 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;
- a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;
- a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;
- a society, club or other association or individuals formed or registered outside India;
- a citizen of a foreign country;"

List of agencies of the United Nations, World Bank and some other International agencies/multilateral organisations, which are not treated as 'foreign source', are available on the website <http://mha.nic.in/fcra/intro/FCRA-exemptedAgenciesUN.pdf>

Q.5 Who can receive foreign contribution?

Ans. A 'person', as defined in Section 2(1)(m) with the exclusion of those mentioned in Section 3 of FCRA, 2010, 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

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activities which are permissible and may be carried out by associations of different nature are available on the website — http://mha.nic.in/fcra/intro/permitted_programs.htm

Q.6 Who cannot receive foreign contribution?

Ans. As defined in Section 3(1) of FCRA, 2010, foreign contribution cannot be accepted by any

- a candidate for election
- correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;
- Judge, government servant or employee of any Corporation or any other body controlled or owned by the Government;
- member of any legislature;
- political party or office bearer thereof;
- organization of a political nature as may be specified under sub-section (1) of Section 5 by the Central Government.
- association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-section (i) of Section 2 of the Information Technology Act, 2000 or any other mode of mass communication;
- correspondent or columnist, cartoonist, editor, owner of the association or company referred to in clause (g). Explanation – In clause (c) and section 6, the expression “corporation” means a corporation owned or controlled by the Government and includes a Government company as defined in section 617 of the Companies Act, 1956.
- individuals or associations who have been prohibited from receiving foreign contribution.

Q.7 Are there any banned organisations from whom foreign contribution should not be accepted?

Ans. Yes. 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

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http://mha.nic.in/uniquepage.asp?Id_Pk=292 . In particular, the list of foreign entities/individuals can be seen in <http://www.un.org/sc/committees/1267/AQList.htm>

Q.8 Whether donation given by Non-Resident Indians (NRIs) is treated as 'foreign contribution'?

Ans. Contributions made by a citizen of India living in another country (i.e., Non-Resident Indian), from his personal savings, through the normal banking channels, is not treated as foreign contribution. However, while accepting any donations from such NRI, it is advisable to obtain his passport details to ascertain that he/she is an Indian passport holder.

Q.9 Whether donation given by an individual of Indian origin and having foreign nationality is treated as 'foreign contribution'?

Ans. Yes. Donation from an Indian who has acquired foreign citizenship is treated as foreign contribution. This will also apply to PIO card holders and to Overseas Citizens of India. However, this will not apply to 'Non-resident Indians', who still hold Indian citizenship.

Q.10 Whether foreign remittances received from a relative are to be treated as foreign contribution as per FCRA, 2010?

Ans. The position in this regard as given in Section 4(e) of FCRA, 2010 and Rule 6 of FCRR, 2011 are as under: Subject to the provisions of section 10 of the FCRA, 2010, nothing contained in section 3 of the Act shall apply to the acceptance, by any person specified in that section, of any foreign contribution where such contribution is accepted by him from his relative. However, in terms of Rule 6 of FCRR, 2011, any person receiving foreign contribution in excess of one lakh rupees or equivalent thereto in a financial year from any of his relatives shall inform the Central Government in Form FC-1 within thirty days from the date of receipt of such contribution. This form is available on the website <http://mha.nic.in/fcra/forms/fc-1.pdf>

Q.11 Whether individuals not covered under Section 3 or a HUF can accept foreign contribution freely for the purposes listed in section 4 of FCRA, 2010?

Ans. Yes. Since, subject to the provisions of Section 10, even the persons specified under section 3, i.e., persons not permitted to accept foreign contribution, are allowed to receive foreign contribution for the purposes listed in section 4, it is obvious that Individuals in general and a HUF are

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permitted to accept foreign contribution without permission for the purposes listed in section 4. However, it should be borne in mind that the monetary limit for acceptance of foreign contribution in the form of any article given as gift to a person for his personal use has been specified as Rs. 25,000/ vide FCR Amendment Rules, 2012.

Q.12 Can the fee paid by the foreign delegates/participants attending/participating in a conference/seminar etc. be termed as foreign contribution and thus require permission from FCRA?

Ans. "Delegate/participation Fees" paid in foreign currency by foreign delegates/participants for participation in a conference/seminar and which is utilized for the purpose of meeting the expenditure of hosting the conference/seminar is not treated as foreign contribution and as such no permission under FCRA is required.

Q.13 Whether a Company incorporated in India under the Companies Act, 1956 having its operations in 2 or more countries is to be treated as a MNC/foreign source under FCRA, 2010?

Ans. No. However, as defined under section 2(j)(vi), a company within the meaning of the Companies Act, 1956 having more than one-half of the nominal value of its share capital held, either singly or in the aggregate, by one or more of the following will be treated as a "foreign source":

- (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"

Q.14 Can foreign contribution be received in rupees?

Ans. 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.15 Will interest or any other income earned from foreign contribution be considered foreign contribution?

Ans. Yes.

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Q.16 Whether interest or any other income earned out of foreign contributions be shown as fresh foreign contribution receipt during that year or not?

Ans. Yes. The interest or any other income earned out of such deposit should be shown as second / subsequent foreign contribution receipt in the annual return during the year in which it is earned.

Q.17 Can NGOs use the foreign contributions for investment in Mutual Funds and other speculative investments?

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

1. (a) any activity or investment that has an element of risk of appreciation or depreciation of the original investment, linked to marked 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 not directly linked to the declared aims and objectives of the organization or association.
2. A debt-based secure investment shall not be treated as speculative investment.
3. Every association shall maintain a separate register of investments.
4. Every register of investments maintained under sub-rule (3) shall be submitted for audit. In view of the above, secure investments and fixed deposits in any bank or Government approved financial institution which ensures a fixed return will not be treated as speculative investment.

Q.18 Can capital assets purchased with the help of foreign contributions be acquired in the name of the office bearers of the association?

Ans. No. Every asset purchased with foreign contribution should be acquired and possessed in the name of the association since an association has a separate legal entity distinct from its members.

Q.19 Can an association invest the foreign contribution received by it in profitable ventures and proceeds can be utilized for welfare activities?

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Ans. No. The association should utilize such funds for the welfare purpose or 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.20 Can foreign contribution be received in and utilised from multiple Bank Accounts?

Ans. No fund other than foreign contribution can be deposited in the exclusive single FC account of a Bank, as mentioned in the order for registration or prior permission granted by MHA, to be separately maintained by the associations. However, one or more accounts in one or more banks may be opened for utilising the foreign contribution after it has been received provided that no funds other than that foreign contribution shall be received or deposited in such account or accounts and in all such cases, intimation on plain paper shall have to be furnished to MHA within 15 days of the opening of the account.

Q.21 Whether inter-account funds transfer shall be allowed within the multiple accounts that an Association is now permitted to open for the purpose of utilizing the foreign contributions and the level of diligence required on the part of the Banks in this regard?.

Ans. Transfer of funds is allowed from the designated FC account of an Association to the multiple account or accounts opened for its utilization. However, no funds other than the amount received in the designated FC account shall be received or deposited in such multiple account or accounts. Inter-account transfer of funds between the multiple accounts is not permissible. As such, the banks should apply full diligence to keep track of the transfers.

Q.22 Can foreign contribution be mixed with local receipts?

Ans. No. Foreign contribution cannot be deposited or utilised from the bank account being used for domestic funds.

Q.23 Whether expenses like 'interest paid to bank', 'bank charges', 'hospitality' etc. can be included in 'administrative expenses'?

Ans. No. The definition of as 'administrative expenses', as given in Rule 5 of FCRR, 2011 is explicit in this regard.

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Q.24 Is there any restriction on transfer of funds to other organisations?

Ans. Yes. Section 7 of FCRA, 2010 states:-

“No person who –

(a) is registered and granted a certificate or has obtained prior permission under this Act; and (b) receives any foreign contribution,

shall transfer such foreign contribution to any other person unless such other person is also registered and had been granted the certificate or obtained the prior permission under this Act:

Provided that such person may transfer, with the prior approval of the Central Government, a part of such foreign contribution to any other person who has not been granted a certificate or obtained permission under this Act in accordance with the rules made by the Central Government.”

Rule 24 of FCRR, 2011, as amended vide the Foreign Contribution (Regulation) Amendment Rules, 2012 [G.S.R. 292 (E) dated 12th April, 2012] prescribes the procedure for transferring foreign contribution as under:

"24. Procedure for transferring foreign contribution to any unregistered person. —

(1) A person who has been granted a certificate of registration or prior permission under section 11 and intends to transfer part of the foreign contribution received by him to a person who has not been granted a certificate of registration or prior permission under the Act, may transfer such foreign contribution to an extent not exceeding ten per cent of the total value thereof and for this purpose, make an application to the Central Government in Form FC-10. <http://mha.nic.in/fcra/forms/fc-10.pdf>

(2) Every application made under sub-rule (1) shall be accompanied by a declaration to the effect that-

(a) the amount proposed to be transferred during the financial year is less than ten per cent of the total value of the foreign contribution received by him during the financial year;

(b) the transferor shall not transfer any amount of foreign contribution until the Central Government approves such transfer.

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(3) A person who has been granted a certificate of registration or prior permission under section 11 shall not be required to seek the prior approval of the Central Government for transferring the foreign contribution received by him to another person who has been granted a certificate of registration or prior permission under the Act provided that the recipient has not been proceeded against under any of the provisions of the Act.

(4) Both the transferor and the recipient shall be responsible for ensuring proper utilisation of the foreign contribution so transferred and such transfer of foreign contribution shall be reflected in the returns in Form FC-6 to be submitted by both the transferor and the recipient.".
<http://mha.nic.in/fcra/forms/fc-6.pdf>

Q.25 How would an organisation that is registered or has obtained prior permission under FCRA and intends to transfer a part of the foreign contribution received by it to another organisation would know whether the recipient organisation has been proceeded against under FCRA?

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

Q.26 What are the eligibility criteria for grant of registration?

Ans. For grant of registration under FCRA, 2010, 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 etc;
- (ii) normally be in existence for at least three years and has undertaken reasonable activity in its chosen field for the benefit of the society for which the foreign contribution is proposed to be utilised. For this purpose, the association should have spent at least Rs.10,00,000/- over the last three years on its activities, excluding administrative expenditure. Statements of Income & Expenditure, duly audited by Chartered Accountant, for last three years are to be submitted to substantiate that it meets the financial parameter.

Q.27 What are the eligibility criteria for grant of prior permission?

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Ans. An organisation in formative stage is not eligible for registration. Such organisation may apply for grant of prior permission under FCRA, 2010. Prior permission is granted for receipt of a specific amount from a 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 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) submit copy of a reasonable project for the benefit of the society for which the foreign contribution is proposed to be utilised.

Q.28 Whether the amount of foreign contribution for which prior permission has been granted can be received by an association in installments?

Ans. There is no bar on receiving such foreign contribution in installments. However, the aggregate amount should not exceed the specified amount for which prior permission has been granted. The association shall have to submit the mandatory return in FC-6 form for receipt and utilisation of the foreign contribution on a yearly basis, till the amount of foreign contribution is fully utilised. Even if no transaction takes place during a year, a NIL return should be submitted.

Q.29 Whether an association should open an exclusive FC A/c before submission of an application for registration or prior permission?

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

Q.30 Whether Banks should allow an association which is applying for registration or prior permission under FCRA, 2010 to open an exclusive FC A/c with INR?

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Ans. Yes. However, the Banks should not allow any foreign inward remittance in that A/c till such time the association is granted registration or prior permission, as the case may be.

Q.31 Whether Banks should credit any foreign contribution received by an association to its account even if the association does not have registration/prior permission from MHA and subsequent reporting can be made by Banks to MHA?

Ans. Rule 16 (1) of FCRR, 2011 states that every bank shall send a report to the Central Govt. within 30 days of receipt of foreign contribution by any person who is required to obtain a certificate a registration or prior permission under the Act, but who was not granted such certificate or prior permission on the date of receipt of such remittance. Further, Rule 16(3) prescribes that the banks shall send a report to the Central Govt. within 30 days from the date of such last transaction in respect of receipt of any foreign contribution in excess of Rs.1 Crore or equivalent thereto in a single transaction or in transactions within a duration of 30 days, by any person whether registered or not under the Act.

In view of the above, it follows that bank may credit any foreign contribution received by an Association without registration or prior permission. However, while the banks can prevent such a situation in cases where a cheque is presented by the recipient of foreign contribution for deposit in its savings/current account, it may not always be possible when the foreign remittance is through wire transfer. Therefore, in all such cases, besides sending a report to MHA as per Rule, the bank should not allow any withdrawal or transfer or utilisation of the FC amount till such time the Association produces documentary evidence from MHA permitting it to do so.

Q.32 Should the Banks report transactions pertaining to foreign contributions which are returned back to the remitter by the beneficiary Association for want of registration/prior permission from MHA?

Ans. It is not necessary for the bank to report such foreign contribution that is returned to the donor without crediting in the account of the recipient.

Q.33 Whether reporting by Banks is also applicable for transfer of funds between FCRA accounts of two or more associations?

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

Q.34 Whether the reference period prescribed in Rule 16(3) of FCRR, 2011 for reporting by Banks in respect of transactions during 30-days period should mean calendar month?

Ans. For the purpose of reporting to MHA, 30 days period may be construed as a calendar month.

Q.35 What are the conditions to be met for the grant of registration and prior permission?

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

(a) The 'person' making an application for registration or grant of prior permission-

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

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- (b) the acceptance of foreign contribution by the association/ person is not likely to affect prejudicially –
 - (i) the sovereignty and integrity of India; or
 - (ii) the security, strategic, scientific or economic interest of the State; or
 - (iii) the public interest; or
 - (iv) freedom or fairness of election to any Legislature; or
 - (v) friendly relation with any foreign State; or
 - (vi) harmony between religious, racial, social, linguistic, regional groups, castes or communities.
- (c) the acceptance of foreign contribution-
 - (i) shall not lead to incitement of an offence;
 - (ii) shall not endanger the life or physical safety of any person.

Q.36 Can a private limited company or a partnership firm get registration or prior permission under FCRA, 2010?

Ans. As per the definition of the “person” in the FC(R)Act, 2010 which includes an “association” which in turn is defined as an association of individuals, whether incorporated or not, having an office in India and includes a society, whether registered under the Societies Registration Act, 1860, or not, and any other organisation, by whatever name called, a private limited company too may seek prior permission/registration for receiving foreign funds in case they wish to do some charitable work at some point of time.

Q. 37 Whether an individual or a Hindu Undivided Family (HUF) can be given registration or prior permission to accept foreign contribution in terms of section 11 of FCRA, 2010?

Ans. The definition of the ‘person’ in the Foreign Contribution (Regulation) Act, 2010 includes any individual and ‘Hindu Undivided Family’ among others. As such an Individual or an HUF is also eligible to apply for prior permission to accept foreign contribution.

Q.38 Whether infusion of foreign share capital in a company registered under section 25 of the Companies Act, 1956 attracts the provisions of FCRA, 2010?

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Ans. Yes, infusion of foreign share capital in a company registered under section 25 of the Companies Act, 1956 is treated as foreign contribution.

Q.39 Is recommendation of District Collector or Deputy Commissioner or District Magistrate mandatory for submission of an application for registration or prior permission?

Ans. No. Submission of verification certificate from the District Collector or Deputy Commissioner or District Magistrate is not mandatory. However, in certain cases, if the amount of foreign contribution for which prior permission is being sought is less than Rs.50 lakh, submission of such a certificate assists in speedy clearance of the application.

Q.40 If an application for registration or prior permission is submitted online by an association, does it need to submit that application in physical form also?

Ans. Yes. When an application is filed online, a printout of the same is to be taken after submission and thereafter, it should be submitted, duly signed by the Chief Functionary of the Association, along with the requisite documents to the Ministry of Home Affairs. The prescribed forms for submission of application for grant of Registration and Prior Permission are FC-3 and FC-4 respectively. The forms are available at MHA website <http://mha.nic.in/fcra/forms/fc-3.pdf> and <http://mha.nic.in/fcra/forms/fc-4.pdf> respectively.

Q.41 What are the documents to be enclosed with the application?

Ans. (a) Following documents should be enclosed with the application for grant of Registration:

- (i) Hard copy of the online application, duly signed by the Chief Functionary of the association;
- (ii) Certified copy of registration certificate or Trust deed etc., as the case may be;
- (iii) Activity Report indicating details of activities during the last three years;
- (iv) Copies of audited statement of accounts for the past three years (Assets and Liabilities, Receipt and Payment, Income and Expenditure);

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- (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) Fee of Rs. 2000/- by means of demand draft or banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.
- (b) Following documents should be enclosed with the application for grant of Prior Permission:
- (i) Hard copy of the online application, duly signed by the Chief Functionary of the association;
 - (ii) Certified copy of registration certificate or Trust deed etc., as the case may be;
 - (iii) Commitment letter from foreign donor specifying the amount of foreign contribution and the purpose for which it is proposed to be given;
 - (iv) Copy of the project report for which foreign contribution is solicited/being offered and is proposed to be utilised;
 - (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) Fee of Rs. 1000/- by means of demand draft or banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi. Note: The hard copy of the on-line application along with all the documents mentioned above must reach the Ministry of Home Affairs, Foreigners Division (FCRA Wing), NDCC-II Building, Jai Singh Road, New Delhi – 110 001 within thirty days of the submission of the on-line application, failing which the request of the person for grant of registration or prior permission, as the case may be, shall be deemed to have ceased.

Q.42 How to find the status of pending application for registration/prior permission. ?

Ans. Status of pending applications for grant of registration or prior permission may be checked on-line from the Ministry of Home Affairs web-

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site – http://mha.nic.in/fcraweb/fc_online.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.43 Whether foreigners can be appointed as Executive Committee members of an association seeking registration or prior permission?

Ans. Organisations having foreign nationals, other than of Indian origin, as members of their executive committees or governing bodies are generally not permitted to receive foreign contribution. Foreigners may, however, be allowed to be associated with such associations in an ex-officio capacity, representing multilateral bodies, 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 persons stature in his/her field of activity. Subject to relaxation given on a case to case basis, foreign nationals fulfilling the following conditions may be appointed as Executive Committee members, after obtaining prior approval 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.44 Whether Government servants, Judges and employees of a Government owned/controlled company/body can be on the executive committees/boards of an association?

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Ans. Yes. The legal entity of a 'person' under FCRA, 2010 is distinct from an individual person. Therefore, individuals who cannot receive foreign contribution may happen to be on the executive committees/boards of such an association.

Q.45 Whether organisations under Central/State Governments are required to obtain registration or prior permission under FCRA, 2010 for accepting foreign contribution?

Ans. In terms of Gazette Notification S.O. 1492(E) dated 01.07.2011, <http://mha.nic.in/pdfs/ExempStatBodi-010711.pdf> all statutory bodies constituted or established by or under a Central Act or State Act requiring to have their accounts compulsorily audited by the Comptroller & Auditor General of India are exempted from all the provisions of FCRA, 2010.

Q.46 What is the procedure for seeking change in the name/address of an association registered under FCRA?

Ans. 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/forms/chng_name_addr.pdf and submit the same along with the requisite documents specified therein.

Q.47 What is the procedure for change of designated FC Bank Account?

Ans. 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 along with justification for change of designated bank, name/address of the society, copy of registration under FCRA, copy of fresh resolution of the executive committee (in English or Hindi) for change of designated bank account, certificate from the proposed bank (copy of Bank Pass Book is not acceptable) that the account is being opened exclusively for FCRA, may be submitted to MHA. This form is available on website http://mha.nic.in/fcra/forms/chng_bank_acnt.pdf

Q.48 Whether intimation regarding the change of Members of the Executive Committee/Governing Council of the association is to be given to the Government?

Ans. Yes. If at any point of time, such change causes replacement of 50% or more of such Members of the Executive Committee/Governing Council of the association, intimation is to be given to MHA within thirty days of such

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change in accordance with the undertaking & declaration given by the association in its application for registration or prior permission, as the case may be. 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.

Q.49 What is the procedure for filing Annual Returns?

Ans. 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 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 31st March) within a period of nine months from the closure of the year i.e. by 31st December each year. Submission of a 'Nil' return, even if there is no receipt/utilization of foreign contribution during the year, is mandatory. The return is to be submitted, in prescribed Form FC – 6, 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/forms/fc-6.pdf> For further details, please refer to Sections 17, 18 and 19 of FCRA, 2010 and Rule 17 of FCRR, 2011.

Note: It may be noted that the annual return for the financial year 2010 – 2011 was to be filed by the 31st December, 2011 in Form FC-3, i.e., as per FCRA, 1976.

Q.50 For how many years an association which has been granted prior permission to receive foreign contribution should file the mandatory annual return?

Ans. 'Prior permission' is granted to an association to receive a specific amount of foreign contribution from a specific donor for a specific purpose. After receipt of approval from the Government, the association should submit the mandatory return in FC-6 form for receipt and utilisation of the foreign contribution on a yearly basis, till the amount of foreign contribution is fully utilised. Even if no transaction takes place during a year, a NIL return should be submitted.

Q.51 What are the offences and penalties under FCRA, 2010?

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Ans. Section 11 of the FCRA, 2010 prescribes that no person, save as otherwise provided in the Act, shall accept foreign contribution unless such person obtains a certificate of registration or prior permission of the Central Government. Therefore, acceptance of foreign contribution without obtaining registration or prior permission from the Central Government constitutes an offence under the Act and is punishable.

The provisions of FCRA, 2010 regarding offences and penalties are –

Section 33: Making of false statement, declaration or delivering false accounts:

Any person, subject to this Act, who knowingly, —

- (a) gives false intimation under sub-section (c) of section 9 or section 18; or
- (b) seeks prior permission or registration by means of fraud, false representation or concealment of material fact, shall, on conviction by a court, be liable to imprisonment for a term which may extend to three years or with fine or with both.

Section 34: Penalty for article or currency or security obtained in contravention of Section 10:

If any person, on whom any prohibitory order has been served under section 10, pays, delivers, transfers or otherwise deals with, in any manner whatsoever, any article or currency or security, whether Indian or foreign, in contravention of such prohibitory order, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying such contravention may also impose on the person convicted an additional fine equivalent to the market value of the article or the amount of the currency or security in respect of which the prohibitory order has been contravened by him or such part thereof as the court may deem fit.

Section 35: Punishment for contravention of any provision of the Act:

Whoever accepts, or assists any person, political party or organisation in accepting, any foreign contribution or any currency or security from a foreign source, in contravention of any provision of this Act or any rule or order made

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thereunder, shall be punished with imprisonment for a term which may extend to five years, or with fine, or with both.

Section 36: Powers to impose additional fine where article or currency or security is not available for confiscation:

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying a person, who, in relation to any article or currency or security, whether Indian or foreign, does or omits to do any act which act or omission would render such article or currency or security liable to confiscation under this Act, may, in the event of the conviction of such person for the act or omission aforesaid, impose on such person a fine not exceeding five times the value of the article or currency or security or one thousand rupees, whichever is more, if such article or currency or security is not available for confiscation, and the fine so imposed shall be in addition to any other fine which may be imposed on such person under this Act.

Section 37: Penalty for offences where no separate punishment has been provided:

Whoever fails to comply with any provision of this Act for which no separate penalty has been provided in this Act shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

Section 38: Prohibition of acceptance of foreign contribution:

Notwithstanding anything contained in this Act, whoever, having been convicted of any offence under section 35 or section 37, in so far as such offence relates to the acceptance or utilisation of foreign contribution, is again convicted of such offence shall not accept any foreign contribution for a period of three years from the date of the subsequent conviction.

Section 39: Offences by companies:

(1) Where an offence under this Act or any rule or order made thereunder has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this sub-section shall render such person liable to any punishment if he proves that the offence was committed without

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his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or any rule or order made thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation – for the purposes of this section,–

(a) "company" means any body corporate and includes a firm, society, trade union or other association of individuals; and

(b) "director" in relation to a firm, society, trade union or other association of individuals, means a partner in the firm or a members of the governing body of such society, trade union or other association of individuals.

Section 40: Bar on prosecution of offences under the Act:

No court shall take cognizance of any offence under this Act, except with the previous sanction of the Central Government or any officer authorised by that Government in this behalf.

Section 41: Compounding of certain offences:

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act (whether committed by an individual or association or any officer or employee thereof), not being an offence punishable with imprisonment only, may, before the institution of any prosecution, be compounded by such officers or authorities and for such sums as the Central Government may, by notification in the official gazette, specify in this behalf.

(2) Nothing in sub-section (1) shall apply to an offence committed by an individual or association or its officer or other employee within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

Explanation – For the purposes of this section, any second or subsequent offence committed after the expiry of a period of three years from the date on

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which the offence was previously compounded, shall be deemed to be a first offence.

(3) Every officer or authority referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervisions of the Central Government.

(4) Every application for the compounding of an offence shall be made to the officer or authority referred to in sub-section (1) in such form and manner along with such fee as may be prescribed.

(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(6) Every officer or authority referred to in sub-section (1), while dealing with a proposal for the compounding of an offence for a default in compliance with any provision of this Act which requires by an individual or association or its officer or other employee to obtain permission to file or register with or deliver or sent to, the Central Government or any prescribed authority any return account or other document, may, direct by order, if he or it thinks fit to do so, any individual or association or its officer or other employee to file or register with, such return, account or other document within such time as may be specified in the order.

Q.52 Which are the offences that can be compounded and what would be the penalties therefor?

Ans, In terms of Gazette Notification S.O. 1976 (E) dated 26.08.2011, <http://mha.nic.in/fcra/forms/ComOffNoti-260811.pdf> the categories of offences that can be compounded under section 41 of FCRA, 2010 and the quantum of penalty for compounding, as indicated against each of the offences, are –

Nature of offence	Quantum of penalty
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(i) Acceptance of cheque or draft towards foreign contribution by a 'person' without registration or prior permission of the Central Government even in cases where the cheque or draft has not been deposited in a Bank by the 'person'. Rs. 10,000/- or 2 per cent of the foreign contribution involved, whichever is higher.	
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(ii) Acceptance of cheque or draft by a 'person' towards foreign contribution without registration or prior permission of the Central Government and depositing the same in a Bank notwithstanding non-utilisation of the amount of the foreign contribution. Rs. 25,000/- or 3 per cent of the foreign contribution involved, whichever is higher.

(iii) Acceptance of foreign contribution by a 'person' without registration or prior permission of the Central Government and utilisation of the same notwithstanding any inquiry which revealed that the contribution received was not diverted towards any purpose other than the objectives or purpose for which the same was received, utilisation of the contribution was as per the objectives of receipt of the same and records of receipt and utilisation have been kept properly. Rs. 1,00,000/- or 5 per cent of the foreign contribution involved, whichever is higher.

(iv) Acceptance of foreign contribution in kind by a 'person' without registration or prior permission of the Central Government notwithstanding that nothing adverse was reported after inquiry. Rs. 10,000/- or 2 per cent of the foreign contribution involved, whichever is higher.

Q.53 How to apply for compounding of an offence under FCRA, 2010?

Ans. An application for the compounding of an offence under section 41 is to be made to the Secretary, Ministry of Home Affairs, New Delhi on a plain paper along with a fee of Rs.1000/- (One Thousand only) in the form of a demand draft or a banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.

Q.54 What happens after an offence is compounded?

Ans. After payment of the penalty imposed and compounding of the offence, the person may be granted registration or prior permission, as the case may be, subject to its fulfilling all parameters.

Q.55 What if the person is unwilling or unable to pay the penalty imposed?

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

Q.56 Which are the investigating agencies for investigating and prosecuting a person for violation of FCRA?

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Ans. In terms of Gazette Notification S.O. 2446 (E) dated 27.10.2011, The Central Bureau of Investigation or the investigating agencies (Crime Branch) of the State Governments, cause of action which arises in their respective States, are the designated agencies for investigating and prosecuting a person for violation of FCRA.

Q.57 Can the Government cancel the certificate of registration granted to a person under FCRA?

Ans. Yes. The conditions for cancellation of certificate, as prescribed under section 14 of FCRA, 2010 are –

14 (1) The Central Government may, if it is satisfied after making such inquiry as it may deem fit, by an order, cancel the certificate if —

- (a) the holder of the certificate has made a statement in, or in relation to, the application for the grant of registration or renewal thereof, which is incorrect or false; or
- (b) the holder of the certificate has violated any of the terms and conditions of the certificate or renewal thereof; or
- (c) in the opinion of the Central Government, it is necessary in the public interest to cancel the certificate; or
- (d) the holder of the certificate has violated any of the provisions of this Act or rules or order made thereunder.
- (e) if the holder of the certificate has not been engaged in any reasonable activity in its chosen field for the benefit of the society for two consecutive years or has become defunct.

14 (2) No order of cancellation of certificate under this section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

14 (3) Any person whose certificate has been cancelled under this section shall not be eligible for registration or grant of prior permission for a period of three years from the date of cancellation of such certificate.

Q.58 Can the Government suspend the certificate of registration granted to a person under FCRA?

Ans. The conditions for suspension of certificate, as prescribed under section 13 of FCRA, 2010 are –

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13(1) Where the Central Government, for reasons to be recorded in writing, is satisfied that pending consideration of the question of cancelling the certificate on any of the grounds mentioned in sub-section (1) of Section, 14, it is necessary so to do, it may, by order in writing, suspend the certificate for such period not exceeding one hundred and eighty days as may be specified in the order.

13(2) Every person whose certificate has been suspended shall –

- (a) not receive any foreign contribution during the period of suspension of certificate:

Provided that the Central Government, on an application made by such person, if it considers appropriate, allow receipt of any foreign contribution by such person on such terms and conditions as it may specify;

- (b) utilise, in the prescribed manner, the foreign contribution in his custody with the prior approval of the Central Government.

In terms of Rule 14 of the Foreign Contribution (Regulation) rules, 2011, the unspent amount that can be utilised in case of suspension of a certificate of registration may be as under: -

- (a) In case the certificate of registration is suspended under sub-section (1) of section 13 of the Act, up to twenty-five per cent of the unutilised 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.
- (b) The remaining seventy-five per cent of the unutilised foreign contribution shall be utilised only after revocation of suspension of the certificate of registration.

Q.59 Can an organization, whose violation under FCRA, 1976 has been condoned, apply for registration/prior permission?

Ans. 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-4 <http://mha.nic.in/fcra/forms/fc-4.pdf>. Once the PP has been granted and foreign contribution received for specific purpose has been fully/partially utilized and organisation has submitted annual FC-6 <http://mha.nic.in/fcra/forms/fc-6.pdf> returns and accounts in prescribed format

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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.60 What is the status of the applications submitted under the repealed FCRA, 1976 but have not been disposed of?

Ans. In terms of Rule 9(5) of FCRR, 2011, every application made for registration or prior permission under FCRA, 1976 but not disposed of before the date of commencement of these rules, i.e., 01.05.2011, shall be deemed to be an application for registration or prior permission, as the case may be, under FCRR, 2011 subject to the condition that the applicant furnishes the prescribed fees for such registration or prior permission, as the case may be.

Q.61 Whether the registration certificate or prior permission granted under the repealed FCRA, 1976 shall remain valid when FCRA, 2010 has come into force?

Ans. Yes. An association granted prior permission or registration under the repealed FCRA, 1976 shall be deemed to have been registered or granted prior permission, as the case may be, under FCRA, 2010. Registration granted under FCRA, 1976 shall remain valid for a period of 5 years from the 1st May, 2011, i.e., up to the 30th April, 2016.

Q.62 Whether prior permission granted under FCRA, 1976 would also remain valid for next 5 years from the 1st May, 2011, i.e., the date when FCRA, 2010 came into force?

Ans. Prior permission granted under FCRA, 1976 as also under FCRA 2010 remains valid till receipt and full utilisation of the amount of FC for which the permission was/is granted.

Q.63 Whether the certificate of registration is to be renewed and what is the procedure for such renewal?

Ans. Section 16 of FCRA, 2010 and Rule 12 of FCRR, 2011 may please be seen in this regard.

Q.64 When should an Association which has been granted registration under FCRA, 1976 should apply for renewal of registration?

Ans. In terms of Rule 12 (2) of FCRR, 2011, 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. Since registration

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granted to Associations under the repealed FCRA, 1976 shall be valid up to 30th April, 2016, such Associations should apply for renewal of their registration on or before 1st November, 2015. 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. Associations implementing an ongoing multi-year project should apply for renewal twelve months before the date of expiry of the certificate of registration.

Q.65 What is foreign hospitality?

Ans. 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.

Q.66 Who cannot accept foreign hospitality without prior approval of the Ministry of Home Affairs?

Ans. Section 6 of FCRA, 2010 prescribes that "No member of a Legislature or office bearer of a political party or Judge or Government servant or employee of any corporation or any other body owned or controlled by the Government shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government any foreign hospitality.

Provided that it shall not be necessary to obtain any such permission for an emergent medical aide needed on account of sudden illness contracted during a visit outside India, but, where such foreign hospitality has been received, the person receiving such hospitality shall give, within one month from the date of receipt of such hospitality an intimation to the Central Government as to the receipt of such hospitality, and the source from which, and the manner in which, such hospitality was received by him."

Q.67 Whether approval of the Ministry of Home Affairs is required in cases where the proposed foreign visit is being undertaken by a person in his/her personal capacity and the entire expenditure thereon is being met by the person concerned?

Ans. No. Any person belonging to any of the categories specified in Section 6 of FCRA, 2010 would require such approval only if the person concerned is seeking foreign hospitality from a foreign source.

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Q.68 How one can seek permission of the Government for receiving foreign hospitality?

Ans. Application form (Form FC-2) for this purpose is available on MHA's web-site – <http://mha.nic.in/fcra/forms/fc-2.pdf>. In terms of Rule 7 of FCRR, 2011:

- (i) Every application for acceptance of foreign hospitality shall be accompanied by an invitation letter from the host or the host country, as the case may be, and administrative clearance of the Ministry or department concerned in case of visits sponsored by a Ministry or department of the Government.
- (ii) The application for grant of permission to accept foreign hospitality must reach the appropriate authority ordinarily two weeks before the proposed date of onward journey.
- (iii) 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 sixty days of such receipt giving full details including the source, approximate value in Indian Rupees, and the purpose for which and the manner in which it was utilized.

Provided that no such intimation is required if the value of such hospitality in emergent medical aid is up to one lakh rupees or equivalent thereto

Foot Note:

For applicant who are individuals, the criteria of registration under Societies/Trust Act will not be applicable.

Annexure 5

Master Circular on Implementation of the Provisions of Foreign Contribution (Regulation) Act, 2010

RBI/2013-14/93

DBOD.AML.BC.No. 23/14.08.001/2013-14

July 1, 2013

Ashadha 10, 1935 (saka)

The Chairmen/Chief Executive Officers of
All Scheduled Commercial Banks (excluding RRBs)

Dear Sir,

Guidelines issued under Section 36(1)(a) of the Banking Regulation Act, 1949 - Implementation of the provisions of Foreign Contribution (Regulation) Act, 2010

Please refer to our [Master Circular DBOD.AML.BC No. 12/14.08.001/2012 – 13 dated July 02, 2012](#) consolidating instructions/guidelines issued to banks on Foreign Contribution (Regulation) Act, 1976 – Obligations of Banks in Regulating Receipt of Foreign Contributions by Associations / Organizations in India.

2. With the coming into force of Foreign Contribution (Regulation) Act, 2010 and Foreign Contribution (Regulation) Rules, 2011, Foreign Contribution (Regulation) Act, 1976 stands repealed.

3. This Master Circular is a consolidation of the Reserve Bank's guidelines on Foreign Contribution (Regulation) Act, 2010 and Foreign Contribution (Regulation) Rules, 2011 issued to banks up to June 30, 2013.

4. The Master Circular has been placed on RBI website

Yours faithfully,

(Prakash Chandra Sahoo)
Chief General Manager

A Study on Foreign Contribution (Regulation) Act, 2010

Master Circular on Implementation of the Provisions of Foreign Contribution (Regulation) Act, 2010

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1. General

1.1 Government of India, Ministry of Home Affairs has published a Notification S.O. 909 (E) dated the 29th April, 2011, in the Official Gazette bringing into force the Foreign Contribution (Regulation) Act, 2010 ("the Act") with effect from May 1, 2011. A Gazette Notification G.S.R. 349 (E) dated the 29th April, 2011, has also been issued notifying the Foreign Contribution (Regulation) Rules, 2011 ("the Rules") made under Section 48 of the Act. The Rules have come into force simultaneously with the Act. With the coming into force of the Act, Foreign Contribution (Regulation) Act, 1976 stands repealed. Banks are, therefore, required to ensure that the provisions of the new Act and the Rules made there under are fully complied with. Accordingly, Reserve bank, considering the public interest and on being satisfied that it was necessary so to do, in exercise of the powers conferred by Clause (a) of sub-section (1) of Section 36 of the Banking Regulation Act, 1949 (Act 10 of 1949) and of all the powers enabling it in this behalf, issued a

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guidance on Foreign Contribution (Regulation) Act, 2010 and Foreign Contribution (Regulation) Rules, 2011 , for compliance of all scheduled commercial banks (excluding Regional Rural Banks).

1.2 The salient features of the new Act are indicated below. This Master Circular is intended only to serve as a guide to the banks for carrying out their obligations under the Act and the Rules made thereunder. In case of doubt, banks should make it a point to refer to the text of the Act and the Rules, and if found necessary, proper legal advice should be taken.

2. Guidelines

2.1 Foreign Contribution (Regulation) Act, 2010 prohibits certain classes of persons from receiving 'foreign contribution'. It also restricts certain classes of persons from accepting foreign hospitality while visiting any country or territory outside India, without the prior permission of the Central Government. The Act provides that persons having definite cultural, economic, educational, religious and social programmes should get themselves registered with the Government of India before accepting any 'foreign contribution'. In case a person falling in the above category is not registered with the Central Government, it can accept foreign contribution only after obtaining prior permission of the Central Government. Further, under the Act, the Central Government is empowered to prohibit any person or organisation not specified in the Act from accepting any foreign contribution and to require any person or class of persons, not specified in it to obtain prior permission of the Central Government before accepting any foreign hospitality.

2.2 The Act casts certain obligations on banks in relation to the receipt of foreign contributions. The Act stipulates that every person who has been granted a certificate of registration/prior permission as stipulated in the Act shall receive foreign contribution in a single account and only through such branches of a bank as may be specified in his/her application. It strictly prohibits the receipt or deposit of any other funds (other than foreign contribution) in such accounts. The Act mandates that every bank or authorized person in foreign exchange shall report to specified authority, the prescribed amount of foreign remittance, source and manner in which foreign remittance was received and other particulars in such form and manner as may be prescribed. Section 18 of the Act requires every person who has been granted a certificate of registration or prior permission under the Act to intimate the Central Government on the details provided therein in the manner stipulated therein. This intimation has to be accompanied by a copy

A Study on Foreign Contribution (Regulation) Act, 2010

of the statement indicating the particulars of foreign contribution received duly certified by an officer of the bank or authorized person in foreign exchange.

2.3 Associations which were granted certificates of registration or prior permission under Section 6 of the Foreign Contribution (Regulation) Act, 1976, will continue to be eligible to receive foreign contribution under the Act and such registration shall be valid for a period of five years from the date on which the Act came into force. Any permission to accept foreign hospitality granted under Section 9 of the repealed Act would also be deemed to be the permission granted under the Act until such permission is withdrawn by the Central Government.

2.4 Reserve Bank had been issuing guidelines from time to time under the Foreign Contribution Regulation Act, 1976 advising banks, that while accepting 'foreign contribution' for onward credit to the accounts of persons, it needs to be ensured that the concerned persons/organisations are registered with the Central Government or has the prior permission to receive such foreign contribution if required by law, and that no branch other than the specified branch accepts 'foreign contribution'. Banks were also advised to forward the report of receipts of such contributions to the Central Government. Some irregularities and deviations from the prescribed procedures were noticed in the implementation of the repealed enactment. Banks and Financial Institutions are required to strictly adhere to the provisions of the new Act while dealing with the receipt of foreign contributions.

3. Salient Features of the FCRA, 2010

3.1 Introduction

As the Preamble suggests, the Foreign Contribution (Regulation) Act, 2010, is intended to consolidate the law regulating the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith. The Act extends to the whole of India, to its citizens outside India and also to associate branches or subsidiaries outside India, of companies or body corporate, registered or incorporated in India.

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3.2 Prohibition on Acceptance of Foreign Contribution

The Act stipulates that certain persons are totally barred from accepting any foreign contribution. The term 'foreign contribution' is defined in Clause (h) of Section 2 of the Act to mean the donation, delivery or transfer made by a foreign source of any article (not being an article of gift for personal use, the market value of which is not more than the specified amount), currency (whether Indian or foreign) or any security. The following are the persons prohibited from accepting foreign contribution:

- (a) Candidate for election;
- (b) Correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;
- (c) Judge, government servant or employee of any entity controlled or owned by the Government;
- (d) Member of any Legislature;
- (e) Political party or office bearers thereof;
- (f) Organisations of a political nature as may be specified;
- (g) Associations or companies engaged in the production or broadcast of audio news or audiovisual news or current affairs programmes through any electronic mode or form or any other mode of mass communication;
- (h) Correspondent or columnist, cartoonist, editor, owner of the association or company referred to in (g) above.

The Act empowers the Central Government to specify organizations as organizations of political nature by publication in the Official Gazette. Foreign contribution can, however, be accepted by the above-mentioned persons in the following specific cases:

- (a) by way of salary, wages or other remuneration due to him or to any group of persons working under him, from any foreign source or by way of payment in the ordinary course of business transacted in India by such foreign source; or
- (b) by way of payment, in the course of international trade or commerce, or in the ordinary course of business transacted by him outside India; or

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- (c) as an agent of a foreign source in relation to any transaction made by such foreign source with the Central Government or State Government; or
- (d) by way of a gift or presentation made to him as a member of any Indian delegation, provided that such gift or present was accepted in accordance with the rules made by the Central Government with regard to the acceptance or retention of such gift or presentation; or
- (e) from his relative; or
- (f) by way of remittance received, in the ordinary course of business through any official channel, post office, or any authorised person in foreign exchange under the Foreign Exchange Management Act, 1999; or
- (g) by way of any scholarship, stipend or any payment of like nature.

For appreciating the scope of the term 'foreign contribution', it is necessary to understand the meaning assigned by the Act to the term 'foreign source'. This term is given an inclusive definition, with a very wide coverage. Generally, it covers foreign governments and its agencies, any international agencies (other than certain specified agencies such as United Nations, World Bank, etc.), foreign citizens, foreign companies and foreign corporations, entities such as trade unions, trusts, societies, clubs, etc. formed or registered outside India.

3.3 Restrictions on Acceptance of Foreign Hospitality

The Act imposes restrictions on acceptance of foreign hospitality by certain specified persons. It mandates that no member of a Legislature or office-bearer of a political party or Judge or Government servant or employee of any corporation or any other body owned or controlled by the Government shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality. However, such permission would not be necessary for an emergent medical aid needed on account of sudden illness contracted during a visit outside India. The term 'foreign hospitality' is defined to mean 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 boarding, lodging, transport or medical treatment.

3.4 Apart from this, the Central Government is empowered to prohibit any person or organisation not specified in the Act from accepting any foreign

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contribution and to require any person or class of persons, not specified in the Act to obtain prior permission of the Central Government before accepting any foreign hospitality.

3.5 Registration for Acceptance of Foreign Contribution

Section 11 of the Act mandates that except as otherwise provided in the Act, no person having a definite cultural, economic, educational, religious or social program shall accept foreign contribution, unless such person obtains a certificate of registration from the Central Government. In case a person falling in the above category is not registered with the Central Government, it can accept foreign contribution only after obtaining prior permission of the Central Government. The Central Government can, by Notification in the Official Gazette, specify the person or class of persons who shall obtain its prior permission before accepting the foreign contribution, the areas in which such contribution shall be accepted, the purpose for which foreign contribution shall be utilised and the sources from which foreign contribution shall be accepted. The Central Government is also authorised to suspend or cancel the registration so granted. Every person who has been granted a certificate under Section 12 shall have such certificate renewed within six months before the expiry of the period of the certificate.

3.6 Prohibitions and Restrictions on Receipt, Transfer, Utilization etc. of Foreign Contribution

3.6.1 The Act imposes a prohibition, on persons registered and granted certificate or has obtained prior permission under the Act, from transferring such contribution to any other person, unless such other person is also registered and had been granted a certificate or obtained the prior permission under the Act. Certain restrictions have been imposed on the utilisation of the foreign contribution received and the Act mandates that the foreign contribution shall be utilised only for the purposes for which contribution was received. No foreign contribution or any income arising out of it can be used for speculative purposes. Use of foreign contribution for defraying administrative expenses has been restricted by the Act.

3.6.2 The Act empowers the Central Government to prohibit any person or organisation not specified in Section 3 from accepting any foreign contribution and also to require any person or class of persons not specified in Section 6 to obtain prior permission of the Central Government before accepting any foreign hospitality. Where the Central Government is satisfied, after making such inquiry as it may deem fit, that any person has in his

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custody or control any article or currency or security, whether Indian or foreign, which has been accepted by such person in contravention of any of the provisions of the Act, it may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing with, in any manner whatsoever, such article or currency or security except in accordance with the written orders of the Central Government.

3.7 Foreign Contribution to be Received through a Scheduled Bank

Section 17 is of special importance to bankers. It states that every person who has been granted a certificate or given prior permission under Section 12 shall receive foreign contribution in a single account only through such one of the branches of a bank as he may specify in his application for grant of certificate. Such person can open one or more accounts in one or more banks for utilising the foreign contribution received by him. However, no funds other than foreign contribution shall be received or deposited in such account or accounts. The Act makes it mandatory for every bank or authorised person in foreign exchange to report to such specified authority (a) the prescribed amount of foreign remittance (b) the source and manner in which the foreign remittance was received and (c) other particulars, in such form and manner as may be prescribed.

Every person who has been granted a certificate or given prior approval under the Act has to give, within such time and in such manner as may be prescribed, an intimation to the Central Government, and such other authority as may be specified by the Central Government, as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received, and the purposes for which, and the manner in which such foreign contribution was utilised by him. Further, every person receiving foreign contribution has to submit a copy of a statement indicating therein the particulars of foreign contribution received, duly certified by officer of the bank or authorised person in foreign exchange, and furnish the same to the Central Government.

3.8 Maintenance of Accounts and Disposal of Assets

Section 19 of the Act stipulates that every person who has been granted a certificate or given prior approval as above has to maintain accounts of the foreign contribution received and utilized in the prescribed manner. Where any person who was permitted to accept foreign contribution under the Act ceases to exist or has become defunct, all the assets of such person shall be

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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.

3.9 Powers of Inspections and Seizure

The Act empowers the Central Government to authorize inspection of accounts or records for verifying contravention of the provisions of the Act. It also provides for seizure of accounts and records and also articles or currency or security received in contravention of the provisions of the Act.

3.10 Miscellaneous Issues

The Act describes certain offences and the punishment/penalties for violation of its provisions. Section 37 of the Act provides that whoever fails to comply with any provision of the Act for which no separate penalty has been provided, shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

The Act provides that any offence punishable under the Act (whether committed by an individual or association or any officer or employee thereof), not being an offence punishable with imprisonment only, may, before the institution of any prosecution, be compounded by such officers or authorities and for such sums as the Central Government may, by Notification in the Official Gazette, specify in this behalf.

The Central Government may give such directions as it may deem necessary to any other authority or any person or class of persons regarding the carrying into execution of the provisions of the Act.

4. Rules framed under the Act and reporting by banks

4.1 In exercise of the powers conferred by Section 48 of the Act, the Central Government has framed the Foreign Contribution (Regulation) Rules, 2011 for carrying out the provisions of the Act. The Rules, inter alia, provide for Guidelines for the Central Government for declaration of an organisation to be of a political nature, the nature of activities which would be treated as speculative activities, what constitutes administrative expenses, procedure for availing of foreign hospitality by specified categories of persons, procedure relating to application for obtaining 'registration' or 'prior permission' to receive foreign contribution, whom to make application for compounding, procedure for transferring foreign contribution to other registered or unregistered persons, the Forms to be used for various purposes etc.

A Study on Foreign Contribution (Regulation) Act, 2010

4.2 Rule 13 of the said Rules mandates that in case a person who has been granted a certificate of registration or prior permission receives foreign contribution in excess of one crore rupees, or equivalent thereto, in a financial year, he/it shall place the summary data on receipts and utilisation of the foreign contribution pertaining to the year of receipt as well as for one year thereafter, in the public domain.

4.3 It is important to note that in terms of Rule 15, the amount of foreign contribution lying unutilised in the exclusive foreign contribution bank account of a person whose certificate of registration has been cancelled shall vest with the banking authority concerned till the Central Government issues further directions in the matter. In case a person whose certificate of registration has been cancelled transfers/has transferred the foreign contribution to any other person, the above condition would apply to the person to whom the fund has been transferred.

4.4 Rule 16 of the said Rules provides that every bank has to send a report to the Central Government within thirty days of any transaction in respect of receipt of foreign contribution by any person who is required to obtain a certificate of registration or prior permission under the Act, but who was not granted such certificate or prior permission as on the date of receipt of such remittance. Such report has to contain the following details:

- (a) Name and address of the donor.
- (b) Name and address of the recipient.
- (c) Account number.
- (d) Name of the Bank and Branch.
- (e) Amount of foreign contribution (in foreign currency as well as Indian Rupees).
- (f) Date of receipt.
- (g) Manner of receipt of foreign contribution (cash/cheque/electronic transfer etc.):

4.5 It has been made a duty of the bank concerned to send a report to the Central Government within thirty days from the date of such last transaction in respect of receipt of any foreign contribution in excess of one crore rupees or equivalent thereto in a single transaction or in transactions within a duration of thirty days, by any person, whether registered or not under the Act, and such report also has to include the aforesaid details.

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Guidelines issued under Section 36(1)(a) of the Banking Regulation Act, 1949 - Implementation of the provisions of Foreign Contribution (Regulation) Act, 2010

RBI/2011-12/388

DBOD.AML.BC.No.80/ 14.08.001/ 2011-12

February 6, 2012

The Chairmen/Chief Executive Officers of All Scheduled Commercial Banks (excluding RRBs)

Dear Sir,

Guidelines issued under Section 36(1)(a) of the Banking Regulation Act, 1949 - Implementation of the provisions of Foreign Contribution (Regulation) Act, 2010

The Reserve Bank, considering the public interest and on being satisfied that it is necessary so to do, in exercise of the powers conferred by Clause (a) of sub-section (1) of Section 36 of the Banking Regulation Act, 1949 (Act 10 of 1949) and of all the powers enabling it in this behalf, hereby issue the [guidelines](#) on Foreign Contribution (Regulation) Act, 2010 and Foreign Contribution (Regulation) Rules, 2011 enclosed herewith, for compliance of all scheduled commercial banks (excluding Regional Rural Banks). With the coming into force of the Act, Foreign Contribution (Regulation) Act, 1976 stands repealed.

2. The salient features of the new Act are given in the [Annex](#) to this circular. This circular is intended only to serve as a guide to the banks for carrying out their obligations under the Act and the Rules made thereunder. In case of doubt, banks should make it a point to refer to the text of the Act and the Rules, and if found necessary, proper legal advice should be taken.

Yours faithfully,

(Deepak
Chief General Manager- in-Charge

Singhal)

Encl: As above

A Study on Foreign Contribution (Regulation) Act, 2010

GUIDELINES

Government of India, Ministry of Home Affairs has published a Notification S.O. 909 (E) dated the 29th April, 2011, in the Official Gazette bringing into force the Foreign Contribution (Regulation) Act, 2010 ("the Act") with effect from May 1, 2011. A Gazette Notification G.S.R. 349 (E) dated the 29th April, 2011, has also been issued notifying the Foreign Contribution (Regulation) Rules, 2011 ("the Rules") made under Section 48 of the Act. The Rules have come into force simultaneously with the Act. With the coming into force of the Act, Foreign Contribution (Regulation) Act, 1976 stands repealed. Therefore, it has now become necessary for the banks to ensure that the provisions of the new Act and the Rules made there under are fully complied with.

2. The Act prohibits certain classes of persons from receiving 'foreign contribution'. It also restricts certain classes of persons from accepting foreign hospitality while visiting any country or territory outside India, without the prior permission of the Central Government. The Act provides that persons having definite cultural, economic, educational, religious and social programmes should get themselves registered with the Government of India before accepting any 'foreign contribution'. In case a person falling in the above category is not registered with the Central Government, it can accept foreign contribution only after obtaining prior permission of the Central Government. Further, under the Act, the Central Government is empowered to prohibit any person or organisation not specified in the Act from accepting any foreign contribution and to require any person or class of persons, not specified in it to obtain prior permission of the Central Government before accepting any foreign hospitality.

3. The Act casts certain obligations on banks in relation to the receipt of foreign contributions. The Act stipulates that every person who has been granted a certificate of registration/prior permission as stipulated in the Act shall receive foreign contribution in a single account and only through such branches of a bank as may be specified in his application. It strictly prohibits the receipt or deposit of any other funds (other than foreign contribution) in such accounts. The Act mandates that every bank or authorized person in foreign exchange shall report to specified authority, the prescribed amount of foreign remittance, source and manner in which foreign remittance was received and other particulars in such form and manner as may be prescribed. Section 18 of the Act requires every person who has been granted a certificate of registration or prior permission under the Act to intimate the Central Government on the details provided therein in the

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manner stipulated therein. This intimation has to be accompanied by a copy of the statement indicating the particulars of foreign contribution received duly certified by an officer of the bank or authorized person in foreign exchange.

4. Associations which were granted certificates of registration or prior permission under Section 6 of the Foreign Contribution (Regulation) Act, 1976, will continue to be eligible to receive foreign contribution under the Act and such registration shall be valid for a period of five years from the date on which the Act came into force. Any permission to accept foreign hospitality granted under Section 9 of the repealed Act would also be deemed to be the permission granted under the Act until such permission is withdrawn by the Central Government.

5. Reserve Bank had been issuing guidelines from time to time under the Foreign Contribution Regulation Act, 1976 advising banks, that while accepting 'foreign contribution' for onward credit to the accounts of persons, it needs to be ensured that the concerned persons/organisations are registered with the Central Government or has the prior permission to receive such foreign contribution if required by law, and that no branch other than the specified branch accepts 'foreign contribution'. Banks were also advised to forward the report of receipts of such contributions to the Central Government. Some irregularities and deviations from the prescribed procedures were noticed in the implementation of the repealed enactment. Banks and Financial Institutions are required to strictly adhere to the provisions of the new Act while dealing with the receipt of foreign contributions.

6. The salient features of the new Act are given in the Annex to these guidelines. This circular is intended only to serve as a guide to the banks and Financial Institutions for carrying out their obligations under the Act and the Rules made thereunder. In case of doubt, banks and Financial Institutions should make it a point to refer to the text of the Act and the Rules, and if found necessary, proper legal advice should be taken.

ANNEX

1. Introduction

As the Preamble suggests, the Foreign Contribution (Regulation) Act, 2010, is intended to consolidate the law regulating the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or

A Study on Foreign Contribution (Regulation) Act, 2010

associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith. The Act extends to the whole of India, to its citizens outside India and also to associate branches or subsidiaries outside India, of companies or body corporate, registered or incorporated in India.

2. Prohibition on acceptance of foreign contribution

The Act stipulates that certain persons are totally barred from accepting any foreign contribution. The term 'foreign contribution' is defined in Clause (h) of Section 2 of the Act to mean the donation, delivery or transfer made by a foreign source of any article (not being an article of gift for personal use, the market value of which is not more than the specified amount), currency (whether Indian or foreign) or any security. The following are the persons prohibited from accepting foreign contribution:

- (a) Candidate for election;
- (b) Correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;
- (c) Judge, government servant or employee of any entity controlled or owned by the Government;
- (d) Member of any Legislature;
- (e) Political party or office bearers thereof;
- (f) Organisations of a political nature as may be specified;
- (g) Associations or companies engaged in the production or broadcast of audio news or audiovisual news or current affairs programmes through any electronic mode or form or any other mode of mass communication;
- (h) Correspondent or columnist, cartoonist, editor, owner of the association or company referred to in (g) above.

The Act empowers the Central Government to specify organizations as organizations of political nature by publication in the Official Gazette. Foreign contribution can however be accepted by the above-mentioned persons in the following specific cases:

- (a) by way of salary, wages or other remuneration due to him or to any group of persons working under him, from any foreign source or by

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way of payment in the ordinary course of business transacted in India by such foreign source; or

- (b) by way of payment, in the course of international trade or commerce, or in the ordinary course of business transacted by him outside India; or
- (c) as an agent of a foreign source in relation to any transaction made by such foreign source with the Central Government or State Government; or
- (d) by way of a gift or presentation made to him as a member of any Indian delegation, provided that such gift or present was accepted in accordance with the rules made by the Central Government with regard to the acceptance or retention of such gift or presentation; or
- (e) from his relative; or
- (f) by way of remittance received, in the ordinary course of business through any official channel, post office, or any authorised person in foreign exchange under the Foreign Exchange Management Act, 1999; or
- (g) by way of any scholarship, stipend or any payment of like nature.

For appreciating the scope of the term 'foreign contribution', it is necessary to understand the meaning assigned by the Act to the term 'foreign source'. This term is given an inclusive definition, with a very wide coverage. Generally, it covers foreign governments and its agencies, any international agencies (other than certain specified agencies such as United Nations, World Bank, etc.), foreign citizens, foreign companies and foreign corporations, entities such as trade unions, trusts, societies, clubs, etc. formed or registered outside India.

3. Restrictions on acceptance of foreign hospitality

The Act imposes restrictions on acceptance of foreign hospitality by certain specified persons. It mandates that no member of a Legislature or office-bearer of a political party or Judge or Government servant or employee of any corporation or any other body owned or controlled by the Government shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality. However, such permission would not be necessary for an emergent medical aid needed on account of sudden illness contracted during a visit outside India. The term 'foreign hospitality' is defined to mean any offer, not being a

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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 boarding, lodging, transport or medical treatment.

Apart from this, the Central Government is empowered to prohibit any person or organisation not specified in the Act from accepting any foreign contribution and to require any person or class of persons, not specified in the Act to obtain prior permission of the Central Government before accepting any foreign hospitality.

4. Registration for the acceptance of foreign contribution

Section 11 of the Act mandates that except as otherwise provided in the Act, no person having a definite cultural, economic, educational, religious or social program shall accept foreign contribution, unless such person obtains a certificate of registration from the Central Government. In case a person falling in the above category is not registered with the Central Government, it can accept foreign contribution only after obtaining prior permission of the Central Government. The Central Government can, by Notification in the Official Gazette, specify the person or class of persons who shall obtain its prior permission before accepting the foreign contribution, the areas in which such contribution shall be accepted, the purpose for which foreign contribution shall be utilised and the sources from which foreign contribution shall be accepted. The Central Government is also authorised to suspend or cancel the registration so granted. Every person who has been granted a certificate under Section 12 shall have such certificate renewed within six months before the expiry of the period of the certificate.

5. Prohibitions and restrictions on receipt, transfer, utilization etc. of foreign contribution

The Act imposes a prohibition, on persons registered and granted certificate or has obtained prior permission under the Act, from transferring such contribution to any other person, unless such other person is also registered and had been granted a certificate or obtained the prior permission under the Act. Certain restrictions have been imposed on the utilisation of the foreign contribution received and the Act mandates that the foreign contribution shall be utilised only for the purposes for which contribution was received. No foreign contribution or any income arising out of it can be used for speculative purposes. Use of foreign contribution for defraying administrative expenses has been restricted by the Act.

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The Act empowers the Central Government to prohibit any person or organisation not specified in Section 3 from accepting any foreign contribution and also to require any person or class of persons not specified in Section 6 to obtain prior permission of the Central Government before accepting any foreign hospitality. Where the Central Government is satisfied, after making such inquiry as it may deem fit, that any person has in his custody or control any article or currency or security, whether Indian or foreign, which has been accepted by such person in contravention of any of the provisions of the Act, it may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing with, in any manner whatsoever, such article or currency or security except in accordance with the written orders of the Central Government.

6. Foreign contribution to be received through a scheduled bank

Section of 17 is of special importance to bankers. It states that every person who has been granted a certificate or given prior permission under Section 12 shall receive foreign contribution in a single account only through such one of the branches of a bank as he may specify in his application for grant of certificate. Such person can open one or more accounts in one or more banks for utilising the foreign contribution received by him. However, no funds other than foreign contribution shall be received or deposited in such account or accounts. The Act makes it mandatory for every bank or authorised person in foreign exchange to report to such specified authority (a) the prescribed amount of foreign remittance (b) the source and manner in which the foreign remittance was received and (c) other particulars, in such form and manner as may be prescribed.

Every person who has been granted a certificate or given prior approval under the Act has to give, within such time and in such manner as may be prescribed, an intimation to the Central Government, and such other authority as may be specified by the Central Government, as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received, and the purposes for which, and the manner in which such foreign contribution was utilised by him. Further, every person receiving foreign contribution has to submit a copy of a statement indicating therein the particulars of foreign contribution received, duly certified by officer of the bank or authorised person in foreign exchange, and furnish the same to the Central Government.

A Study on Foreign Contribution (Regulation) Act, 2010

7. Maintenance of accounts and disposal of assets

Section 19 of the Act stipulates that every person who has been granted a certificate or given prior approval as above has to maintain accounts of the foreign contribution received and utilized in the prescribed manner. Where any person who was permitted to accept foreign contribution under the 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.

8. Powers of inspections and seizure

The Act empowers the Central Government to authorize inspection of accounts or records for verifying contravention of the provisions of the Act. It also provides for seizure of accounts and records and also articles or currency or security received in contravention of the provisions of the Act.

9. Miscellaneous Issues

The Act describes certain offences and the punishment/penalties for violation of its provisions. Section 37 of the Act provides that whoever fails to comply with any provision of the Act for which no separate penalty has been provided, shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

The Act provides that any offence punishable under the Act (whether committed by an individual or association or any officer or employee thereof), not being an offence punishable with imprisonment only, may, before the institution of any prosecution, be compounded by such officers or authorities and for such sums as the Central Government may, by Notification in the Official Gazette, specify in this behalf.

The Central Government may give such directions as it may deem necessary to any other authority or any person or class of persons regarding the carrying into execution of the provisions of the Act.

10. Rules framed under the Act

In exercise of the powers conferred by Section 48 of the Act, the Central Government has framed the Foreign Contribution (Regulation) Rules, 2011 for carrying out the provisions of the Act. The Rules, inter alia, provide for Guidelines for the Central Government for declaration of an organisation to be of a political nature, the nature of activities which would be treated as speculative activities, what constitutes administrative expenses, procedure for availing of foreign hospitality by specified categories of persons,

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procedure relating to application for obtaining 'registration' or 'prior permission' to receive foreign contribution, whom to make application for compounding, procedure for transferring foreign contribution to other registered or unregistered persons, the Forms to be used for various purposes etc.

Rule 13 of the said Rules mandates that in case a person who has been granted a certificate of registration or prior permission receives foreign contribution in excess of one crore rupees, or equivalent thereto, in a financial year, he/it shall place the summary data on receipts and utilisation of the foreign contribution pertaining to the year of receipt as well as for one year thereafter, in the public domain.

It is important to note that in terms of Rule 15, the amount of foreign contribution lying, unutilised in the exclusive foreign contribution bank account of a person whose certificate of registration has been cancelled shall vest with the banking authority concerned till the Central Government issues further directions in the matter. In case a person whose certificate of registration has been cancelled transfers/has transferred the foreign contribution to any other person, the above condition would apply to the person to whom the fund has been transferred.

Rule 16 of the said Rules provides that every bank has to send a report to the Central Government within thirty days of any transaction in respect of receipt of foreign contribution by any person who is required to obtain a certificate of registration or prior permission under the Act, but who was not granted such certificate or prior permission as on the date of receipt of such remittance. Such report has to contain the following details:

- (a) Name and address of the donor.
- (b) Name and address of the recipient.
- (c) Account number.
- (d) Name of the Bank and Branch.
- (e) Amount of foreign contribution (in foreign currency as well as Indian Rupees).
- (f) Date of receipt.
- (g) Manner of receipt of foreign contribution (cash/cheque/electronic transfer etc.):

A Study on Foreign Contribution (Regulation) Act, 2010

It has been made a duty of the bank concerned to send a report to the Central Government within thirty days from the date of such last transaction in respect of receipt of any foreign contribution in excess of one crore rupees or equivalent thereto in a single transaction or in transactions within a duration of thirty days, by any person, whether registered or not under the Act, and such report also has to include the aforesaid details

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Guidelines issued under Section 36(1)(a) of the Banking Regulation Act, 1949 - Implementation of the provisions of Foreign Contribution (Regulation) Act, 2010

RBI/2012-13/44

DBOD.AML.BC.No.12/14.08.001/ 2012-13

July 2, 2012

Ashadha 11, 1934 (Saka)

The Chairmen/Chief Executive Officers of
All Scheduled Commercial Banks (excluding RRBs)

Dear Sir,

Guidelines issued under Section 36(1)(a) of the Banking Regulation Act, 1949 - Implementation of the provisions of Foreign Contribution (Regulation) Act, 2010

Please refer to our [Master Circular DBOD.AML.BC No.1/14.08.001/2010-11 dated July 01, 2010](#) consolidating instructions/ guidelines issued to banks on Foreign Contribution (Regulation) Act, 1976 – Obligations of Banks in Regulating Receipt of Foreign Contributions by Associations / Organizations in India.

2. With the coming into force of Foreign Contribution (Regulation) Act, 2010 and Foreign Contribution (Regulation) Rules, 2011, Foreign Contribution (Regulation) Act, 1976 stands repealed.

3. This [Master Circular](#) is a consolidation of the Reserve Bank's guidance on Foreign Contribution (Regulation) Act, 2010 and Foreign Contribution (Regulation) Rules, 2011 issued to banks up to June 30, 2012.

4. The Master Circular has been placed on RBI website: <http://www.rbi.org.in>

Yours faithfully,

(Sudha
Chief General Manager

Damodar)

A Study on Foreign Contribution (Regulation) Act, 2010

Master Circular on Implementation of the Provisions of Foreign Contribution (Regulation) Act, 2010

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- 4 [Rules Framed under the Act and Reporting by Banks](#)

1. General

1.1 Government of India, Ministry of Home Affairs has published a Notification S.O. 909 (E) dated the 29th April, 2011, in the Official Gazette bringing into force the Foreign Contribution (Regulation) Act, 2010 ("the Act") with effect from May 1, 2011. A Gazette Notification G.S.R. 349 (E) dated the 29th April, 2011, has also been issued notifying the Foreign Contribution (Regulation) Rules, 2011 ("the Rules") made under Section 48 of the Act. The Rules have come into force simultaneously with the Act. With the coming into force of the Act, Foreign Contribution (Regulation) Act, 1976 stands repealed. Banks are, therefore, required to ensure that the provisions of the new Act and the Rules made there under are fully complied with. Accordingly, Reserve bank, considering the public interest and on being satisfied that it was necessary so to do, in exercise of the powers conferred by Clause (a) of sub-section (1) of Section 36 of the Banking Regulation Act, 1949 (Act 10 of 1949) and of all the powers enabling it in this behalf, issued a

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guidance on Foreign Contribution (Regulation) Act, 2010 and Foreign Contribution (Regulation) Rules, 2011 , for compliance of all scheduled commercial banks (excluding Regional Rural Banks).

1.2 The salient features of the new Act are indicated below. This Master Circular is intended only to serve as a guide to the banks for carrying out their obligations under the Act and the Rules made thereunder. In case of doubt, banks should make it a point to refer to the text of the Act and the Rules, and if found necessary, proper legal advice should be taken.

2. Guidelines

2.1 Foreign Contribution (Regulation) Act, 2010 prohibits certain classes of persons from receiving 'foreign contribution'. It also restricts certain classes of persons from accepting foreign hospitality while visiting any country or territory outside India, without the prior permission of the Central Government. The Act provides that persons having definite cultural, economic, educational, religious and social programmes should get themselves registered with the Government of India before accepting any 'foreign contribution'. In case a person falling in the above category is not registered with the Central Government, it can accept foreign contribution only after obtaining prior permission of the Central Government. Further, under the Act, the Central Government is empowered to prohibit any person or organisation not specified in the Act from accepting any foreign contribution and to require any person or class of persons, not specified in it to obtain prior permission of the Central Government before accepting any foreign hospitality.

2.2 The Act casts certain obligations on banks in relation to the receipt of foreign contributions. The Act stipulates that every person who has been granted a certificate of registration/prior permission as stipulated in the Act shall receive foreign contribution in a single account and only through such branches of a bank as may be specified in his/her application. It strictly prohibits the receipt or deposit of any other funds (other than foreign contribution) in such accounts. The Act mandates that every bank or authorized person in foreign exchange shall report to specified authority, the prescribed amount of foreign remittance, source and manner in which foreign remittance was received and other particulars in such form and manner as may be prescribed. Section 18 of the Act requires every person who has been granted a certificate of registration or prior permission under the Act to intimate the Central Government on the details provided therein in the manner stipulated therein. This intimation has to be accompanied by a copy

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of the statement indicating the particulars of foreign contribution received duly certified by an officer of the bank or authorized person in foreign exchange.

2.3 Associations which were granted certificates of registration or prior permission under Section 6 of the Foreign Contribution (Regulation) Act, 1976, will continue to be eligible to receive foreign contribution under the Act and such registration shall be valid for a period of five years from the date on which the Act came into force. Any permission to accept foreign hospitality granted under Section 9 of the repealed Act would also be deemed to be the permission granted under the Act until such permission is withdrawn by the Central Government.

2.4 Reserve Bank had been issuing guidelines from time to time under the Foreign Contribution Regulation Act, 1976 advising banks, that while accepting 'foreign contribution' for onward credit to the accounts of persons, it needs to be ensured that the concerned persons/organisations are registered with the Central Government or has the prior permission to receive such foreign contribution if required by law, and that no branch other than the specified branch accepts 'foreign contribution'. Banks were also advised to forward the report of receipts of such contributions to the Central Government. Some irregularities and deviations from the prescribed procedures were noticed in the implementation of the repealed enactment. Banks and Financial Institutions are required to strictly adhere to the provisions of the new Act while dealing with the receipt of foreign contributions.

3. Salient Features of the FCRA, 2010

3.1 Introduction

As the Preamble suggests, the Foreign Contribution (Regulation) Act, 2010, is intended to consolidate the law regulating the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith. The Act extends to the whole of India, to its citizens outside India and also to associate branches or subsidiaries outside India, of companies or body corporate, registered or incorporated in India.

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3.2 Prohibition on Acceptance of Foreign Contribution

The Act stipulates that certain persons are totally barred from accepting any foreign contribution. The term 'foreign contribution' is defined in Clause (h) of Section 2 of the Act to mean the donation, delivery or transfer made by a foreign source of any article (not being an article of gift for personal use, the market value of which is not more than the specified amount), currency (whether Indian or foreign) or any security. The following are the persons prohibited from accepting foreign contribution:

- (a) Candidate for election;
- (b) Correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;
- (c) Judge, government servant or employee of any entity controlled or owned by the Government;
- (d) Member of any Legislature;
- (e) Political party or office bearers thereof;
- (f) Organisations of a political nature as may be specified;
- (g) Associations or companies engaged in the production or broadcast of audio news or audiovisual news or current affairs programmes through any electronic mode or form or any other mode of mass communication;
- (h) Correspondent or columnist, cartoonist, editor, owner of the association or company referred to in (g) above.

The Act empowers the Central Government to specify organizations as organizations of political nature by publication in the Official Gazette. Foreign contribution can, however, be accepted by the above-mentioned persons in the following specific cases:

- (a) by way of salary, wages or other remuneration due to him or to any group of persons working under him, from any foreign source or by way of payment in the ordinary course of business transacted in India by such foreign source; or
- (b) by way of payment, in the course of international trade or commerce, or in the ordinary course of business transacted by him outside India; or

A Study on Foreign Contribution (Regulation) Act, 2010

- (c) as an agent of a foreign source in relation to any transaction made by such foreign source with the Central Government or State Government; or
- (d) by way of a gift or presentation made to him as a member of any Indian delegation, provided that such gift or present was accepted in accordance with the rules made by the Central Government with regard to the acceptance or retention of such gift or presentation; or
- (e) from his relative; or
- (f) by way of remittance received, in the ordinary course of business through any official channel, post office, or any authorised person in foreign exchange under the Foreign Exchange Management Act, 1999; or
- (g) by way of any scholarship, stipend or any payment of like nature.

For appreciating the scope of the term 'foreign contribution', it is necessary to understand the meaning assigned by the Act to the term 'foreign source'. This term is given an inclusive definition, with a very wide coverage. Generally, it covers foreign governments and its agencies, any international agencies (other than certain specified agencies such as United Nations, World Bank, etc.), foreign citizens, foreign companies and foreign corporations, entities such as trade unions, trusts, societies, clubs, etc. formed or registered outside India.

3.3 Restrictions on Acceptance of Foreign Hospitality

The Act imposes restrictions on acceptance of foreign hospitality by certain specified persons. It mandates that no member of a Legislature or office-bearer of a political party or Judge or Government servant or employee of any corporation or any other body owned or controlled by the Government shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality. However, such permission would not be necessary for an emergent medical aid needed on account of sudden illness contracted during a visit outside India. The term 'foreign hospitality' is defined to mean 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 boarding, lodging, transport or medical treatment.

3.4 Apart from this, the Central Government is empowered to prohibit any person or organisation not specified in the Act from accepting any foreign

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contribution and to require any person or class of persons, not specified in the Act to obtain prior permission of the Central Government before accepting any foreign hospitality.

3.5 Registration for Acceptance of Foreign Contribution

Section 11 of the Act mandates that except as otherwise provided in the Act, no person having a definite cultural, economic, educational, religious or social program shall accept foreign contribution, unless such person obtains a certificate of registration from the Central Government. In case a person falling in the above category is not registered with the Central Government, it can accept foreign contribution only after obtaining prior permission of the Central Government. The Central Government can, by Notification in the Official Gazette, specify the person or class of persons who shall obtain its prior permission before accepting the foreign contribution, the areas in which such contribution shall be accepted, the purpose for which foreign contribution shall be utilised and the sources from which foreign contribution shall be accepted. The Central Government is also authorised to suspend or cancel the registration so granted. Every person who has been granted a certificate under Section 12 shall have such certificate renewed within six months before the expiry of the period of the certificate.

3.6 Prohibitions and Restrictions on Receipt, Transfer, Utilization etc. of Foreign Contribution

3.6.1 The Act imposes a prohibition, on persons registered and granted certificate or who have obtained prior permission under the Act, from transferring such contribution to any other person, unless such other person is also registered and had been granted a certificate or obtained the prior permission under the Act. Certain restrictions have been imposed on the utilisation of the foreign contribution received and the Act mandates that the foreign contribution shall be utilised only for the purposes for which contribution was received. No foreign contribution or any income arising out of it can be used for speculative purposes. Use of foreign contribution for defraying administrative expenses has been restricted by the Act.

3.6.2 The Act empowers the Central Government to prohibit any person or organisation not specified in Section 3 from accepting any foreign contribution and also to require any person or class of persons not specified in Section 6 to obtain prior permission of the Central Government before accepting any foreign hospitality. Where the Central Government is satisfied, after making such inquiry as it may deem fit, that any person has in his

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custody or control any article or currency or security, whether Indian or foreign, which has been accepted by such person in contravention of any of the provisions of the Act, it may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing with, in any manner whatsoever, such article or currency or security except in accordance with the written orders of the Central Government.

3.7 Foreign Contribution to be Received through a Scheduled Bank

Section 17 is of special importance to bankers. It states that every person who has been granted a certificate or given prior permission under Section 12 shall receive foreign contribution in a single account only through such one of the branches of a bank as he may specify in his application for grant of certificate. Such person can open one or more accounts in one or more banks for utilising the foreign contribution received by him. However, no funds other than foreign contribution shall be received or deposited in such account or accounts. The Act makes it mandatory for every bank or authorised person in foreign exchange to report to such specified authority (a) the prescribed amount of foreign remittance (b) the source and manner in which the foreign remittance was received and (c) other particulars, in such form and manner as may be prescribed.

Every person who has been granted a certificate or given prior approval under the Act has to give, within such time and in such manner as may be prescribed, an intimation to the Central Government, and such other authority as may be specified by the Central Government, as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received, and the purposes for which, and the manner in which such foreign contribution was utilised by him. Further, every person receiving foreign contribution has to submit a copy of a statement indicating therein the particulars of foreign contribution received, duly certified by officer of the bank or authorised person in foreign exchange, and furnish the same to the Central Government.

3.8 Maintenance of Accounts and Disposal of Assets

Section 19 of the Act stipulates that every person who has been granted a certificate or given prior approval as above has to maintain accounts of the foreign contribution received and utilized in the prescribed manner. Where any person who was permitted to accept foreign contribution under the Act ceases to exist or has become defunct, all the assets of such person shall be

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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.

3.9 Powers of Inspection and Seizure

The Act empowers the Central Government to authorize inspection of accounts or records for verifying contravention of the provisions of the Act. It also provides for seizure of accounts and records and also articles or currency or security received in contravention of the provisions of the Act.

3.10 Miscellaneous Issues

The Act describes certain offences and the punishment/penalties for violation of its provisions. Section 37 of the Act provides that whoever fails to comply with any provision of the Act for which no separate penalty has been provided, shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

The Act provides that any offence punishable under the Act (whether committed by an individual or association or any officer or employee thereof), not being an offence punishable with imprisonment only, may, before the institution of any prosecution, be compounded by such officers or authorities and for such sums as the Central Government may, by Notification in the Official Gazette, specify in this behalf.

The Central Government may give such directions as it may deem necessary to any other authority or any person or class of persons regarding the carrying into execution of the provisions of the Act.

4. Rules framed under the Act and reporting by banks

4.1 In exercise of the powers conferred by Section 48 of the Act, the Central Government has framed the Foreign Contribution (Regulation) Rules, 2011 for carrying out the provisions of the Act. The Rules, inter alia, provide for Guidelines for the Central Government for declaration of an organisation to be of a political nature, the nature of activities which would be treated as speculative activities, what constitutes administrative expenses, procedure for availing of foreign hospitality by specified categories of persons, procedure relating to application for obtaining 'registration' or 'prior permission' to receive foreign contribution, whom to make application for compounding, procedure for transferring foreign contribution to other registered or unregistered persons, the Forms to be used for various purposes etc.

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4.2 Rule 13 of the said Rules mandates that in case a person who has been granted a certificate of registration or prior permission receives foreign contribution in excess of one Crore Rupees, or equivalent thereto, in a financial year, he/it shall place the summary data on receipts and utilisation of the foreign contribution pertaining to the year of receipt as well as for one year thereafter, in the public domain.

4.3 It is important to note that in terms of Rule 15, the amount of foreign contribution lying unutilised in the exclusive foreign contribution bank account of a person whose certificate of registration has been cancelled shall vest with the banking authority concerned till the Central Government issues further directions in the matter. In case a person whose certificate of registration has been cancelled transfers/has transferred the foreign contribution to any other person, the above condition would apply to the person to whom the fund has been transferred.

4.4 Rule 16 of the said Rules provides that every bank has to send a report to the Central Government within thirty days of any transaction in respect of receipt of foreign contribution by any person who is required to obtain a certificate of registration or prior permission under the Act, but who was not granted such certificate or prior permission as on the date of receipt of such remittance. Such report has to contain the following details:

- (a) Name and address of the donor.
- (b) Name and address of the recipient.
- (c) Account number.
- (d) Name of the Bank and Branch.
- (e) Amount of foreign contribution (in foreign currency as well as Indian Rupees).
- (f) Date of receipt.
- (g) Manner of receipt of foreign contribution (cash/cheque/electronic transfer etc.):

4.5 It has been made a duty of the bank concerned to send a report to the Central Government within thirty days from the date of such last transaction in respect of receipt of any foreign contribution in excess of one Crore Rupees or equivalent thereto in a single transaction or in transactions within a duration of thirty days, by any person, whether registered or not under the Act, and such report also has to include the aforesaid details.