

FOREIGN **C**ONTRIBUTION **R**EGULATION **A**CT





ABOUT

- Any non-profit organization, companies, individuals, etc. intend to receive funding from a foreign source in India has to fulfill and are governed by the regulations laid by the Indian government for a foreign source.
- **Foreign Contribution Regulation Act** has been laid down to regulate and govern foreign contribution made by anyone in India.
- It provides the rule and regulations regarding acceptance and usage of foreign income.
- It also prohibits the acceptance of foreign income if it is made for activity against the national interest.

TIME LINE

1976

- Introduced in the year 1976
- To monitor and regulate the Foreign contribution
- NGO were allowed to freely receive the contribution and has to report about the funds received and utilised in the financial year

1984

- Registration became mandatory
- Non profit association has to register itself with MHA before receiving foreign funds
- They cannot transfer the funds to other non registered association/NGOs

2010

- Foreign Contribution Regulation Act, 2010 has replaced the 1976 Act
- More than 50% of foreign contribution cannot be used for administrative expenses
- Validity of registration has reduced to 5 years and are subjected to renewal

FOREIGN CONTRIBUTION



Any contribution or donation done by any foreign source is known as Foreign Contribution. The contribution can be in the following form or value:

- Any items (except received as a personal gift to a person having a value less than Rs.25000)
- Can be in Indian or any other foreign currency
- Any security which is defined in the FEMA Act,1999

CONSIDERED AS FOREIGN CONTRIBUTION

- Donation made from an Indian citizen who has foreign citizenship has to be treated as a foreign contribution.
- If an individual receives a foreign contribution of more than Rs.1,00,000 or equivalent from any relatives, It is considered a foreign contribution. Such information has to be conveyed within thirty days to the Central Government by submitting Form FC-1 from the date of receipt of foreign contribution.
- Amount received in Indian rupees but from a foreign source is considered as 'foreign contribution.'
- A non-profit company having a foreign share capital has to be considered as a foreign contribution.



NOT CONSIDERED AS FOREIGN CONTRIBUTION



NRI who is holding a valid Indian passport making any contribution from their personal earnings/savings is **“not”** considered as foreign contribution.

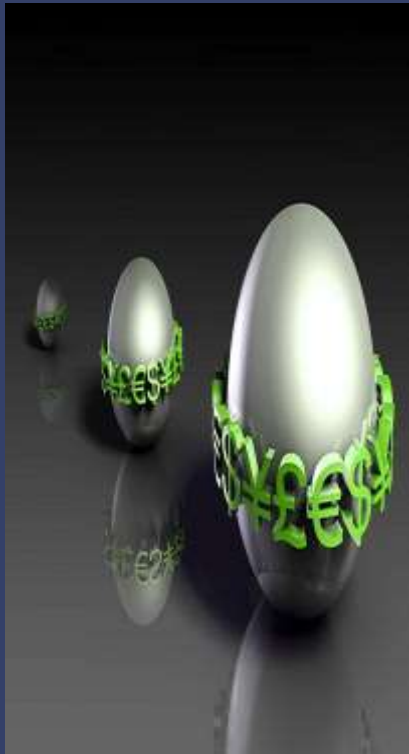
FOREIGN SOURCE

The following can be the foreign source:

- Any foreign country citizen, society, government, agency, club, association, corporation, trade union, foundation or trust, and company.
- An international agency that is not included in the list given by the Central Government of India.
- FCRA, 2010 defined Multinational Corporation as "A company incorporated in India, but more than half of the share is held by any foreign country government, citizen, corporation, society, trusts, company, etc".



FOREIGN SECURITY



Any instrument or security in the form of stocks, debentures, shares, or bonds expressed or denominated in a currency other than Indian currency and interest, dividends, or redemption of securities expressed in foreign currency is known as foreign security.



FOREIGN CONTRIBUTION CAN BE ACCEPTED BY....

People

Individual

Hindu Undivided Family (HUF)

Associations

Non- Profit Companies

Means association of individuals, whether incorporated or not having office in India

Includes a society whether registered under societies registration Act, 1860 or not



CONSIDERATION FOR A PROHIBITED PERSON

Receive foreign contribution in
following ways

Remuneration,
wages or salary or
payment for
business done in
India in foreign
currency

Indian delegation
members received
foreign sources in
the form of gifts or
presentation.

Received from
relatives

In the form of
stipends,
scholarships, etc.

Payment received
for business done
outside India

Being an agent
towards any
foreign source
transactions of the
Central
Government or
state government.

METHOD OF ACCEPTANCE OF A FOREIGN CONTRIBUTION

Permission from central government to receive foreign contribution can be taken in 2 ways

Normal
Registration

Registration has to be done, which is valid for five years and can be renewed after expiry.

Prior
permission

It is granted to receive a specific amount from a specific donor for a specific purpose.

ELIGIBILITY CRITERIA FOR RECEIVING A GRANT FOR REGISTRATION

To receive foreign contributions, registration has to be done with the central government. The eligibility criteria for registration are as follows:

- The association must be registered under India Trust Act, 1882, or Societies Registration Act, 1860 or Company Act, 2013, or applicable.
- There must be some remarkable contribution in the chosen field towards the benefit of the country.
- Disbursement of more than Rs. 10,00,000 over the past three years towards achieving the aim and objective of the association(excluding administrative expenses).
- A qualified Chartered Accountant should duly audit financial statements of the past three years.

Eligibility Conditions for Grant of Registration and Prior Permission to accept Foreign Contribution as per FCRA



ELIGIBILITY CRITERIA FOR RECEIVING A GRANT FOR PRIOR PERMISSION

Prior permission is required in the case of newly incorporated corporations requiring foreign contributions to carry-out specific projects. Following is the eligibility criteria for prior permission:

- The association must be registered under India Trust Act, 1882, or Societies Registration Act, 1860 or Company Act, 2013, or applicable.
- The donor has to submit a commitment letter to the Ministry of home affairs, stating the reason and amount of contribution.



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➤ In case the recipient Indian organization and Foreign donor organization have common members, the following conditions should be met between both the organization:

- ❖ Indian organization's chief should not be part of the donor organization.
 - ❖ More than 51% of employees/ members of the Indian organization should not be a foreign organization's employee/member.
- In case the foreign contributor is individual:
- ❖ Foreign donors cannot be the Chief Officer of the Indian organization.
 - ❖ More than 51% of employees/ members of the Indian organization should not be the donor's family members or close relatives.



PROCESS OF REGISTRATION/ PRIOR PERMISSION

- FC - 3A is the application form of FCRA Registration, and FC - 3B for Prior Permission has to be submitted online by the applicant on the FCRA website.

Create the user ID and password on the website.

Upload the required document

- Fill the required details

- Pay the online fees.

Prior permission/ registration is granted within 90 days of the form submission from the Ministry of Home Affairs.

DOCUMENTS FOR THE GRANT OF REGISTRATION

Self-attested copy of the certificate of registration, whether registered as Society, Trust, or a company, etc.

Self-attested copy of Trust deed, Memorandum of Association and Article of Association, etc.

The report which has details of activity and performance of the past 3 years

Financial statement duly audited by the chartered accountant of the past three years

Editor, publisher, or printer of a news-publication has to submit a certificate from the Registrar of Newspaper

Image of signature of Chief functionary

Picture of Seal of the organization

DOCUMENTS FOR THE GRANT OF PRIOR PERMISSION

Except for activity and performance reports and audited financial statements, all the other documents must be submitted

Along with that, a project report has to be submitted for which foreign contribution is required

VALIDITY PERIOD AND RENEWAL PROCEDURE OF REGISTRATION

- The grant's validity for registration under FCRA 2010 is five years from the issuance date and has to be renewed six months before the date of expiry.
- If it is a multi-year project, the renewal application must be made twelve months before registration expiry.



- Form FC-3 has to be submitted for renewal along with all the documents submitted while applying.
- Once the details are filled, and documents are uploaded, a fee of Rs.500/- has to be paid online.

CONSEQUENCES OF NON-SUBMISSION/DELAY IN SUBMISSION OF THE RENEWAL APPLICATION

- Non-submission of the renewal application before the expiry of the grant will lead to expiration after completing five years.



- Once the grant is expired, it cannot be renewed again, and the applicant has to apply for a new grant as a fresh application.

APPLICATION, TREATMENT, AND ACCOUNTING OF FOREIGN CONTRIBUTION

- Foreign contribution has to be used only for a reason it has been received. Foreign contribution cannot be used for any investment in mutual funds or any other speculative business.
- Without prior permission from the Central government, the association cannot use more than 50% of the foreign contribution as an administrative expense in a financial year.
- Companies have to maintain separate accounts and records for foreign contributions regarding receipt and disbursement. But there is no specific rule for accounting prescribed under FCRA Act, 2010.
- Any interest, dividend, or other income received on foreign contribution must be treated as a fresh contribution. It has to be shown in the books of accounts of a particular year. The association can use it for projects and activities.



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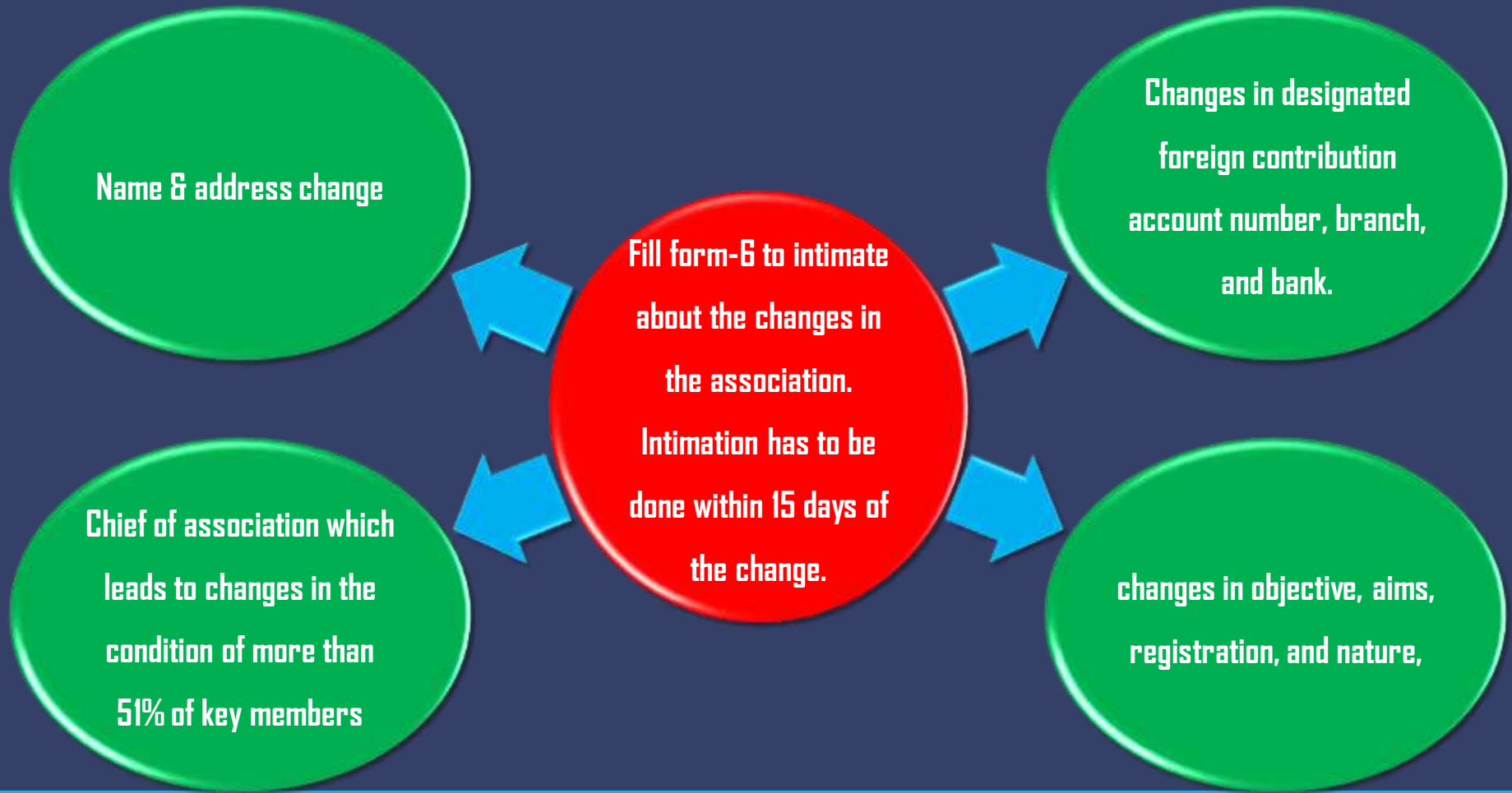
- Account opened for using domestic funds cannot be used for receiving and utilizing foreign funds.
- A person has to open a foreign currency A/c in which foreign contribution has to be deposited before applying for the grant to the Central government.
- It is required to give the details of the foreign currency account in the form.
- There can be only one account to receive and utilize foreign currency, which has been mentioned in the Form while applying for the grant.
- Opening of Multiple bank account is prohibited in case of receiving and utilizing foreign contribution.

REPORTING/ FILING REQUIREMENT UNDER FCRA, 2010



- To file an annual return of foreign contribution, Form FC-4 has to be submitted online every year along with financial statements duly audited by a Chartered accountant within nine months of the financial year's closure.
- Chartered Accountant should give a certificate stating that accounts have been prepared and maintained as per the Act.
- In case the foreign contribution is not received or utilized in a particular year, then a nil return has to be filed.
- The recipient has to give quarterly intimation of foreign contribution received within fifteen days of completion of the quarter in which it is received.
- Intimation has to be given within fifteen days of Utilization Bank account opening. Any change in the details of the association has to be intimated within fifteen days of changes.

REPORTING REQUIREMENT FOR CHANGE IN DETAILS OF ASSOCIATION REGISTERED WITH THE FCRA DEPARTMENT

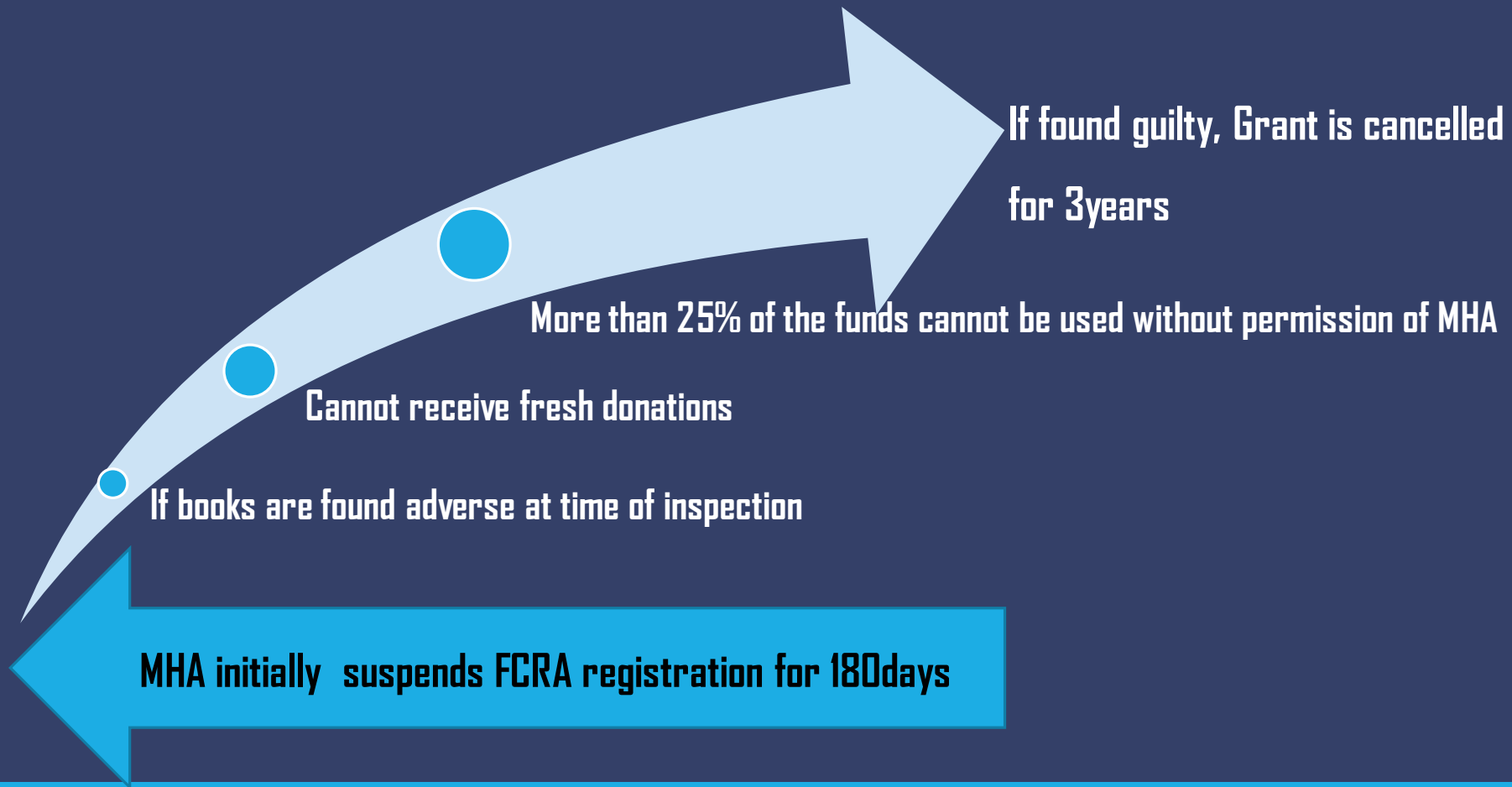


MONITORING AND UTILIZATION OF FOREIGN CONTRIBUTION

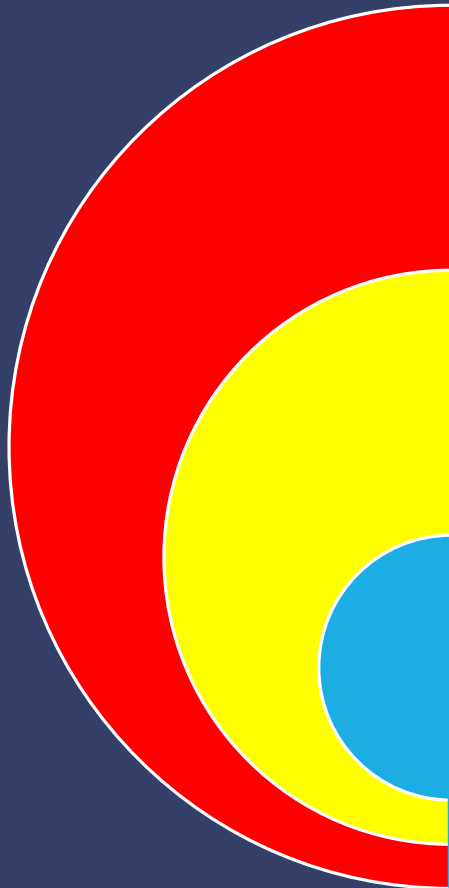
- ❖ The most important reason for the creation of this Act is to monitor the foreign contribution received. It should not be misused or invested in an activity that can be against the national interest.
- ❖ In FCRA, a monitoring unit has been established for monitoring the receipt and utilization of foreign contribution. Monitoring is done by scrutinizing the audited annual reports and through field inspection of Books of Accounts. Scrutiny is done on a random basis and of those who have been adversely reported by the field agencies.
- ❖ In the cases where prima facie violation has been reported, a detailed inspection is done of the books of accounts of the association u/s 23 of FCRA, 2010. It has two objectives:
 - Educating the associations regarding bonafide errors
 - To detect and punish the violators.



REASON FOR REGISTRATION SUSPENSION/ CANCELLATION



COMMON IRREGULARITIES



Having being prohibited from performing foreign contributions transactions, associations were indulged in it without taking prior approval from Government

Without being registered or prior permission from the Ministry of Home Affairs, associations were allowed to perform transactions related to foreign contribution

Association having more than one account in same or other branches for foreign contribution transactions except for the designated account

POINTS TO BE CONSIDERED UNDER FCRA

Association to get registered under section 80G or 35 AC of Income-tax Act, 1961 is not compulsory for seeking a grant under the Foreign Contribution Regulation Act, 2010

Submit the renewal application six months before the expiry date

Without Prior approval from MHA transfer of foreign contribution funds cannot be transferred to other organizations

The organization has to comply with the Foreign Exchange Management Act's provision to transfer funds to other countries in foreign currency

CONCLUSION

- Foreign Contribution Regulation Act (FCRA) has laid down in the year 1976. It has first reformed in the year 1984 and later into 2010 with wider applicability.
- It has laid down to monitor and regulate the receipt and utilization of foreign contribution in India.
- Ministry of Home Affairs (MHA) prohibits the receipt of foreign contribution, if it is against the national interest.
- Grant has to be taken from MHA to receive foreign contribution.
- MHA can cancel the grant of the associations if the foreign contribution is used for different purpose other than stated at the time of registration.
- Once the license is cancelled, associations would not be able to receive fund for 3 years.

Thank You!

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