

FCRA CHARTER FOR THE BANKS

The Foreign Contribution (Regulation) Act, 2010 (FCRA, 2010) assigns a very crucial role to banks. All foreign contributions (FCs) received from any “foreign source” (FS) must be necessarily received only in a bank account and must be routed and spent only through bank accounts. Therefore, the competent authorities in the banks are expected to scrupulously follow various provisions of the FCRA, 2010 and Foreign Contribution (Regulation) Rules, 2011 (FCRR, 2011). They are available on the FCRA website fcraonline.nic.in

2. The Parliament amended the FCRA, 2010 in September, 2020. One of the major amendments mandates compulsory opening of an FCRA account in the State Bank of India (SBI), Main Branch located at Sansad Marg, New Delhi by each NGO/association registered or given prior permission under FCRA 2010. Each existing **FCRA** registration holder as well as new applicant for registration or for prior permission would also have to comply with the same. This “FCRA account” of the NGO would be the first exclusive port of receipt of its FC in India.

3. The amended Section 17 of the FCRA, 2010 provides as under:-

“17. (1) Every person who has been granted certificate or prior permission under section 12 shall receive foreign contribution only in an account designated as "FCRA Account" by the bank, which shall be opened by him for the purpose of remittances of foreign contribution in such branch of the State Bank of India at New Delhi, as the Central Government may, by notification, specify in this behalf:

Provided that such person may also open another “FCRA Account” in **any of the scheduled bank of his choice** for the purpose of keeping or utilising the foreign contribution which has been received from his “FCRA Account” in the specified branch of State Bank of India at New Delhi:

Provided further that such person may also open one or more accounts in one or more scheduled banks of his choice to which he may transfer for utilising any foreign contribution received by him in his “FCRA Account” in the specified branch of the State Bank of India at New Delhi or kept by him in another “FCRA Account” in a scheduled bank of his choice:

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

(2) The specified branch of the State Bank of India at New Delhi or the branch of the scheduled bank where the person referred to in subsection (1) has opened his foreign contribution account or the authorised person in foreign exchange, shall report to such authority as may be specified,—

- (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.”

4. The relevant Rule 16 of the FCRR, 2011 is also reproduced below:-

“16. Reporting by banks of receipt of foreign contribution:- The bank shall report to the Central Government within forty-eight hours any transaction in respect of receipt or utilization of any foreign contribution by any person

whether or not such person is registered or granted prior permission under the Act.”

5. The scheme of the amended FCRA, 2010 is clear. Foreign Contribution shall be received for the first time in India only in an account opened in the SBI, Main Branch, Sansad Marg, New Delhi. However, the NGO/association can open another **FCRA** account in any PFMS branch of a scheduled bank of its choice anywhere in the country and also, if it so decides, open as many **FCRA** utilization accounts in bank branches of its choice as it decides. The authorities of SBI, Main Branch, Sansad Marg, New Delhi shall transfer any foreign contribution received by any NGO/association to their other FCRA account or utilization account or both of them as per the choice/decision of that NGO/association. These details may be read with SOP already published on the website fcraonline.nic.in regarding opening of bank account in the SBI, Main Branch, Sansad Marg, New Delhi.

6. It is again clarified that each NGO/association has to open its exclusive FCRA account in the SBI, Main Branch, Sansad Marg, New Delhi by 31st March, 2021. If it is not done by that time then no foreign contribution shall be credited by any bank branch in the account of such NGO/association w.e.f 01/04/2021.

7. It may be noted that foreign contribution has to be received only through banking channels and it has to be accounted for in the manner prescribed. Any violation by the NGO or by the bank may invite penal provisions of The FCRA, 2010.

8. Bankers are requested to refer to the definition of “foreign contribution”(FC) provided in Section 2(1)(h) and definition of “foreign source ” in section 2(1)(j) of The FCRA, 2010. For any contribution to constitute FC, it must emanate from a “foreign source” even if that foreign source is located within India and even if that donation is in Indian rupees or cash etc.

9. Attention has also been drawn to the provisions of Section 2(1)(h) – Explanation 2 & Explanation 3. Any kind of interest or income that is derived from the foreign contribution or interest again becomes part of foreign contribution. Therefore, it will be credited back into the foreign contribution account to be utilized strictly as per the provisions of The FCRA, 2010.

10. The banks are expected to go through all the provisions of the amended FCRA 2010 as well as amended FCRR, 2011. Various public notices to facilitate smooth transition to the new FCRA regime have also been posted on the website along with an SOP for opening of the “FCRA account” in the SBI Main Branch, Sansad Marg, New Delhi.

11. The following is an illustrative (but not exhaustive) list of such contributions which are Foreign Contribution as defined under The FCRA, 2010:

- (i) Donations given in Indian rupees (INR) by any foreigner/Foreign Source including foreigners of Indian origin like OCI or PIO cardholders (in SBI, New Delhi Main Branch).
- (ii) Donations received in Indian rupees (INR) from any ‘foreign source’ even if that source is located in India at the time of such donation (in SBI, New Delhi Main Branch).

- (iii) FC received in cash/local cheque/demand draft or through overseas bank transfers in any currency including Indian rupees from any “foreign source” (in SBI, New Delhi Main Branch).
- (iv) All interest that accrues on the FC received in any bank account including interest on FDs (in any Bank Branch).
- (v) Any income generated in India from assets created by spending the funds from FC. This includes proceeds from sales of such assets which have been credited even partly by spending the FC (in any Bank Branch).
- (vi) Proceeds from sale of FC received in kind or in the form of securities (in any Bank Branch).
- (vii) Re-depositing the unutilised FC which might have been drawn out as advance for any purpose by the NGO/association. Such a re-deposit, however, must be backed by matching withdrawal entries and relevant records to establish that it was unutilised/unspent FC amount. This would include any refund received on account of cancellation of any services/tickets etc. sought to be taken by utilising FC (in any Bank Branch).
