

# AccountAble™

FCRA Registration

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## What is FCRA Registration?

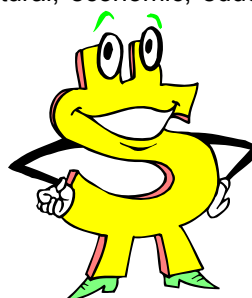
FCRA Registration means registration under Foreign Contribution (Regulation) Act, 1976. This is necessary, if an NGO wants to receive any funds, material etc. from a 'foreign source'.

What is 'foreign source'? Any foreigner or organisation which is not controlled by Indians is a 'foreign source'. Some organisations such as World Bank and UN Agencies are

not called 'foreign source'.

## Who needs it?

Any organization, which has a 'definite cultural, economic, educational, religious or so-



cial program', is covered by FCRA. For practical purposes, this definition covers all NGOs. Remember that unregistered societies are also covered [for more on

unregistered societies, see box on page 2 of AccountAble # 24: Revolving Funds].

## Can you lose it?

Yes. You may lose your FCRA registration in several ways. For example:

- FC-3 is not filed or gives false information;
- FCRA funds are passed on to another NGO which does not have FCRA registration or prior permission;
- FCRA funds are used for political or anti-national activities.

In such a case, the Government will issue a notification in the official Gazette. After that you will be allowed to receive foreign contribution only through prior permission.

## How to register

In simple English, 'registration' means that your name is put on a list or a register. However, FCRA registration is a little more complicated:

### FCRA Bank Account

For receiving foreign funds, you should first open a separate, new bank account (savings or current). The account can be opened with Indian funds. After this, make sure that you use this account exclusively for foreign contribution (fresh or recycled).

## Filing FC-8

You should then fill up and file an application in form FC-8. Along with this form, you will have to give several documents [see AccountAble # 26: Form FC-8].

## Scrutiny

The FCRA Department will review your application. If it is complete and satisfactory, FCRA will ask the IB (Intelligence Bureau) for a report. Otherwise, they may ask you for additional details.

## Field Enquiry & Report

Someone from the LIB or SIB (Local or Subsidiary Intelligence Bureau) will visit your office and work area and make inquiries. They may check to see how long you have been working, whether you have an office, and may also look at your account books. They will then submit a report to the FCRA Department.



## Acceptance

If the report is satisfactory, your application will be accepted and you will be issued a registration certificate.

## Registration Certificate

The certificate will show your FCRA registration number. Read the certificate carefully. It also includes other important information regarding FCRA. A copy of the certificate also goes to your bank.

Keep the certificate carefully. Laminate it if you wish. Also make extra xerox copies for donor agencies, which ask for it.

## Rejection

Your application can also be rejected under section 10. In that case, you will be asked to apply for prior permission on a case-by-case basis.

## Grounds for rejection

For rejecting an application, the government has to be satisfied that the registration will be bad for any of the following:

- the sovereignty and integrity of India; or,
- the public interest; or,
- freedom or fairness of elections; or,
- relations with a friendly country; or,
- social or religious harmony.

## How long will all this take?

In the last two years, the procedure has been streamlined a little. In normal cases, the application is processed within four months to one year. Still, there are people who say that they have waited for 3-4 years without getting a reply.

## Appeal

If your application is rejected, you can either decide to settle for prior-permission on a case-by-case basis [see AccountAble # 33: Prior Permission]. Or you can appeal to the High Court in your state within 60 days [section 21(2)]. For counting sixty days, start from the date of the order, not the date on which you received it.

## Can the courts help?

We do not have systematic information on how many cases of rejection have gone to court and what happened then. However, some of the cases which have come up to court are listed below:

- CROSS, Hyderabad vs. Union of India (1987)
- AVARD vs. Union of India (1990)
- MARPU, Hyderabad vs. Union of India and others (1991)
- CISRS vs. Union of India (1994)

## Common Problems

FCRA registration is a long-drawn process. As there is only one central office at Delhi, follow-up is quite a problem for most NGOs. Reportedly, there are some practical prob-

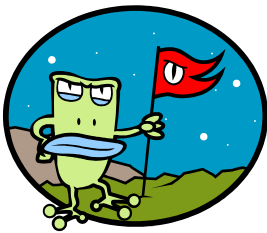
lems which people face in getting FCRA registration.

## Only registered NGOs

FCRA applies to unregistered organizations also. However, unregistered organizations (societies, trusts etc.) are not given FCRA registration.

## Three years

The NGO should have been registered for at least three years before FCRA people will consider their application.



## No foreigners

If there are any foreigners on your Governing Board, your application is likely to be rejected.

## No time frame

There is no time limit under the law on how long FCRA will take to process or register an NGO under FCRA.

## Reason for refusal?

As discussed earlier, the FCRA Deptt. Can refuse registration on any one of the grounds given in section 10.

However, FCRA does not explain the reason for refusal of registration to the concerned NGO. The NGO therefore remains in the dark.

## Filling up FC-8

Form FC-8 was revised on 27<sup>th</sup> December 1996 and 4<sup>th</sup> January 1999. It has now been revised again on 24<sup>th</sup> January 2000.

The revised form has ten main headings and an undertaking. The entire form should be filled up in CAPITAL letters:

### 1. Background

Start with writing the Chief Functionary's name in the blank space ('I,.....'). This means the person who is directly responsible for day to day running of the NGO.

(i) **Name and address:** Give the name and *postal* address of the NGO. The SIB officers will visit this office to make inquiries. This may be different from your registered office.

(ii) **Registration details:** Give details of your registration as a Society or a Trust here. Non-profit companies also need to give these details. Unregistered NGOs can also apply but are not likely to get FCRA registration.

(iii) **Nature of Association:** This depends on the work you plan to do. If your main work is development, then you can just tick 'social'.

Do not tick Hindu, Christian, Muslim etc. unless yours is a religious association.

(iv) **Aims and objects:** This heading has two parts. First you should give all the main aims and objects of the NGO. Secondly, you have to give the objects and specific programs for which foreign contribution is to be accepted and used.

Under the first sub-heading, summarize the main objectives of your association. These can be taken from the objects clause of your Memorandum of Association. A copy of the Memorandum and Bylaws of Society should be attached.

Filling up the second part of this clause is not easy. It is difficult to say which specific program you will be running 10 years from now. This becomes tricky because each year you have to confirm (in form FC-3) that you have spent the foreign contribution only for the purpose for which it was registered under FCRA.

(v) **Governing Body:** The Governing Body normally has two types of members. Some hold an office (President, Secretary etc.). These are called 'office bearers'. Others do not hold any office but are plain members of the Governing Body. Trustees are treated as office bearers.

Details of all the members of the Governing Body or Executive Council etc. should be given in the table. The table has eight columns. In column 3, give the name of father / husband. If the member is an office bearer (President, Secretary etc.), then say this in

column 6. If one of the members is related to an *office-bearer*, then say this (brother, husband, wife of....) in column 7.

If the member is related to another *member*, then apparently there is no need to specify this – though of course you may, if you wish.

## 2. Convictions

This is a new clause. Here the NGO has to provide details of convictions etc. These should relate to one of the members of Governing body listed in the previous table. Moreover, these convictions should be related to their *official* duties. This means that if a person is convicted for a traffic offense while going for a wedding, it need not be listed here.

This information is to be given where:

- A conviction has been made by a court;
- A conviction has not been made, but prosecution for some legal case has been launched; or
- The person has diverted or misutilised funds of this NGO or any other NGO in the past.

## 3. Branch or Associate

Sometimes foreign NGOs or Agencies set up a branch office in India. This clause asks for details of their parent organization.

Similarly, your NGO may have a sister NGO that already has FCRA registration. If yes, then you should give details of such sister NGO here.

## 4. Prior-permission

**Past Record:** You may have received foreign contribution earlier under prior permission. Details of this should be given under 4(i)(a). You should also give information on when you submitted the related FC-3 and accounts.

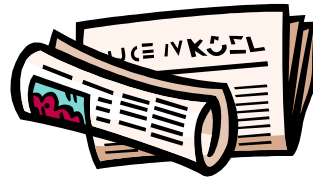
**Previous Violations:** On the other hand, you may have accepted foreign contribution ear-

lier without legal permission (by channeling, shadow-lending, legal holder etc.). If you have, then give full details here.

Remember that under the law you can get up to five years in prison for this!

## 5. Newspapers

Is your NGO bringing out a newsletter? If



yes, check whether it has been registered under Press and Registration of Books

Act, 1867 (PRBA). If yes, then whether it is registered as a 'newspaper'. If it is registered as a 'newspaper', then give details of registration here.

Normally anyone who brings out a registered newspaper can not receive any foreign contribution [section 4(1)(b)]. However, in 1987, the Government issued a notification relaxing this rule [F. # 11/ 21022/ 14(5)87-FCRA-1 dtd. 4.8.87].

This notification allowed NGOs with newspaper look-alikes to publish these without affecting their FCRA registration. There were two conditions for this:

- (i) The NGO had to get a certificate from the Registrar;
- (ii) The NGO had to submit an annual declaration to FCRA Department in a specified form.

The above procedure has now been relaxed further. In March 2000, the Government issued another notification [S.O.230(E), Gazette of India-Extraordinary, Part II dated 10-Mar-2000], which replaced the one issued in 1987.

According to the latest notification, the procedure requiring an annual declaration has been withdrawn. Now the NGOs only need to provide a certificate from the Press Registrar of India. The certificate should say clearly that "the printed work is not a newspaper in terms of section 1 (1) of the Press and Registration of Books Act, 1867 (25 of 1867)".

What does section 1 (1) of PRBA say? According to this, 'a "newspaper" means any printed periodical work containing public

news or comments on public news'. Such 'newspaper' must be registered under chapter VA of the PRBA. If your newsletter or periodical does not contain public news or comment on public news, then it is not necessary for you to register under PRBA.

Nevertheless, you may have registered it under PRBA to obtain advantages in mailing charges. In such a case, you can get the certificate referred above from the Press Registrar of India and enclose it with your application.

## 6. Earlier applications

If your NGO had applied earlier also for FCRA registration, then you should give the details here. These would include date on which your application was filed and reference of the last letter you received from FCRA.

If you have not received any letter or the application is still pending, then say this at 6(d). But if you were refused registration earlier, then say so at 6(c).

## 7. Activities & Area

**Activities:** You have to give a detailed report on the activities carried out in past three years by your NGO. Instead of this, you can also enclose a copy of your annual report.

Often annual reports contain statement of thanks to individuals and collaborating NGOs. Some of these may mislead the FCRA into thinking that you have received foreign contribution illegally. Therefore, review the report carefully, and clarify this where necessary.

**Accounts:** A copy of the audited Balance Sheet, Income & Expenditure, and Receipts & Payments Account should also be given for last three years.

**Area of Operation:** This should preferably include names of states covered by you. If you are operating in a large state or in a region which is politically disturbed, specify the districts you are working in.

If you want, you can also give a note on socio-economic background of the region and

and particularly the beneficiaries you are covering.

## 8. Politics

Is your NGO politically active or connected with a political party? Then the Government may have issued a notification in the official gazette. This notification may say that your NGO is an organization of a political nature, even though it is not a political party.

If this has happened, then give details of the notification here. Under section 5, such NGOs can not be registered under FCRA but are given prior-permission on case by case basis.

## 9. Bank Account

Give details of the FCRA bank account here (discussed on page 1). These details include account number, name and address of the bank.

## 9A. Recommendation Certificate

A recommendation certificate<sup>1</sup> should be attached to the application. The certificate looks at the history of the organisation.

The Collector (or concerned Department<sup>2</sup>) should certify that the NGO has been working in the area for past several years. The nature of their work should be mentioned. Finally, the certificate should also how much money has been spent on program activities in last three years. Administrative expenditure should not be included.

## 10. Additional Information

You can give any additional relevant information here.

## Undertaking

This undertaking is relevant only for those NGOs, which apply for FCRA registration in the new, form FC-8. It will not apply to those who had used the old form FC-8 while registering.

<sup>1</sup> Format is given in Form FC-8

<sup>2</sup> This can be a Department of the State Government. This can also be a Ministry or Department of the Central Government.

There are three items here which you need to understand before signing the form:

(i) **Changes in society:** If you change the name, address, registration, nature, aims or objects of the association at any time, you have to inform the FCRA within 30 days.

(ii) **Changes in office bearers:** The office bearers of the NGO specified in form FC-8 become 'frozen'. This means that more than 50% of these office bearers should continue in office (for more on 'office bearers' see **Governing Body** on page 3).

What happens if 50% or more of the office bearers change? You have to apply to FCRA for approving the changes. This approval process may take 3-4 months or longer.

In the meanwhile, your FCRA registration will be suspended. You can not receive any foreign contribution till the change is approved. For each grant you will have to apply for prior permission.

This clause has been introduced to prevent 'sale' of FCRA registered NGOs. However, it may cause problems for other NGOs also.

To reduce the nuisance, try to expand your Governing Body before applying for FCRA. Consider increasing the number of office bearers to 10 or 12. After all, cabinets often have more than 50 ministers!

(iii) **Change in bank:** If you change the FCRA bank or branch, you will have to apply

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to FCRA for permission. This can be done on your letterhead. You will also need to give satisfactory reasons for this change.

## Sign and Date

The form has to be signed at two places by the Chief Functionary. Date of the form is to be given on the first page itself.

However, before this is done, get all the necessary documents together. Some documents may not be available readily and may take time.

## Sending the form

You can send the completed form, along with all the documents and annexures to this address by registered post (acknowledgement due). Only one copy is to be sent:

The Secretary, Govt. of India,  
**Ministry of Home Affairs,**  
FCRA Division,  
Jaisalmer House, 26, Mansingh Road,  
New Delhi - 110 011  
Phone: 23383075, 23071170, 24617087

If you want to deliver the form personally, make sure you take an acknowledgement (with rubber stamp and date) at the counter. Also phone up to check the visiting hours, which may change from time to time.

## QuestionAble

Can an organisation have more than one FCRA registration numbers?



Officially, no. But in early days, FCRA people were not very strict. They sometimes issued two different numbers to the same organisation, one for each project!