

# AccountAble™

Introduction to FCRA

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This issue of AccountAble is designed for people who want to get an overview of FCRA, without getting into its intricacies.

## Background

FCRA means Foreign Contribution (Regulation) Act. It was passed in 1976, nine years after an uproar over foreign funding of 1967 elections.

The Act was originally intended to prevent foreign funds reaching political parties. Subsequently in 1984, it was tightened for NGOs also, based on the findings of the Kudal Commission.

Currently<sup>1</sup>, some 26,799 organizations are registered under the Act and can receive foreign funds. These include



<sup>1</sup> By August 2003

NGOs, religious organizations, charitable organizations and other non-profit organizations. Additionally, the Government gives out some 600~ prior-permissions each year.

In 2001-02, a total of 15,618 organizations received Rs.4,871.87 crores from foreign sources. These funds came from 151 countries, with USA heading the list, having contributed 34%. Foreign funds have been growing at about 13.3% annually since 1992-93<sup>2</sup>.

## Procedures and Records

### Registration

Any organization in India, which has a definite program needs FCRA registration before receiving foreign funds. It does not matter that these funds have come directly from the foreign source, or have passed through several Indian organizations. For getting FCRA registration, you have to apply in form FC-8<sup>3</sup>.

### Prior-permission

In some cases, the Government is unwilling to give FCRA registration immediately. In such cases, you can get prior-permission to receive funds by applying in form FC-1A<sup>4</sup>. This is given on a case-by-case basis.

Political parties can not access foreign funds at all. Quasi-political organisations

<sup>2</sup> See AccountAble 95

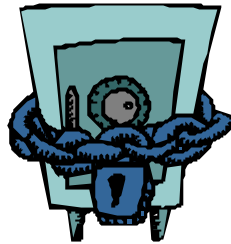
<sup>3</sup> See AccountAble 26 and 42

<sup>4</sup> See AccountAble 19 and 33

can receive funds on a case-by-case basis by applying in form FC-1.

### Banking

FCRA funds must be kept separately in the designated bank account. This is the account number mentioned in the FCRA permission letter or registration certificate. You can not use multiple accounts for FCRA funds. However, you can get additional FCRA registration for a branch office, if required.



Change of FCRA bank account is allowed. For this you must apply again in form FC-8. This is only a formality and does not threaten your existing registration. Do not use the new account till FCRA Department send you a revised letter of registration.

Multiple FCRA bank accounts are not allowed under FCRA rules, but some people open and use these. This sometimes happens when the field office is far from the main office (with the FCRA bank account).

### Accounts

You need to keep a separate cash book and ledgers for FCRA funds<sup>5</sup>. The ledgers can be kept separately for each project or donor. However, opening of separate cash books for each donor is not required. You should not enter local contribution in these books.

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<sup>5</sup> See AccountAble 3

For non-cash contribution received from foreign sources, you should keep a register in form FC-6<sup>6</sup>.

Similarly, if you receive shares or securities as a donation from a foreign source, then you should record these in form FC-7.

### Reports

Each year you should file a report with FCRA Department in form FC-3<sup>7</sup>. This shows how much funds you have received and used during the year from 1<sup>st</sup> April till 31<sup>st</sup> March. The report should be filed by 31<sup>st</sup> July each year. No extension is available, though in practice, a few days' delay is often ignored.

All organizations registered with FCRA have to file this report, even if they did not receive or use any funds during the year. In practice, more than one-third organizations do not file FC-3. This eventually leads to cancellation of FCRA registration.

The form FC-3 should be audited by a practicing Chartered Accountant. Along with the form, you also have to give a Receipts and Payments Account and a Balance Sheet. Both these should be related to FCRA funds only.

### Changes

If you change the name or address of the organization, then you should inform the FCRA Department within 30 days of the change. This also applies to any change in nature, aims or objects of the organization.

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<sup>6</sup> See AccountAble 28 and 58

<sup>7</sup> See AccountAble 20, 21, 72, and 73

## FCRA for Individuals

Individuals receiving scholarship, fellowship or stipend from a foreign source should report it to the FCRA Department. This is required if the annual payment exceeds Rs. 36,000 per year. The report should be sent in form FC-5<sup>8</sup>.

### Restricted categories

Certain categories of people are not allowed to accept foreign contribution. These are mainly people in sensitive positions. The list includes:

1. politicians (such as election candidates, MPs, MLAs, office-bearers of political parties);
2. people in public positions (judges, Government servants, employees of a corporation); and,
3. journalists (correspondents, columnists, cartoonists, editors, owners, printers, publishers of newspapers or magazines).

However, this restriction does not apply to normal business payments such as royalties, salaries, etc.

## FCRA for Foreign Donors

Foreign donors need to make sure that they give funds or materials only to organisations with a valid FCRA registration<sup>9</sup>. If the NGO is not registered under FCRA, the donor should ask them to show prior-permission.

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<sup>8</sup> See AccountAble 35

<sup>9</sup> This restriction does not apply to some donor organisations. See AccountAble 40 for details.

## Registration?

In most cases, donors do not themselves have to register under FCRA. This is the case with all corporate donors and individuals.

However, if the donor is a not-for-profit organisation, and has an office in India, then it may need FCRA registration for its own office as well.

In some cases, this requirement appears to have been waived off, especially if the Indian branch is receiving funds only for administering its own office.

## Future Outlook



FCRA is due to be replaced with a newer version called Foreign Contribution Management Act. The new law is likely to relax some banking restrictions. It

is also expected to introduce new safeguards on misuse of funds for religious propaganda or disruptive activities.

The draft bill, ready now for several years, has apparently been put on the back-burner due to lack of adequate support for the current Government in the Rajya Sabha.

### Related AccountAble Issues:

#### **Procedures**

33: Prior-permission

19: Form FC-1A

42: FCRA Registration

26: Form FC-8

20: Filling up FC-3 – Basics

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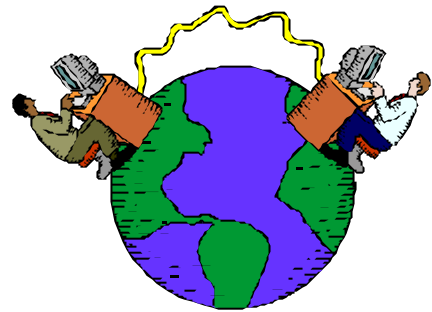
- 84: 'Foreign Source' in FCRA
- 29: FCRA Penalties

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