

Registration and Prior Permission

Q.1 How does a person obtain permission to accept Foreign Contribution?

Ans. There are two modes of obtaining permission to accept foreign contribution according to FCRA, 2010:

- i. Registration
- ii. Prior Permission

A. Eligibility

Q.2 What are the eligibility criteria for grant of registration?

Ans. For grant of registration under FCRA, 2010, the association should:

(i) be registered under an existing statute like the Societies Registration Act, 1860 or the Indian Trusts Act, 1882 or section 25 of the Companies Act, 1956 (Now Section 8 of Companies Act, 2013) 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 aims and objects, 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.3 What are the eligibility criteria for grant of prior permission?

Ans. An organization in formative stage is not eligible for registration. Such organization 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 meet following criteria:

(i) be registered under an existing statute like 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) For Indian recipient organizations and foreign donor organizations having common members, FCRA Prior Permission shall be granted to the Indian recipient organizations subject to its satisfying the following:

i) The Chief Functionary of the recipient Indian organization should not be a part of the donor organization.

ii) At least 51% of the office-bearers/ members of the Governing body of the Indian recipient organization should not be members/employees of the foreign donor organization.

iii) In case of foreign donor organization being a single person/individual that person should not be the Chief Functionary of the recipient Indian organization.

iv) In case of a single foreign donor, at least 51% office bearers/members of the governing body of the recipient organization should not be the family members and close relatives of the donor

Q.4 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.

x. 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.

(b) the acceptance of foreign contribution by the association/ person is not likely to affect prejudicially –

i. the sovereignty and integrity of India;

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

iii. the public interest;

iv. freedom or fairness of election to any Legislature;

v. friendly relation with any foreign State;

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.5 Can a private limited company or a partnership firm get registration or prior permission under FCRA, 2010?

Ans. Yes, 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. 6 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. Yes. 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.7 Whether organisations under Central/State Governments are required to obtain registration or prior permission under FCRA, 2010 for accepting foreign contribution?

Ans. Yes. However, all bodies constituted or established by or under a Central Act or a State act requiring to have their accounts compulsorily audited by Comptroller & Auditor General of India are exempted from the operations of all the provisions of FCRA, 2010.

B. Executive Committee

Q.8 Whether foreigners can be appointed as Executive Committee members of an association seeking registration or prior permission?

Ans. Organizations 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. However, foreigners may 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 person's 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.9 Whether Government servants, Judges and employees of a Government owned/controlled company/body can be on the executive committees/boards of an association?

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.

C. Validity of the certificate

Q.10 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. 11 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?

No. 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.

D. How to apply

Q.1 How to submit application for grant of registration/prior permission?

Ans. Application for grant of registration / prior permission is to be submitted online in form FC-3 at the website fcraonline.nic.in

Q.2 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. No. All requisite documents are to be uploaded with the application.

E. Filling of online form

Q.3 How to fill online form for filing application for grant of registration / prior permission?

Ans. The online application form FC-3 for registration /prior permission has been designed in an easy to fill format. The applicant will find detached instructions on each web page of online form while filing the application.

Q.4 How to rectify an error in the application for registration or PP that has already been submitted online?

Ans. No rectification of error is allowed after the application has been finally submitted online. In case of error, fresh application is required to be filed.

F. Required documents

Q.1 What are the documents to be uploaded with the application for grant of registration? (NIC – Mention file size limits also)

Ans. The applicant should be ready with the scanned copies of the following documents before filing the application online:

(A) Registration

(i) jpg file of signature of the chief functionary (size:_____)

(ii) self-certified copy of registration certificate/Trust deed etc., of the association (size:_____)

(iii) self-certified copy of relevant pages of Memorandum of Association/ Article of Association showing aim and objects of the association.

(iv) Activity Report indicating details of activities during the last three years; (size:_____)

(v) Copies of relevant audited statement of accounts for the past three years (Assets and Liabilities, Receipt and Payment, Income and Expenditure) clearly reflecting expenditure incurred on aims and objects of the association and on administrative expenditure; (size:_____)

(B) Prior Permission

(i) jpg file of signature of the chief functionary (size:_____)

(ii) self-certified copy of registration certificate/Trust deed etc., of the association (size:_____)

(iii) duly signed Commitment Letter from Donor.

(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 Registrar of Newspapers for India that the publication is not a newspaper in terms of section 1(1) of the said Act.

(v) Fee of Rs. 2000/- is to be paid online through payment gateway

Q.2 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.

G. Payment of fee

Q.1 What is the amount of fee for grant of registration and prior permission?

Ans. For registration the association is required to pay a fee of Rs. 2,000/- and for prior permission, the fee is Rs. 1,000/- only.

Q.2 How to make payment of fee. Can the fee be paid through Bank draft/cheque etc.

Ans. The fee is to be paid while filling online form through payment gateway. No Bank draft/cheque is accepted.

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H. Status of Online Form

Q.1 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 at fcra online services using user ID and password created at the time of filing application.