

# E-NEWSLETTER

## FCRA DO(S) AND DON'T(S)

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The Ministry of Home Affairs (MHA) have been tightening the FCRA regulations and norms year on year, from the time it has been amended in the year 2010. As per the latest data available on the FCRA Website, out of 49,742 FCRA Registered organizations, certificates of 20,674 organizations stands cancelled (which is near about 40% of the total) owing to non-compliances or violations under the Act, which includes even non-filing of FCRA Annual Returns. In the light of above data, it can be understood how crucial it is for a FCRA Registered organization to be aware and comply with the regulations as prescribed in the Act. However, though the Act is very clear and transparent in its provisions, many misconception still prevails among the organizations regarding what should be done and what should not, in order to be completely FCRA compliant organization. So, here we are listing out some of the recommended FCRA Do's and Don'ts by the department which needs to be taken utmost care of.

### FCRA DON'T(s) – WHAT FCRA REGISTERED ORGANIZATIONS SHOULD AVOID?

#### **1. MIXING OF FOREIGN AND LOCAL FUNDS**

As you are already aware that FCRA regulations mandate opening of a separate designated bank account for receiving foreign contributions. This implies no local funds should be deposited, by way of bank transfers or cash deposits in such FC Designated Bank Account which needs to be completely separate. In fact, in our view, the cash withdrawn from such account should also be kept separate from local cash for better monitoring and transparency.

#### **2. DEVIATING FROM THE PURPOSE OF GRANT**

The foreign contributions are usually received towards a specific project or purpose to be executed by the organization. Therefore, one should not utilize the grant so received apart from the purpose for which the donor has agreed to fund the organization and as also mentioned in the project contract letter. Similarly, the surplus of one project should not be utilized for other project in case of shortfall.

#### **3. TRANSFER TO UNREGISTERED ORGANIZATIONS**

The FCRA Funds should not be transferred to a non-FCRA registered organization without prior approval of Central Government. However, payments to direct beneficiaries of the funds received or to persons against the services rendered by them, can be done.

#### **4. CASH WITHDRAWALS & PAYMENTS**

As per the circular released by FCRA Department dated 21.10.2014, if the FCRA Organizations indulges in making payments for expenditure more than Rs. 20,000 in cash, they are likely to face more intensive scrutiny by the Government. In light of the said circular, it is recommended that cash payments should be discouraged as much as possible, and opt for account payee cheques and online banking

**Remember:**

Bearer Cheque = Cash

#### **5. INTER-TRANSFER OF FUNDS FROM UTILIZATION ACCOUNTS**

Under the current FCRA norms multiple utilization accounts can be opened for projects. However, no fund other than from the main account can be deposited in such accounts. Moreover, vice-versa is not allowed but the Act is silent on transfers within the multiple utilization accounts.

#### **6. INVESTMENT IN MUTUAL OR OTHER SPECULATIVE FUNDS**

FC Registered Organizations have been specifically debarred from investment in mutual funds or any other investments which are speculative in nature. However, local funds can be invested subject to provisions of Section 11(5) of Income Tax Act, 1961.

So, as per our view, FCRA Funds should be invested mainly in Fixed Deposits with Banks to ensure safety.

## FCRA DON'T(s) – WHAT FCRA REGISTERED ORGANIZATIONS SHOULD AVOID?



### **7. INCURRING HUGE ADMINISTRATIVE EXPENSES**

FCRA Regulations restrict organizations to incur expenditure towards administrative expenses to 50% of the total contributions received. However, it can be defrayed with prior permission from the Central Government in the matter.

### **8. ACCEPTING FOREIGN CONTRIBUTION DURING SUSPENSION OR AFTER CANCELLATION**

No FCRA Organizations should accept any foreign contribution once their registrations have been cancelled or is temporarily suspended due to violating certain FCRA norms.

### **9. ACCEPTING FOREIGN CONTRIBUTIONS IN UTILIZATION ACCOUNTS**

No FCRA organizations should accept any contributions directly in utilization accounts or any undisclosed bank account (i.e. for which Form FC-6C was not filed, other than in single FC Designated Bank Account.

### **10. INDULGE IN MAKING FALSE STATEMENTS**

No FCRA Organizations should knowingly give false intimation or seek prior permission or registration by means of false representation or concealment of material facts and informations.

## FCRA DO(s) – WHAT FCRA REGISTERED ORGANIZATIONS SHOULD DO?

### **1. SEPARATE BOOKS OF ACCOUNTS**

It is always recommended that the details of foreign receipts and utilization should be kept separately and FCRA Organizations should maintain separate books of accounts exclusively for FCRA Purposes. This not only ensures better monitoring of activities and transparency of records for donors and other stakeholders but also eases the process of reporting any data or information to the Ministry of Home Affairs, by such organizations.

### **2. SINGLE FC DESIGNATED BANK ACCOUNT**

The FCRA Organizations should strictly adhere to the norms of operating with only one FC Designated Bank account for the purposes of receiving foreign contributions. They should not hold more than one such account or receive contributions directly in the utilization accounts. Moreover, any change in such account should be intimated to the department in Form FC-6C within 15 days.

### **3. FILING FCRA ANNUAL RETURNS**

The FCRA Organizations, whether granted prior permission or permanent registration should not miss on filing mandatory FCRA Annual Returns every year. In fact, as per FCRA norms, even if no contribution is received during the year, NIL Return has to be filed compulsorily by the organization.

### **4. APPLYING FOR RENEWAL OF REGISTRATION**

The FCRA Certificate have a validity only for a period of 5 years, post which it needs to be renewed. So, all registered organizations must apply for renewal by filing an application in Form FC-3C atleast 6 months before the date of expiry of such registration. Remember, the registration might be ceased or even cancelled in case of failure to do so.

### **5. INTIMATING ABOUT ANY CHANGES**

The FCRA organizations should intimate to the Central Government regarding any changes made in the designated/utilization bank account, name of the association, address, aims or objectives and more than 50% change in key members of the association, by filing an application in Forms FC-6.