

AccountAble™

Life after FCRA

Issue 28: Jan'17

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When FCRA first became law in 1976, NGOs receiving foreign contribution merely needed to report it periodically. This changed in 1984, when NGOs were asked to register or get permission before accepting foreign contribution. In 2011, the new FCRA added a provision asking NGOs to renew their FCRA registration every five years. The first round of renewals has taken place in Oct'2016, leaving a number of NGOs wounded or unconscious on the battle field that foreign funding has now become. This issue of AccountAble tries to explain what happens if you didn't file your application in time, your application was rejected or your registration has been cancelled.

GENERAL GRACE PERIOD

What happens if you forgot to apply in time? Normally your application can be accepted up to four months after expiry:

Initial Registration	File FC-3 before	Scheduled Expiry	Delayed Filing Upto
1-Feb-2012	31-Jul-2016	31-Jan-2017	31-May-2017
15-Mar-2015	14-Sep-2019	14-Mar-2020	14-Jul-2020

However, you will have to give reasons as to why you did not file the application in time. The Government also has the option of rejecting your reasons, if these do not seem to be good enough. Does this mean that the FCRA registration will remain valid even after scheduled expiry? No, the registration will lapse. The NPO cannot accept any fresh foreign contribution after its FCRA registration has expired.¹

SPECIAL LIFELINE

When the renewal exercise took place for the first time in 2016, about 11,319 failed to apply online. The FCRA Department has given them an extra grace period of four months in which to apply:

Initial Registration	File FC-3 before	Scheduled Expiry	Delayed Filing Upto
1-May-2005	15-Mar-2016	31-Oct-2016	28-Feb-2017

¹ Foreign contribution received before this date can be used in the normal course.

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Thus these 11,319 NGOs² can apply online in form FC-3 till 28-Feb-2017. This extra grace period is not available for NPOs whose application had been rejected or closed. What happens if an NPO doesn't wake up even by Feb'17? After this extra grace period, the NPO will have to make a fresh application for registration using FC-3.

USING RENEWAL LIFELINE

When the renewal exercise took place for the first time in 2016, about 11,319 failed to apply online. The FCRA Department has given them an extra grace period of four months in which to apply:

If you want to use the renewal lifeline, follow these steps:

1. Check that your name appears on the list of 11,319 organisations.
2. Make sure all FCRA returns up to 31-Mar-16 have been filed.
3. If any FCRA returns remain pending, file these online, after paying late fees.
4. Make sure the FCRA registration details in FCRA database (organisation's name and registration number)

match with your FCRA registration certificate.

5. Fill up form FC-3 online, after selecting 'renewal option'. Make sure all the columns are filled completely and properly. The email id given in the application should be valid and checked regularly.
6. Prepare a letter giving 'sufficient grounds'³ for not having applied earlier. The Chief Functionary should sign this letter. This letter will be uploaded along with your renewal application.
7. If necessary, share draft form FC-3 and letter with your auditors (orquery@accountaid.net) for guidance.
8. Form FC-3 is signed and stamped using digital image of Chief Functionary's signature and association seal. You should upload these images also as per instructions on FCRA site.
9. Submit the form and pay the fees online. Make sure you save a copy of the acknowledgement generated by the FCRA site.
10. Login to your FCRA account from time to time and check whether there are any requests for information.

You may face problems in logging in if you don't have your login id or password. For this or for any other clarification, write tofcrenewal-mha@gov.in. Remember to include all details such as name of organisation, FCRA registration number, application number, and details of your problem.

APPLICATION CLOSED?

In 1,015 cases,⁴ the application for renewal has been closed. In most of the cases, this happened as the NPO could not respond to FCRA queries sent over email. These NPOs are required to apply for fresh registration. However, before applying for fresh registration, please check whether the FCRA Department is willing to consider your application for renewal again.⁵ For this to happen, you will need to give good reasons, as to why you were not able to give required clarifications in time.

² List attached to FCRA notice dated 22-Nov-2016, available at fcrionline.nic.in

³ For example, you may have filed renewal application in form FC-5 earlier, and didn't realise that you must file form FC-3 again online.

⁴ See list at fcrionline.nic.in

⁵ Write to fcrenewal-mha@gov.in.

LOSS OF FCRA - IMPLICATIONS

What happens if you lose your FCRA? This depends on how you lost it.

1. Failed to Apply

Perhaps you did not file your application in time, or you filed it in the wrong manner.⁶ In such a case, your registration has merely lapsed. This means you can no longer accept fresh foreign contribution in cash or in kind. However, you can continue using the foreign contribution you received before the lapse of FCRA.

You may have lost your registration but your responsibilities remain. You must use the remaining foreign contribution as per FCRA norms. You must not give it to other associations who don't have FCRA. However, you can transfer the funds to another NGO with FCRA registration if directed by your donor agency.

If you sell any of the FCRA assets, the proceeds must be deposited in the FCRA designated bank account. You must also continue keeping separate accounts and records for foreign contribution. You must also file form FC-4 annually till the time all the remaining foreign contribution is used up.

2. Renewal Denied

Denial of renewal means you can no longer accept fresh foreign contribution in cash or in kind. However, you can continue using the foreign contribution you received before the expiry of FCRA. All the conditions mentioned above apply:

- Use the remaining foreign contribution as per FCRA norms. Don't use it for prohibited activities such as journalism or activities of a political nature.
- Don't give it to other associations who don't have FCRA. However, you can transfer the funds to another NGO with FCRA registration if directed by your donor agency.
- If you sell any of the FCRA assets, deposit the sale money in the FCRA designated bank account.
- Continue keeping separate accounts and records for

foreign contribution.

- Keep filing form FC-4 annually till the time all the foreign contribution is used up.

3. FCRA Cancelled

If your FCRA has been cancelled by an order, then things are very different. All your FC funds and assets are placed under government management. This is often done by asking the District Collector to manage the assets and program activities.

The actual takeover by the Collector may take some time. In the meanwhile, you should not use the FC funds or assets for any purpose. If you do, you may face further prosecution.



RE-REGISTRATION UNDER FCRA

You can apply for fresh FCRA registration again. For this you have to fill up form FC-3 online. Choose registration option at the prompt. Fill up the application, and pay the registration fees.

- If you lost your FCRA registration due to lapse, you

⁶ Using old paper form FC-5, or filed with incomplete documents, or fees not paid, etc.

- can apply straight away. There is no waiting period.
- If your FCRA renewal has been denied on technical grounds, such as insufficient documents, then you can apply again for fresh FCRA registration.
 - If your renewal was rejected for a particular reason,⁷ then you should first set things right. You can then apply for FCRA registration.⁸ It would also be a good idea to wait for at least six months before applying again.
 - If your FCRA registration has been cancelled, you have to wait for three years before applying again for registration. In the meantime, you

should discontinue the 'offending' activities, if any. In some cases, you may also have to restructure your Board to ensure any 'undesirable' members are no longer on Board.

Once your FCRA is renewed or granted again, please take good care of it. Else you may be reading this again five years later!

⁷ E.g. foreigner on board, or not filing old FCRA returns. If renewal has been denied due to nature of activity (adverse IB report or political activities), then you may have to give up such activities or change board members before applying for registration.

⁸ You can still apply for prior-permission.

⁹ From date of rejection

What is AccountAble: Each issue of 'AccountAble' covers a different topic related to NPO regulation or accounting and is posted/ emailed to about 3,000 persons in NPOs, Agencies, CSR Departments, Corporate Foundations and audit firms. AccountAid encourages re-production or re-distribution of 'AccountAble' in workshops or NPO newsletters for non-commercial use, provided the source is acknowledged.

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Comments: AccountAid India, 55-B, Pocket C, Siddharth Extension, New Delhi-110 014; Phone: 011-2634 3128; Phone/Fax: 011-2634 3852; e-mail: query@accountaid.net

Text © AccountAid™ India: विक्रम संवत् २०७३ पौष ।
January 2017 CE

Printed and published by Ms. Renu Agarwal for AccountAid India, New Delhi (Ph. 26343128) at PRINTWORKS, W-11, Okhla Industrial Area, Phase 2, New Delhi 110 020

Content: Shri Sanjay Agarwal

Editing: Ms. Soumyasree Mullick

Design: Ms. Moushumi De

Images: ©Traffic sign:M-SUR; Vector illustration:Johny-Ka; shutterstock.com

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