

Foreign Contribution Regulation Rules, 2011

1. Short title and commencement

- (1) These rules may be called the Foreign Contribution (Regulation) Rules, 2011.
- (2) They shall come into force on the date on which the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) shall come into force.

2. Definitions.

(1) In these rules unless the context otherwise requires,-

- (a) "Act" means the Foreign Contribution (Regulation) Act 2010;
 - (b) "chartered accountant" shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949;
 - (c) "Form" means a form appended to these rules;
 - (d) "section" means section of the Act;
 - (e) "year" means the financial year commencing from the 1st day of April and ending on the 31st day of March of the next calendar year;
- (2) Words and expressions used and not defined herein but defined in the Act shall have the meaning assigned to them in the Act.

3. Guidelines for declaration of an organisation to be of a political nature, not being a political party. –

The Central Government may specify any organisation as organisation of political nature on one or more of the following grounds:-

- (i) organisation having avowed political objectives in its Memorandum of Association or bylaws;
- (ii) any Trade Union whose objectives include activities for promoting political goals;
- (iii) any voluntary action group with objectives of a political nature or which participates in political activities;
- (iv) front or mass organisations like Students Unions, Workers' Unions, Youth Forums and Women's wing of a political party;
- (v) organisation of farmers, workers, students, youth based on caste, community, religion, language or otherwise, which is not directly aligned to any political party, but whose objectives, as stated in the Memorandum of Association, or activities gathered through other material evidence, include steps towards advancement of political interests of such groups;
- (vi) any organisation, by whatever name called, which habitually engages itself in or employs common methods of political action like 'bandh' or 'hartal', 'rasta roko', 'rail roko' or 'jail bharo' in support of public causes.

4. Speculative activities. –

(1) The following activities shall be treated as speculative activities:-

- (a) any activity or investment that has an element of risk of appreciation or depreciation of the original investment, linked to market forces, including investment in mutual funds or in shares;
 - (b) participation in any scheme that promises high returns like investment in chits or land or similar assets not directly linked to the declared aims and objectives of the organisation or association.
- (2) A debt-based secure investment shall not be treated as speculative investment.
 - (3) Every association shall maintain a separate register of investments.
 - (4) Every register of investments maintained under sub-rule (3) shall be submitted for audit.

5. Administrative expenses. –

The following shall constitute administrative expenses:-

- (i) salaries, wages, travel expenses or any remuneration realised by the Members of the Executive Committee or Governing Council of the person;
- (ii) all expenses towards hiring of personnel for management of the activities of the person and salaries, wages or any kind of remuneration paid, including cost of travel, to such personnel;
- (iii) all expenses related to consumables like electricity and water charges, telephone charges, postal charges, repairs to premise(s) from where the organisation or Association is functioning, stationery and printing charges, transport and travel charges by the Members of the Executive Committee or Governing Council and expenditure on office equipment;

- (iv) cost of accounting for and administering funds;
- (v) expenses towards running and maintenance of vehicles;
- (vi) cost of writing and filing reports;
- (vii) legal and professional charges; and
- (viii) rent of premises, repairs to premises and expenses on other utilities:

Provided that the expenditure incurred on salaries or remuneration of personnel engaged in training or for collection or analysis of field data of an association primarily engaged in research or training shall not be counted towards administrative expenses:

Provided further that the expenses incurred directly in furtherance of the stated objectives of the welfare oriented organisation shall be excluded from the administrative expenses such as salaries to doctors of hospital, salaries to teachers of school etc.

6. Intimation of receiving foreign contribution from relatives. -

Any person receiving foreign contribution in excess of one lakh rupees or equivalent thereto in a financial year from any of his relatives shall inform the Central Government in Form FC-1 within thirty days from the date of receipt of such contribution.

[6A. When articles gifted for personal use do not amount to foreign contribution. –

Any article gifted to a person for his personal use whose market value in India on the date of such gift does not exceed rupees twenty-five thousand shall not be a foreign contribution within the meaning of sub-clause (i) of clause (h) of sub-section (1) of section (2).]

7. Receiving foreign hospitality by specified categories of persons. -

(1) Any person belonging to any of the categories specified in section 6 who wishes to avail of foreign hospitality shall apply to the Central Government in Form FC-2 for prior permission to accept such foreign hospitality.

(2) Every application for acceptance of foreign hospitality shall be accompanied by an invitation letter from the host or the host country, as the case may be, and administrative clearance of the Ministry or department concerned in case of visits sponsored by a Ministry or department of the Government.

(3) The application for grant of permission to accept foreign hospitality must reach the appropriate authority ordinarily two weeks before the proposed date of onward journey.

(4) In case of emergent medical aid needed on account of sudden illness during a visit abroad, the acceptance of foreign hospitality shall be required to be intimated to the Central Government within sixty days of such receipt giving full details including the source, approximate value in Indian Rupees, and the purpose for which and the manner in which it was utilised.

Provided that no such intimation is required if the value of such hospitality in emergent medical aid is upto one lakh rupees or equivalent thereto.

8. Action in respect of article, currency or security received in contravention of the Act. -

(1) The Central Government may issue a prohibitory order for contravention of the Act in respect of any article, currency or securities.

(2) The prohibitory order issued under sub-rule (1) shall be served on the person concerned in the following manner :-

(a) by delivering or tendering it to that person or to his duly authorized agent; or

(b) by sending it to him by 'registered post with acknowledgement due' or 'speed post' to the address of his last known place of residence or the place where he carries on, or is known to have last carried on, business or the place where he personally works for gain or is known to have last worked for gain and, in case the person is an organisation or an association, to the last known address of the office of such organisation or association; or

(c) if it cannot be served in any of the manner aforesaid, by affixing it on the outer door or some other conspicuous part of the premises in which that person resides or carries on, or is known to have last carried on, business or personally works for gain, or is known to have last worked personally for gain and, in case the person is an organisation or an association, on the outer door or some other conspicuous part of the premises in which the office of that organisation or association is located, or is known to have been last located, and the written report whereof should be witnessed by at least two persons.

9. Application for obtaining 'registration' or 'prior permission' to receive foreign contribution. -

(1) (a) An application under sub-section (1) of section 11 for registration of a person for acceptance of foreign contribution shall be made electronically on-line in Form FC-3, and shall be followed by forwarding the hard copy of the on-line application duly signed by the Chief Functionary of the association together with the required documents.

(b) The hard copy of the on-line application referred in clause (a) shall reach the Central Government within thirty days of the submission of the on-line application, failing which the request of the person shall be deemed to have ceased.

¹ Inserted vide Foreign Contribution (Regulation) Amendment Rules, 2012. [Notification no. GSR 292(E), dated 12-4-2012]

(c) Any person whose request has ceased under clause (b) of sub-rule (1) may prefer a fresh on-line application with the Central Government only after six months from the date of cessation of the previous application.

(d) A person seeking registration shall be required to open an exclusive bank account to receive the foreign contribution.

(e) The person may open one or more accounts in one or more banks for the purpose of utilising the foreign contribution after it has been received and, in all such cases, intimation on plain paper shall be furnished to the Secretary, Ministry of Home Affairs, New Delhi within fifteen days of the opening of any account.

(2) (a) An application under sub-section (2) of section 11 for obtaining prior permission of the Central Government to receive foreign contribution shall be made electronically on-line in Form FC-4 and shall be followed by forwarding the hard copy of the on-line application duly signed by the Chief Functionary of the Association together with the required documents.

(b) The hard copy of the on-line application shall reach the Central Government within thirty days of filing of the on-line application, failing which the request of the person shall be deemed to have ceased.

(c) Any person whose request has ceased under clause (b) of sub-rule (2) may prefer a fresh on-line application with the Central Government only after six months from the date of cessation of the previous application.

(d) A person seeking prior permission under this rule shall be required to open an exclusive bank account for the receipt of foreign contribution.

(e) A person seeking prior permission under this rule may open one or more accounts in one or more banks for the purpose of utilising the foreign contribution after it has been received and in all such cases intimation on plain paper shall be furnished to the Secretary, Ministry of Home Affairs, New Delhi within fifteen days of the opening of any account.

(3) No person shall prefer a second application for registration or prior permission within a period of six months after submitting an application either for the grant of prior permission for the same project or for registration.

(4) (a) An application made for the grant of prior permission shall be accompanied by a fee of Rs.1000/- (One Thousand only).

(b) An application made for the grant of the registration shall be accompanied by a fee of 2000/- (Two Thousand only).

(c) The fee may be revised by the Central Government from time to time.

(d) The fee, as applicable, shall be remitted by demand draft or banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.

(5) Notwithstanding anything contained in sub-rules (1) to (4), every application made for registration or prior permission under the Foreign Contribution (Regulation) Act, 1976 (49 of 1976) but not disposed of before the date of commencement of these rules shall be deemed to be an application for registration or prior permission, as the case may be, under these rules, subject to the condition that the applicant furnishes the prescribed fees for such registration or prior permission, as the case may be.

10. Validity of certificate. -

Every certificate of registration granted to a person under the Act shall be valid for a period of five years from the date of its issue.

11. Maintenance of accounts -

Every person who has been granted registration or prior permission under section 12 shall maintain a separate set of accounts and records, exclusively, for the foreign contribution received and utilised.

12. Renewal of registration certificate. -

(1) Every certificate of registration issued to a person shall be liable to be renewed after the expiry of five years from the date of its issue on proper application.

(2) Every person shall apply to the Central Government in Form FC-5, six months before the date of expiry of the certificate of registration, for its renewal.

(3) A person implementing an ongoing multi-year project shall apply for renewal twelve months before the date of expiry of the certificate of registration.

(4) An application made for renewal of the certificate of registration shall be accompanied by a fee of Rs.500/- (Five Hundred only).

(5) The fee for renewal of the certificate of registration shall be remitted by demand draft or banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.

(6) In case no application for renewal of registration is received or such application is not accompanied by the requisite fee, the validity of the certificate of registration of such person shall be deemed to have ceased from the date of completion of the period of five years from the date of the grant of registration.

Illustration. - A certificate of registration granted on the 1st January, 2012 shall be valid till the 31st December, 2016. A request for renewal of the registration certificate shall reach the Central Government, accompanied by the requisite fee, by the 30th June, 2016. If no application is received or is not accompanied by the renewal fee, the validity of the registration certificate issued on the 1st January 2012 shall be deemed to have lapsed with effect from the close of the day on 31st December, 2016.

(7) If the validity of the certificate of registration of a person has ceased in accordance with the provisions of these rules, a fresh request for the grant of a certificate of registration may be made by the person to the Central Government as per the provisions of rule 9.

(8) In case a person provides sufficient grounds, in writing, explaining the reasons for not submitting the certificate of registration for renewal within the stipulated time, his application may be accepted for consideration along with the requisite fee, but not later than four months after the expiry of the original certificate of registration.

13. In the event of receipt of foreign contribution in excess of one crore rupees in a financial year. -

In case a person who has been granted a certificate of registration or prior permission receives foreign contribution in excess of one crore rupees, or equivalent thereto, in a financial year, he/it shall place the summary data on receipts and utilisation of the foreign contribution pertaining to the year of receipt as well as for one year thereafter in the public domain. Besides, the Central Government shall also display or upload the summary data of such persons on its website for information of the general public.

14. Extent of amount that can be utilised in case of suspension of the certificate of registration. -

The unspent amount that can be utilised in case of suspension of a certificate of registration may be as under: -

(a) In case the certificate of registration is suspended under sub-section (1) of section 13 of the Act, up to twenty-five per cent of the unutilised amount may be spent, with the prior approval of the Central Government, for the declared aims and objects for which the foreign contribution was received.

(b) The remaining seventy-five per cent of the unutilised foreign contribution shall be utilised only after revocation of suspension of the certificate of registration.

15. Custody of foreign contribution in respect of a person whose certificate has been cancelled. -

(1) The amount of foreign contribution lying unutilised in the exclusive foreign contribution bank account of a person whose certificate of registration has been cancelled shall vest with the [bank]² concerned till the Central Government issues further directions in the matter.

(2) If a person whose certificate of registration has been cancelled transfers/has transferred the foreign contribution to any other person, the provisions of sub-rule (1) of this rule shall apply to the person to whom the fund has been transferred.

16. Reporting by banks of receipt of foreign contribution. -

(1) Every bank shall send a report to the Central Government within thirty days of any transaction in respect of receipt of foreign contribution by any person who is required to obtain a certificate of registration or prior permission under the Act, but who was not granted such certificate or prior permission as on the date of receipt of such remittance.

(2) The report referred to in sub-rule (1) shall contain the following details: -

(a) Name and address of the donor.

(b) Name and address of the recipient.

(c) Account number.

(d) Name of the Bank and Branch.

(e) Amount of foreign contribution (in foreign currency as well as Indian Rupees).

(f) Date of receipt.

(g) Manner of receipt of foreign contribution (cash/cheque/electronic transfer etc.).

(3) The bank shall send a report to the Central Government within thirty days from the date of such last transaction in respect of receipt of any foreign contribution in excess of one crore rupees or equivalent thereto in a single transaction or in transactions within a duration of thirty days, by any person, whether registered or not under the Act and such report shall include the following details:-

(a) Name and address of the donor.

(b) Name and address of the recipient.

(c) Account number.

(d) Name of the Bank and Branch.

(e) Amount of foreign contribution (in foreign currency as well as Indian Rupees).

(f) Date of receipt.

(g) Manner of receipt of foreign contribution (cash/cheque/electronic transfer etc.).

17. Intimation of foreign contribution by the recipient. -

² Substituted for 'banking authority' vide Foreign Contribution (Regulation) Amendment Rules, 2012. [Notification no. GSR 292(E), dated 12-4-2012]

(1) Every person who receives foreign contribution under the Act shall submit a report in Form FC-6, accompanied by an income and expenditure statement, receipt and payment account, and balance sheet for every financial year beginning on the 1st day of April within nine months of the closure of the financial year, to the Secretary to the Government of India, Ministry of Home Affairs, New Delhi.

(2) The annual return in Form FC-6 shall reflect the foreign contribution received in the exclusive bank account and include the details in respect of the funds transferred to other bank accounts for utilisation.

(3) If the foreign contribution relates only to articles, the intimation shall be submitted in Form FC-7.

(4) If the foreign contribution relates to foreign securities, the intimation shall be submitted in Form FC-8.

(5) Every report submitted under sub-rules (2) to (4) shall be duly certified by a chartered accountant.

(6) Every such return in Form FC-6 shall also be accompanied by a copy of a statement of account from the bank where the exclusive foreign contribution account is maintained by the person, duly certified by an officer of such bank.

(7) The accounting statements referred to above in the preceding sub-rule shall be preserved by the person for a period of six years.

(8) A 'NIL' report shall be furnished even if no foreign contribution is received during a financial year.

18. Foreign contribution received by a candidate for election. -

Foreign contribution received by a candidate for election, referred to in section 21, shall be furnished in Form FC-9 within forty-five days from the date on which he is duly nominated as a candidate for election.

19. Limit to which a judicial officer, not below the rank of an Assistant Sessions Judge may make adjudication or order confiscation. -

An officer referred in clause (b) of sub-section (1) of section 29 may adjudge confiscation in relation to any article or currency seized under section 25, if the value of such article or the amount of such currency seized does not exceed Rs.10, 000,000/- (Ten Lakh only).

20. Revision. -

An application for revision of an order passed by the competent authority under section 32 of the Act shall be made to the Secretary, Ministry of Home Affairs, Government of India, New Delhi on a plain paper. It shall be accompanied by a fee of Rs.1000/- (One Thousand only) in the form of a demand draft or a banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.

21. Compounding of offence. -

An application for the compounding of an offence under section 41 may be made to the Secretary, Ministry of Home Affairs, New Delhi on a plain paper and shall be accompanied by a fee of Rs.1000/- (One Thousand only) in the form of a demand draft or a banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.

22. Returns by the Investigating Agency to the Central Government. -

The Central Bureau of Investigation or any other Government investigating agency that conducts any investigation under the Act shall furnish reports to the Central Government, on a quarterly basis, indicating the status of each case that was entrusted to it, including information regarding the case number, date of registration, date of filing charge sheet, court before which it has been filed, progress of trial, date of judgment and the conclusion of each case.

23. Authority to whom an application or intimation to be sent. -

Any information or intimation about political or speculative activities of a person as mentioned in rule 3 or rule 4, shall be furnished to the Secretary to the Government of India in the Ministry of Home Affairs, New Delhi. Such information or intimation shall be sent by registered post.

[24. Procedure for transferring foreign contribution to any unregistered person. -

(1) A person who has been granted a certificate of registration or prior permission under section 11 and intends to transfer part of the foreign contribution received by him to a person who has not been granted a certificate of registration or prior permission under the Act, may transfer such foreign contribution to an extent not exceeding ten per cent of the total value thereof and for this purpose, make an application to the Central Government in Form FC-10.

(2) Every application made under sub-rule (1) shall be accompanied by a declaration to the effect that

(a) the amount proposed to be transferred during the financial year is less than ten per cent of the total value of the foreign contribution received by him during the financial year;

(b) the transferor shall not transfer any amount of foreign contribution until the Central Government approves such transfer.

(3) A person who has been granted a certificate of registration or prior permission under section 11 shall not be required to seek the prior approval of the Central Government for transferring the foreign contribution received by him to another person who has been

granted a certificate of registration or prior permission under the Act provided that the recipient has not been proceeded against under any of the provisions of the Act.

(4) Both the transferor and the recipient shall be responsible for ensuring proper utilisation of the foreign contribution so transferred and such transfer of foreign contribution shall be reflected in the returns in Form FC-6 to be submitted by both the transferor and the recipient.]³

³ Substituted vide Foreign Contribution (Regulation) Amendment Rules, 2012. [Notification no. GSR 292(E), dated 12-4-2012] The original rule read as under:

'24. Procedure for transferring foreign contribution to other registered or unregistered persons. –

(1) Any person intending to transfer the foreign contribution may make an application to the Central Government in Form FC-10.

(2) The Central Government may permit the transfer in respect of a person who has been granted the certificate of registration or prior permission under section 11 of the Act, in case the recipient person has not been proceeded against under any provision of the Act.

(3) Any transfer of foreign contribution shall be reflected in the returns in Form FC-6 as well as in Form FC-10 by the transferor and the recipient.

(4) In case the foreign contribution is proposed to be transferred to a person who has not been granted a certificate of registration or prior permission by the Central Government, the person concerned may apply for permission to the Central Government to transfer a part of the foreign contribution, not exceeding ten per cent, of the total value of the foreign contribution received. The application shall be countersigned by the District Magistrate having jurisdiction in the place where the transferred funds are sought to be utilised. The District Magistrate concerned shall take an appropriate decision in the matter within sixty days of the receipt of such request from the person. The donor shall not transfer any foreign contribution until the Central Government has approved the transfer. '