



# Foreign Contribution (Regulation) Act, 2010

**Impact of recent amendments**

May 2021

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## With effect from 29 September 2020, major changes to the Foreign Contribution (Regulation) Act, 2010 (FCRA) have been notified, which will impact the non-profit sector.

- The government has observed that, Foreign Contributions (FC) received in the past decade has been doubled but the FC had not been utilised for the stated purposes for which it was granted.<sup>1</sup> Accordingly, the government felt a need to streamline the provisions of FCRA by strengthening the compliance mechanism, enhancing transparency and accountability in receipt and utilisation of FC.
- The Foreign Contribution (Regulation) Amendment Bill, 2020 was passed by both Houses of Parliament, received the Presidential Assent on 29 September 2020 and was immediately notified to be effective from 29 September 2020 itself.

### Key Amendments to the FCRA

Amendment	Impact of amendment	Parties impacted	Next steps
<b>No sub-granting of FC</b>	Collaborative arrangements or partnerships no longer possible	NGO aggregators, NGOs unable to access FC and foreign donors	Revisit existing collaborations/structures and rationalisation
<b>Reduction in admin expenses limit from 50% to 20%</b>	Restrictions on activities not undertaken on-field	Research and Advocacy based NGOs as well as NGOs with high administrative costs	Critical review of expenditures undertaken to comply with reduced limits
<b>Mandatory receipt of FC in bank account with State Bank of India (SBI), Delhi</b>	SOP for bank account notified. Administrative hassles for opening bank account	All NGOs and foreign donors	Open a bank account with the designated bank i.e., SBI Delhi
<b>Mandatory Aadhar for all Indian based members/Passport for foreigners &amp; OCI Card</b>	Easy identification of responsible person for misuse of FC	All NGOs	Required documents should be kept in place. It will be required during fresh registrations/renewal
<b>Prohibition of receipt of FC by public servants</b>	Reduce influence over FC by Government and public servants	NGOs with public servants on boards	Revisit Shareholding/Trustee's position in NGOs
<b>Extension of suspension period to 360 days from 180 days in case of violation</b>	Longer suspension period will impact any ongoing projects	NGOs facing suspension of registration	Clarity required for use of unspent FC balance during suspension period
<b>Voluntary surrendering of FCRA registration</b>	New provision introduced - FCRA requirements will no longer be applicable upon surrender	NGOs no longer receiving FC funding	Evaluate treatment of assets created out of FC funds in case of voluntary surrendering

1. Statement of Objects and Reasons, The Foreign Contribution (Regulation) Amendment Bill, 2020 (Bill No. 123 of 2020)



## Key upcoming Due date

- The due date to file the annual return i.e. FC-4 for the Financial Year (FY) 2019-20 extended to 30 June 2021
- FC-4 for the FY 2020-21 to be filed by 31 December 2021. This return will need to take into account the recent amendments to the FCRA provisions
- Existing FCRA entities to open the designated "FCRA Account" with SBI Delhi by 30 June 2021<sup>2</sup>
- FCRA registrations expiring / expired during the period 29 September 2020 to 30 September 2021 shall remain valid till 30 September 2021<sup>3</sup>
- FCRA renewals for all organisations who were registered under FCRA, 1976 and automatically received registration under FCRA, 2010 are valid only till 31 October 2021. The application for renewal of such registration to be filed from 1 May 2021 onwards. Renewal applications can be filed 6 months prior to expiry of registration. Each renewal will be subject to verification which may be akin to a fresh approval.

## How KPMG in India can help?

### Diagnostic review and compliance support

Undertake an evaluation of the recent FCRA amendments to the current projects/operations.

Advice on key considerations to be factored on FC receipts for COVID-19 relief having regard to the new norms.

Assistance in developing a framework to identify and classify administration expenses as per FCRA provisions.

Provide key considerations for filing the annual returns (including the impact of the recent amendments to be considered in the annual return of FY 2020-21).

Provide retainer support on time to time queries on FCRA regulations.

### Renewal of FCRA

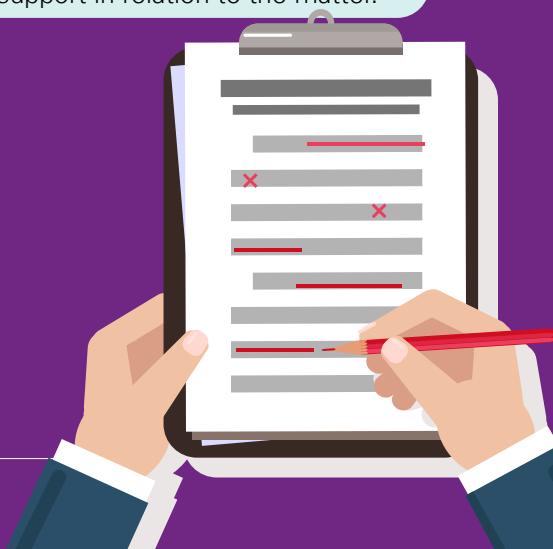
Advice on housekeeping measures and safeguards prior to applying for FCRA renewals.

Impact of past communications with FCRA authorities and advice on corrective measures to be taken.

Providing support on time-to-time queries raised by the Ministry of Home Affairs/FCRA wing and other ancillary support in relation to the matter.

2. Notice F. No. II/21022/36(58)/2021-FCRA-III dated 18 May 2021

3. Notice F. No. II/21022/36(58)/2021-FCRA-II dated 18 May 2021



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