

# STUDENTS' ECONOMIC FORUM

*To kindle interest in economic affairs...  
To empower the student community...*



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Theme 236

**FOREIGN CONTRIBUTION (REGULATION) ACT**

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**THEME 236 : FOREIGN CONTRIBUTION (REGULATION) ACT**

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A well-informed customer will make the policy makers as well as organisations which produce goods and services more responsive to the customer needs. This will also result in healthy competition among organisations and improve the quality of goods and services produced.

The “SIB Students’ Economic Forum” is designed to kindle interest in economic affairs in the minds of our younger generation. We highlight one theme in every monthly meeting of the “SIB Students’ Economic Forum”. The topic selected for this month is “Foreign Contribution (Regulation) Act”

The Foreign contribution (Regulation) Act (FCRA) came into force on the 5th day of August 1976, formulated by Central Government in exercise of the powers conferred under section 30 of the Act. The Act imposes certain obligations on Banks in regard to acceptance of foreign contributions for credit to the accounts of Associations/Organisations in India.

**What are the provisions of FCRA?**

All banks are required to strictly adhere to certain provisions of the Act while dealing with receipt of foreign contribution. No foreign contribution shall be accepted by any person who is a candidate for election, correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper, judge, government servant or employee of any corporation, member of any legislature, political party or office bearer thereof. No foreign contribution shall be received by any association / organisation without prior permission unless it is registered with Ministry of Home Affairs under the provisions of the Act.

**What is the meaning of Association /Organisation under the Act?**

An Association /Organisation under the Act means an association or organisation of individuals, whether incorporated or not, having an office in India and includes a society whether registered or not and or any other organisation by whatever name called.

### **What do you mean by Foreign Contribution?**

The donation, delivery or transfer of any article, currency or foreign security referred to in this Act by any person who has received it from any foreign source, either directly or through one or more persons, shall be deemed to be foreign contribution within the meaning of this Act.

1. Article: Any article, except those given as a gift for personal use, if the market value of such article exceeds Rs.1,000.
2. Currency: includes both Indian and foreign currencies.
3. Foreign security: All foreign securities except earnings from foreign client(s) by an NGO/ association in lieu of goods sold or services rendered by it, as this is a commercial transaction.

**Contribution made by a citizen of India living in another country (NRI), from his personal savings, through the normal banking channels, is not treated as foreign contribution.**

### **What are the procedures for receiving foreign contribution?**

Banks should afford credit of the proceeds of the cheque/DD representing foreign contribution only if the association/organisation is registered with the Ministry of Home Affairs, Govt. of India. Banks should insist for production of the communication from the Ministry of Home affairs conveying prior permission of the Central Government for acceptance of specific amount of foreign contribution in case the association /organisation is not registered under the above Act. Banks should note the registration number conveyed by the Ministry in the relevant records particularly in the system /ledger where such accounts are maintained to protect the interests of the association /organisation from any harassment in this regard.

### **What is meant by Foreign Source?**

Foreign source under this Act has been defined in Section 2(e) of the Act and it is evident there from that **remittances from Indian Citizens** for the purpose of contributing to the aforesaid associations/organisations **do not attract the provisions of FCRA**. But for **contributions given by non resident foreign citizens of Indian origin** through their NRE/FCNR accounts maintained in India, **the provisions of FCRA will be attracted** and these contributions are to be treated as from “Foreign Source”.

Donations by Persons of Indian origin (PIO)/PIO card holders who hold other countries’ passports or registered Overseas Citizens of India (OCI) are foreign nationals and as such considered as Foreign Source. Foreign source also includes the government of any foreign country or territory or its agency, an international agency, a foreign company and citizens of a foreign country.



**Agencies of the United Nations, World Bank and such other international agencies /multilateral organisations are exempted from the definition of Foreign source.**

**What are the various guidelines issued by RBI in this regard?**

RBI has issued certain guidelines regarding acceptance of foreign contribution, obtaining prior permission, application for registration, intimation of receipt, authority to whom application to be sent, manner of service of prohibitory order and maintenance of accounts.

Acceptance of foreign contribution: RBI has advised banks that while accepting foreign contribution on behalf of associations /organisations, it is to be ensured that such entities are registered with the Ministry of Home Affairs or have the prior permission to receive such contributions as required under the Act and that no branch of a bank other than the designated one shall accept such foreign contributions.

Application for prior permission: The application for prior permission is to be made in Form FC-1, FC-1(A) or FC-2 according to the nature of foreign contribution / foreign hospitality.

Application for registration: The application for registration shall be made in Form FC-8

Intimation of receipt:

1. Form FC-3 in duplicate within 4 months of the closure of the year including the utilisation of the contribution.
2. Form FC-4 -for foreign contribution by a candidate for election within 15 days from the date on which he is duly nominated as a candidate for election.
3. Form FC-5 for any scholarship, stipend or any payment of a like nature, from any foreign source, within 30 days of receipt, provided that where the person receiving such payments is residing outside India, the intimation shall be given within 60 days of receipt. It is not necessary to provide such information by a citizen of India, if the value of such payment does not exceed Rs.36,000 during an academic year. While calculating the value, the amount received for purchase of books, clothing and equipment and for sight -seeing in a foreign country shall be taken into account, but the amount spent on travel by air in economy class from India to a foreign country & back and amount spent on tuition and other fees need not be taken into account.

**Where should the application /intimation be sent?**

All applications/intimations in respect of foreign contribution shall be made or given to the Secretary, Ministry of Home Affairs, Government of India, New Delhi by registered post.

### **What is the procedure for service of prohibitory order under the Act?**

A prohibitory order under section 12 of the Act is to be served on the person concerned by delivering or tendering to that person or his duly authorised agent by registered post with acknowledgement due or by affixing it on the outer door or some conspicuous part of the premises in which the office of that organisation /association was located witnessed by at least two persons.

### **What is the RBI direction regarding maintenance of accounts, exclusively for receipt and utilisation of foreign contribution?**

Form-6: is to be maintained where the foreign contribution relates to articles.

Form-7: is to be maintained where the foreign contribution relates to foreign securities.

Bank Account is to be maintained where the foreign contribution relates to currency received and utilised.

Every account specified above shall be duly certified by a Chartered Accountant in Form FC-3 along with balance sheet, statement of receipt & payment and shall be furnished, in duplicate, to The Secretary, Ministry of Home Affairs, Govt. of India, New Delhi within 4 months of the closure of the year.

### **What are the precautions to be taken by banks in this regard?**

All bank branches should verify the accounts of associations, organisations, trusts, charitable societies, religious institutions and confirm that in case they receive contributions from a foreign source, such accounts are exclusively maintained for that purpose and are registered with /prior permission obtained from the Ministry of Home Affairs, before accepting such contributions. All foreign contributions should be received in and utilised from the same single bank account mentioned in the order for registration or prior permission. This account number should be the same as has been intimated by the organisation /association in their application for registration/prior permission. The use of multiple FCRA bank accounts is legally prohibited. Such an account should be maintained for receiving foreign contributions alone and no other local credit/cash should be credited to this account. No foreign contribution can be transferred from an association granted registration /prior permission under FCRA to another association/ organisation unless the latter has also obtained either registration /prior permission under FCRA. Any change in the Bank account is allowed only after approval by Ministry of Home affairs through an application in the prescribed form with details of old and new bank accounts and the justification for change along with copy of resolution. Similarly an application in the prescribed form seeking approval is to be submitted to the Ministry for any change in the name / address of the association /organisation.



## **Punishment for the contravention of any of the provisions of the Act**

**Whoever accepts or assists any person, political party or association /organisation in accepting any foreign contribution or any article/ currency/ foreign security from a foreign source, in contravention of any of the provisions of this Act or any of the rules made there under shall be punished with imprisonment for a term which may extend to 5 years and or with fine.**

## **Adjudicating officer in the confiscation of any article / currency under the Act**

**An officer, not below the rank of an Assistant Sessions Judge may make the adjudication of confiscation in relation to article /currency seized under the Act, if the value of such article/currency exceeds Rs. 1,000 but not exceeds Rs. 50,000.**

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