

Social Sector Hotline

September 29, 2023

A STEP TOWARDS FOSTERING TRANSPERANCY UNDER FCRA

- The Ministry of Home Affairs recently notified Foreign Contribution (Regulation) Amendment Rules, 2023 on 22nd September, 2023.
- This amendment mandates NGOs registered under the Foreign Contribution Regulation Act, 2010 to provide detailed disclosures regarding assets created through foreign contributions.

INTRODUCTION

The Ministry of Home Affairs ("MHA") has recently introduced significant amendments to the Foreign Contribution (Regulation) Rules, 2011¹ ("FCRA Rules") with the objective of enhancing transparency in the operations of Non-Governmental Organizations ("NGOs") registered under the Foreign Contribution Regulation Act, 2010 ("FCRA Act"). These amendments, which came into effect on September, 2023, mandate detailed disclosure regarding assets created through foreign contributions by these NGOs.

BACKGROUND

The FCRA Act has been a pivotal piece of legislation governing the acceptance and utilization of foreign contributions by NGOs operating in India. Its primary goal is to ensure transparency, accountability and compliance in the handling of foreign contributions by these organizations. Over time, MHA has periodically updated the FCRA Rules to adapt to evolving regulatory needs, exercising its powers conferred by Section 48 of the FCRA Act.²

FCRA AMENDMENT RULES, 2023

The latest amendments to the FCRA Rules, introduced in September 2023, emphasize the importance of transparency. NGOs registered under the FCRA Act, are now required to provide detailed information about both movable and immovable assets created using foreign contributions. These changes are incorporated into Form FC-4, with the addition of two clauses in serial number 3, following clause (b). NGOs are obligated to make mandatory disclosures of assets created from foreign contributions as of March 31 of the financial year.³

ANALYSIS

The recent FCRA amendments demonstrate the government's commitment to enhancing transparency in the operations of NGOs registered under the FCRA Act. By mandating the disclosure of assets created through foreign contributions, authorities aim to ensure that foreign funds are being utilized for their intended purposes. This approach aligns with the global trend of increased scrutiny over foreign funding to NGOs, aiming to prevent any misuse or diversion of funds.

While the amendments intend to boost transparency, one may argue that they impose an increased compliance burden. NGOs will now need to allocate additional resources and efforts to gather and report asset-related information. However, it is essential to recognize that this increased compliance aligns with the broader objective of preventing misuse of foreign contributions.

Furthermore, these amendments follow a series of regulatory changes introduced by the MHA. The FCRA Amendment Act of 2020,⁴ for instance, offered certain relaxations, such as permitting relatives to send more money under the FCRA and extending the time for organizations to inform the government about the opening of bank accounts for fund utilization under Section 17 of the FCRA Act. The 2023 amendments can be seen as balancing these relaxations with enhanced disclosure requirements.

CONCLUSION

The FCRA Amendment Rules, 2023, represent a significant step toward fostering transparency and accountability in the utilization of foreign contributions by NGOs in India. These amendments, with their focus on asset disclosure, reflect the government's commitment to ensuring that foreign funds are put to their intended use. While one may argue that these changes increase the compliance burden on NGOs, it is imperative to note that they align with the broader global trend of scrutinizing foreign funding to prevent potential misuse. As these regulatory changes continue to shape the landscape, it is crucial for NGOs to stay informed and adapt their practices accordingly.

— Sehar Sharma, Rahul Rishi & Dr.Milind Antani

Research Papers

M&A In The Indian Technology Sector

February 19, 2025

Unlocking Capital

February 11, 2025

Fintech

January 28, 2025

Research Articles

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

Audio

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

Renewable Roadmap: Budget 2024 and Beyond - Part I

August 26, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Arbitration Amendment Bill 2024: A Few Suggestions | Legally Speaking With Tarun Nangia | NewsX

February 12, 2025

You can direct your queries or comments to the authors.

¹https://fcaonline.nic.in/home/PDF_Doc/FC-rules2011.pdf

²<http://www.bareactslive.com/ACA/ACT1405.HTM?AspxAutoDetectCookieSupport=1#:~:text=%2D%20A%20donation%2C%20delivery%20or%20transfer,the%20meaning%20of%20this%20clause>

³<https://egazette.gov.in/WriteReadData/2023/248983.pdf>

⁴https://fcaonline.nic.in/home/PDF_Doc/fc_amend_07102020_1.pdf

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

What India’s Transition to New Data Protection Law Means for Global Businesses
January 23, 2025

India 2025: The Emerging Powerhouse for Private Equity and M&A Deals
January 16, 2025