

Transfer of Foreign Contribution

Q.1 Can an association having registration or prior permission transfer the FC received by it to another organization? If yes, then what is the process to do so? Is there any restriction on transfer of funds to other organisations?

Ans. Yes. Section 7 of FCRA, 2010 states: “No person who –

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(a) is registered and granted a certificate or has obtained prior permission under this Act; and

(b) receives any foreign contribution, shall transfer such foreign contribution to any other person unless such other person is also registered and had been granted the certificate or obtained the prior permission under this Act:

Provided that such person may transfer, with the prior approval of the Central Government, a part of such foreign contribution to any other person who has not been granted a certificate or obtained permission under this Act in accordance with the rules made by the Central Government.” Rule 24 of FCRR, 2011, as amended vide the Foreign Contribution (Regulation) Amendment Rules, 2012 [G.S.R. 292 (E) dated 12th April, 2012] prescribes the procedure for transferring foreign contribution as under:

"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-5.

(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-4 to be submitted by both the transferor and the recipient."

Q.3 Whether inter-account funds transfer shall be allowed within the multiple accounts that an Association is now permitted to open for the purpose of utilizing the foreign contributions and the level of diligence required on the part of the Banks in this regard?.

Ans. No, transfer of funds is allowed from the designated FC account of an Association to the multiple account or accounts opened for its utilization. However, no funds other than the amount received in the designated FC account shall be received or deposited in such multiple account or accounts. Inter-account transfer of funds between the multiple accounts is not permissible. As such, the banks should apply full diligence to keep track of the transfers.

Q.4 How would an organisation that is registered or has obtained prior permission under FCRA and intends to transfer a part of the foreign contribution received by it to another organisation would know whether the recipient organisation has been proceeded against under FCRA?

Ans. Where any organisation is proceeded against under FCRA, it is done with due intimation to the organisation concerned. Therefore, the donor organisation is advised to insist on a written undertaking from the intending recipient organisation.