

## 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 22<sup>nd</sup> 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, 2011<sup>1</sup> ("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.<sup>2</sup>

#### 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.<sup>3</sup>

#### 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,<sup>4</sup> 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

### Handbook on New Labour Codes

April 29, 2024

### Compendium of Research Papers

April 11, 2024

### Third-Party Funding for Dispute Resolution in India

April 02, 2024

## Research Articles

### Private Client Insights - Sustainable Success: How Family Constitutions can Shape Corporate Governance, Business Succession and Familial Legacy

January 25, 2024

### Private Equity and M&A in India: What to Expect in 2024?

January 23, 2024

### Emerging Legal Issues with use of Generative AI

October 27, 2023

## Audio

### Third-Party Funding: India & the World

April 27, 2024

### IBC allows automatic release of ED attachments: Bombay HC reaffirms

April 15, 2024

### The Midnight Clause

February 29, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

Click here to view Hotline archives.

## Video

### Q&A 2024 Protocol to the Mauritius India Tax Treaty

April 22, 2024

### Boost to India's Space Potential: India Liberalizes Foreign Direct

You can direct your queries or comments to the authors.

<sup>1</sup>[https://fcaonline.nic.in/home/PDF\\_Doc/FC-rules2011.pdf](https://fcaonline.nic.in/home/PDF_Doc/FC-rules2011.pdf)

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

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

<sup>4</sup>[https://fcaonline.nic.in/home/PDF\\_Doc/fc\\_amend\\_07102020\\_1.pdf](https://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.