

FIN-O-SCOPE

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New FCRA Compliance Rules: Challenges Ahead for NGOs

The Union Home Ministry has introduced new regulations under the Foreign Contribution (Regulation) Act, 2010 (FCRA), which took effect on January 1, 2025. These updates place additional responsibilities on both chartered accountants (CAs) and non-governmental organizations (NGOs), sparking concerns over the implications for the sector.

Key Changes Under the Notification

1. Mandatory Audit Disclosures:

Chartered accountants auditing NGOs are now required to:

- Include their name, address, registration number, and email in audit certificates.
- Report whether an NGO has violated FCRA provisions, specifying details of any such violations.

Key Facts

- Eligibility Check: Ensure the organization is at least 3 years old with proven charitable activities and an established track record.
- Create Login ID: Register on the FCRA online portal (<https://fcraonline.nic.in>) to create a user account.
- File Form FC-3: Submit Form FC-3A for regular registration or FC-3B for prior permission, along with required details.

Key Facts

Registration Process:

- **Designated Bank Account:** Open a designated FCRA account at the specified SBI branch in New Delhi for receiving foreign funds.
- **Prepare Documents:** Attach documents like audited financial statements for the past 3 years, activity reports, and founding documents (MoA, Trust Deed).
- **Pay Application Fee:** Pay the prescribed fee online during form submission.
- **Submission & Acknowledgment:** Submit the form online, and retain acknowledgment for future reference.
- **Scrutiny & Verification:** The Ministry of Home Affairs (MHA) reviews the application, conducts background checks, and may seek clarifications.
- **Grant of Registration:** Upon approval, the registration certificate is issued, valid for five years.

Eligibility Criteria

- **Entity Type:** The applicant must be a registered NGO, trust, society, or Section 8 company in India.

2. Carry Forward of Administrative Expenses:

NGOs can now carry forward unspent portions of allowable administrative expenses (capped at 20% of foreign contributions) to the next financial year, provided proper documentation is submitted in Form FC-4.

3. Certification Process:

Auditors must certify compliance after reviewing all relevant financial records to confirm whether foreign contributions were utilized solely for the purposes for which the NGO is registered.

Implications for NGOs

- **Heightened Scrutiny:** The new rules significantly increase oversight of NGO operations, ensuring stricter compliance with FCRA provisions. This heightened scrutiny could lead to delays in auditing and compliance reporting, adding to administrative burdens.
- **Challenges in Securing Auditors:** NGOs critical of government policies may find it increasingly difficult to engage auditors, as the stringent requirements could deter CAs from certifying returns for organizations perceived to be under political or regulatory scrutiny.
- **Operational Limitations:** With administrative expenses capped at 20% of foreign contributions, many NGOs already struggle to cover operational costs. Although the new provision allows for unspent administrative funds to be carried forward, the process involves detailed justification, which could complicate financial planning.
- **Impact on FCRA Registrations:** Since 2015, over 16,000 NGOs have had their FCRA registrations revoked due to alleged violations. The additional reporting requirements could result in more cancellations, particularly for smaller NGOs with limited resources to navigate the compliance framework.

A Balancing Act

While the government aims to ensure greater transparency and accountability in the use of foreign contributions, the new rules could inadvertently create challenges for NGOs, particularly those engaged in advocacy or critical policy areas. Many organizations fear that increased compliance costs and the risk of penalties may divert attention and resources away from their core missions.

Looking Ahead

As the regulations take effect, NGOs must enhance their financial management systems and establish robust compliance mechanisms to adapt to the evolving regulatory landscape. Collaboration between NGOs, chartered accountants, and regulatory authorities will be key to addressing challenges and maintaining trust in the sector.

For further details, refer to the Gazette of India Notification dated December 31, 2024.

Download Notice on Clarification, Issued by Govt. of India, Ministry of Home Affairs dated December 31, 2024.



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Key Facts

- **Existence Period:** The organization must have been operational for at least three years before applying for regular registration.
- **Track Record:** Demonstrated a proven history of carrying out charitable, religious, educational, economic, cultural, or social welfare activities.
- **Minimum Utilization:** The entity should have spent at least ₹15 lakhs over the last three years on its activities, supported by audited financial statements.
- **Purpose of Funds:** Foreign funds should be sought for purposes aligned with the organization's objectives and not for prohibited activities.
- **Non-Political Nature:** The organization must not engage in activities of a political nature or be affiliated with political parties.
- **Prior Permission (if applicable):** New entities or those not meeting the three-year track record can apply for prior permission for a specific project or purpose.