



भारतीय रिज़र्व बैंक
RESERVE BANK OF INDIA
www.rbi.org.in

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DBOD. AML. BC. No. 1 / 14.08.001 / 2010 – 11

July 01, 2010

**The Chairmen & Chief Executive Officers of all
Scheduled Commercial Banks (excluding RRBs)
and All India Select Financial Institutions**

Dear Sir,

**Master Circular – Foreign Contribution (Regulation) Act, 1976 –
Obligations of Banks in Regulating Receipt of Foreign Contributions by
Associations / Organizations in India**

Please refer to our Master Circular DBOD.AML.BC No. 1 / 14.08.001 / 2009 – 10 dated July 01, 2009 consolidating instructions/guidelines issued to banks till June 30, 2009 on Foreign Contribution (Regulation) Act, 1976 – Obligations of Banks in Regulating Receipt of Foreign Contributions by Associations / Organizations in India. This Master Circular is a consolidation of the instructions issued in this regard up to June 30, 2010.

2. The Master Circular has been placed on RBI website:

(<http://www.rbi.org.in>)

Yours faithfully,

(Vinay Baijal)
Chief General Manager

Purpose

The Foreign Contribution (Regulation) Act, 1976 (FCRA, 1976) casts certain obligations on banks in regard to acceptance of foreign inward remittances for onward credit to the accounts of associations/organisations in India. Under Section 10 of Foreign Contribution (Regulation) Act, 1976 Government has prohibited some of the Associations/Organisations from receiving foreign contribution. Further, Section 5 of the Act *ibid* provides that no organisation of a political nature, not being a political party, can accept foreign contribution except with the prior permission of the Central Government. The Act also provides that associations having a definite cultural, economic, educational, religious and social programme should get themselves registered with the Ministry of Home Affairs, Government of India, New Delhi before receiving any foreign contribution.

Reserve Bank has issued guidelines from time to time advising the banks that while accepting foreign contribution for onward credit to the accounts of association/organisation, it should be ensured that the concerned association/organization is registered with Ministry of Home Affairs or has their prior permission to receive such foreign contribution as required under the Act *ibid* and that no branch other than the designated branch accepts the foreign contribution. Banks have also been advised to send a half-yearly report of receipt of such foreign contribution to Central Government. This Master Circular consolidates all the instructions issued to banks in this regard from time to time.

Previous instructions

The instructions issued vide this master circular consolidate all instructions issued by the Reserve Bank on Foreign Contribution (Regulation) Act, 1976 – Obligations of Banks in Regulating Receipt of Foreign Contributions by Associations / Organizations in India. A list of circulars/instructions which have been consolidated in this master circular, is given in Annex – II.

Application

These instructions are applicable to all the scheduled commercial banks (excluding RRBs) and all Financial Institutions.

Structure**1. Introduction**

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2. Guidelines

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2.5 Periodical Reporting to Central Government

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1. Introduction

1.1 Conditions for accepting foreign donations by banks

Banks are required to strictly adhere to the provisions of FCRA,1976 while dealing with receipt of foreign contributions. Section 4 of the Act stipulates that no foreign contribution shall be accepted by any candidate for election, correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper, judges, government servants or employees of any corporation, members of any legislature, political party or office bearer thereof. Subsection (a) and (b) of Section 10 of the Act provide that Central Government may prohibit any association not specified in Section 4 *ibid* or any person from accepting any foreign contribution or require any association to obtain prior permission of the Central Government before accepting any foreign contribution. Section 5 of the above mentioned Act provides that no organisation of a political nature, not being a political party, can accept foreign contribution except with the prior permission of the Central Government. The Act also provides that associations having a definite cultural, economic, educational, religious and social programme should get themselves registered with the Ministry of Home Affairs, Government of India, New Delhi before receiving any foreign contribution.

Such foreign contributions should be received only through the designated bank branch the name of which has been specified in the application for registration submitted to the Ministry of Home Affairs. It is further laid down in the Act that any and every association referred to in sub-section (1) of Section (6) may, if it is **not** registered with the Central Government, accept any foreign contribution only after obtaining prior permission of the Central Government.

2. Guidelines

2.1 Foreign Contribution

Under Section 2 (1) (c) of the FCRA, 1976, 'Foreign Contribution' means the donation, delivery or transfer made by any foreign source:

- (i) of any article, not being an article given to a person as a gift for his personal use, if the market value in India of such article on the date of such gift does not exceed one thousand rupees,
- (ii) of any currency, whether Indian or foreign,
- (iii) of any foreign security as defined in clause (i) of section 2 of FERA, 1973.

Explanation:

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

Therefore, it is clarified that even donations, which are in Indian rupee currency but have been received from foreign source including foreign nationals of Indian origin or if such funds have been transferred by the first recipient of foreign contribution to other organisation/s within the country would be considered as 'foreign contribution' under the FCRA, 1976. Further, interest earned from deposits made out of foreign contribution would also to be treated as 'foreign contribution' under the Act. Non-depositing of the above types of 'foreign contribution' in the designated bank account of an organisation would constitute a violation of the Act and the association would be liable for penal action under the Act. Therefore, banks should not ordinarily refuse to credit the legitimate proceeds of any 'foreign contribution' to the designated bank account of an association, which has either obtained prior permission or registration under FCRA from the Ministry of Home Affairs.

2.2 Foreign Source

Organisations/associations in India can accept contributions from a “Foreign Source” only if they are registered with the Ministry of Home Affairs or only after obtaining prior permission from the above Ministry. The “Foreign Source” for the purpose of the aforesaid Act has been defined in Section 2(e) of the Act *ibid* and it is evident therefrom that remittances from Indians abroad i.e. Indian citizens, for the purpose of contributing to the aforesaid associations/organisations do not attract the provisions of FCRA. However, in case of contribution given by the non-resident **foreign citizens** of Indian origin through their NRE and FCNR accounts maintained in India, the provisions of FCRA will be attracted and these contributions are to be treated as “Foreign Source”. Consequently, recipient associations /organisations would require registration under FCRA or prior permission of the central Government before accepting contributions from a 'foreign source'.

2.3 General

- i) Banks are required to inform all their branches to keep a special watch on the accounts of Associations/Organisations and any violation of the provisions of the Act by them may immediately be brought to the notice of the Ministry of Home Affairs.
- ii) All the branches of banks dealing in foreign exchange are required to send a half yearly statement to Government of India containing the details of foreign contribution received for onward credit to associations/organisations under the Act *ibid*. It has been reported by the Government that banks are not furnishing the information to the Home Ministry regularly. Banks should note to send the statement without fail as it is feared that some part of the foreign donations received through banking channels may get diverted to fund unlawful activities. The Government of India takes a serious view of the lapses in complying with the provisions of Foreign Contribution

(Regulation) Act, 1976 by banks.

- iii) Banks are required to sensitise all their branches/ controlling offices with instructions to ensure strict adherence to the instructions issued under provisions of the FCRA, 1976. Banks should also evolve a system of monitoring compliance by the branches through the respective controlling offices and fixing of accountability for lapses observed in this regard.

2.4 Procedure for receiving foreign contributions

Banks have been advised by Reserve Bank several times to scrupulously adhere to the provisions of FCRA, 1976. A list of circulars issued earlier in this regard is annexed. It is reiterated that banks should ensure that they strictly comply with the provisions of FCRA, 1976 and the procedure as indicated below is followed while receiving foreign contributions. Accordingly:

- (a) Banks should insist on prior permission of Central Government before accepting a foreign contribution in the accounts of entities covered under Section 4 and 5 of the FCRA, 1976;
- (b) They should afford credit of the proceeds of cheques/drafts representing foreign contribution only if the association etc., as indicated in Section 6 of the Act are registered with the Ministry of Home Affairs, Government of India;
- (c) They should insist on production of a 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 is not registered under the Foreign Contribution (Regulation) Act, 1976;
- (d) They should not afford credit to the account of such associations as are not registered with the Ministry of Home Affairs separately for the purpose of accepting foreign contribution under the Foreign Contribution (Regulation) Act, 1976;
- (e) They should not afford credit to the account of such association as have

been directed to receive foreign contributions only after obtaining prior permission of the Central Government;

- (f) They should not allow credit of the proceeds of the cheques/demand drafts etc., to the organisations of a political nature, not being political parties (including their branches and units) unless a letter containing the prior permission of the Central Government under the Foreign Contribution (Regulation) Act, 1976 is produced by such organisations;
- (g) Banks should note the registration number as conveyed by the Ministry of Home Affairs to the various associations, in the relevant records particularly the pages of the ledgers in which the foreign contribution accounts of associations are maintained to ensure that no unwanted harassment is caused to such associations.

2.5 Periodical Reporting to Central Government

Under the existing instructions, all the branches of the bank dealing in foreign exchange are required to send a half yearly statement to Government of India for the period ending 30th September and 31st March every year as per the enclosed format (Annex I) giving the details of the contributions received for crediting into the account of associations/organisations concerned. Such statements are required to be furnished to Government of India within two months of the closure of the half-year.

2.6 Common Irregularities Observed

Some of the irregularities noticed in this regard are as under:

- (a) Certain associations were found to be operating more than one account, either in the same branch or in different branches (other than the account specified in the communication for registration), for carrying on transactions of foreign contributions.
- (b) Certain associations were allowed credit/withdrawal of

cheques/drafts representing foreign contribution without the association being registered or without its obtaining prior permission of the Central Government.

- (c) Despite the fact that copies of the orders putting an association into prohibited category or prior permission category under sub-section (a) and (b) of Section 10 the said Act were sent to the bank branches, they allowed credit/withdrawal of foreign contributions by the said associations without seeking Government's prior approval.

The Government has pointed out on several occasions that branches of banks are not scrupulously adhering to the provisions of the FCRA, 1976 and that foreign contributions were received by entities governed by Section 6(1) and Section 5(1), without obtaining prior permission of the Central Government. Banks are, therefore, required to scrupulously follow the instructions contained in the circular.

Annex-I**Details of foreign contribution received by Associations covered under the Foreign Contribution (Regulation) Act,1976****Statement for the half year----- ended****Name and address of the branch of the bank-----**

Sr. No.	Name and address of the Association and account number	Registration Number under FC(R) Act, 1976	Letter(s)No. & date of MHA granting permission under FC(R) Act, 1976	Date of credit to the account	Amount in (Rs)	Details of donor(s) , if available
1.	2.	3.	4.	5.	6.	7.

List of Circulars consolidated by the Master Circular

1.	DBOD.No.BP.BC.	18/ C.469 (W)-85	Dated 22.02.1985
2.	DBOD.No.BP.BC.	12/ C.469 (W)-87	Dated 21 .07.1987
3.	DBOD.No.BP.BC.	39/ C.469 (W)-88	Dated 15.10.1988
4.	DBOD.No.BP.BC.	123/ C.469 (W)-90	Dated 02.07.1990
5.	DBOD.No.BP.BC.	88/21.01.023/94	Dated 16.07.1994
6.	DBOD.No.BP.BC.	108/21.01.023/98	Dated November 1998
7.	DBOD.No.BP.CS.BC.	1/21.01.023/99	Dated 28.07.1999
8.	DBOD.No.BP.BC.	118/21.01.023/	Dated 02.11.1999
9.	DBOD.No.BP.BC.	74/21.01.023/2001	Dated 01.02.2001
10.	DBOD.No.BP.BC.	04/21.01.023/2001	Dated 31.07.2001
11.	DBOD.No.BP.BC.	22/21.01.023/200-01	Dated 01.09.2001
12.	DBOD.No.BP.	2573/21.01.023/97	Dated 22.04.1997
13.	DBOD.No.BP.BC.	58/21.01.023/2001-02	Dated 1 7.01.2002
14.	DBOD.No.BP.BC.	67/21.01.023/2001-02	Dated 1 4.02.2002
15.	DBOD.No.AML.BC.	67/14.01.055/2004-05	Dated 04.01.2005
16.	DBOD.AML.BC.No	20/14.01.055/2006-07	Dated 11.07.2006
17.	DBOD.AML.BC.No.	3/14.08.001/2007-08	Dated 02.07.2007
18.	DBOD.AML.BC.No	8/14.08.001/2008-09	Dated 01.07.2008
19.	DBOD.AML.BC.No.	1/ 14.008.001/2009-10	Dated 01.07.2009
