

## Social Sector Hotline

April 11, 2025

### FCRA NOTIFICATION TIGHTENS PRIOR PERMISSION REGIME: NEW VALIDITY PERIODS PRESCRIBED FOR NGOS

- The Ministry of Home Affairs has notified new validity limits for prior permission under the Foreign Contribution (Regulation) Act, 2010, restricting the period for receiving foreign funds to 3 years and for utilization to 4 years, replacing the earlier open-ended regime.
- The change introduces stricter compliance requirements for NGOs and charitable organizations, necessitating more precise project planning and fund deployment.

#### INTRODUCTION

The Ministry of Home Affairs ("MHA") has recently issued a significant notification under the Foreign Contribution (Regulation) Act, 2010 ("FCRA")<sup>1</sup>, modifying the framework for grant of *prior permission* to receive foreign contributions. The FCRA governs the acceptance and utilization of foreign contributions by individuals, associations, and organizations in India, with the overarching objective of ensuring that such funds are not misused or deployed in a manner prejudicial to the national interest.

#### STATUTORY FRAMEWORK AND ELIGIBILITY CONDITIONS

The FCRA mandates that any person or entity intending to receive foreign contributions should either obtain registration under Section 11(1) of the Act or apply for prior permission under Section 11(2), if they are not yet eligible for registration<sup>2</sup>.

FCRA registration is typically granted for a period of five years and is renewable<sup>3</sup>. However, such registration is not granted automatically and is subject to certain eligibility conditions. Notably, an organization applying for registration should be in existence for three years and have spent a minimum amount of rupees fifteen lakh on its core activities for the benefit of society during the last three financial years.<sup>4</sup>

Organizations that do not fulfill these conditions but nevertheless intend to receive foreign contributions for specific projects or activities are permitted to apply for *prior permission*. Such permission, if granted, allows the applicant to receive foreign funds for a designated project, for a specified purpose, and from identified foreign sources.

#### NOTIFICATION ON VALIDITY PERIODS FOR PRIOR PERMISSION

The latest notification from the MHA seeks to introduce a defined validity structure for both the receipt and utilization of foreign contributions under the *prior permission* route. Until now, there was no specified validity period for utilization of funds received under prior permission. NGOs could deploy the funds until they were fully utilized, even if such utilization extended over several years. This approach, although practical for long-term projects, created regulatory ambiguity and left scope for misuse or indefinite fund parking.

Under the new regime, prior permission granted under Section 11(2) of the FCRA shall be valid for a period of three years from the date of approval. This means that the applicant organization should receive the entirety of the sanctioned foreign contribution within this three-year window. Further, the organization is now required to utilize the contribution within a period of four years from the date of such approval. These new timelines will apply prospectively to all permissions granted on or after the issuance of the notification.

In cases where prior permission has already been granted, and the remaining period of such permission exceeds three years, the validity period for receipt of foreign contributions shall be recalculated from April 7, 2025. The utilization period in such cases shall also be aligned with the new four-year timeframe, beginning from the same reference date.

It is important to note that the MHA has retained the discretion to extend the validity period in exceptional cases, based on merits. However, such extensions shall not be granted as a matter of course and would require detailed justification by the applicant.

#### LEGAL AND OPERATIONAL IMPLICATIONS FOR NGOS

The introduction of a fixed validity framework marks a fundamental shift in the prior permission regime<sup>5</sup> and is likely to have significant implications for NGOs operating in India. The most immediate impact is the need for tighter project planning, fund flow management, and compliance reporting.

NGOs seeking prior permission should now design their project timelines in a manner that ensures both the receipt

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and utilization of foreign contributions within the prescribed periods. Projects with extended gestation periods, such as those involving infrastructure development, education interventions, or community mobilization in remote areas, may be particularly affected. If the funds are not utilized within the four-year period, such unused funds may be deemed in violation of the FCRA<sup>6</sup>, thereby exposing the organization to penalties, cancellation of permission, or even prosecution.

The transition provision—wherein the new timelines will apply to existing permissions with more than three years remaining—creates an added layer of complexity. NGOs with long-term projects will need to reassess their fund deployment strategies and may have to seek case-specific extensions to avoid non-compliance.

From a governance perspective, the notification reflects the government's continuing efforts to bring greater accountability and monitoring into the foreign contribution regime. While these measures may deter misuse, they also risk introducing rigidity into an already heavily regulated sector.

## CONCLUSION

There is no doubt that accountability in the management of foreign contributions is critical, especially in light of national security and policy considerations. However, this objective should be balanced with the operational realities faced by non-profit organizations, particularly those engaged in social development and public welfare.

The MHA's notification prescribing defined validity periods for prior permission under the FCRA represents a notable departure from earlier practice and signals the government's intention to more closely regulate foreign contributions to Indian NGOs. While the move enhances predictability and oversight, it also necessitates careful legal and strategic planning by organizations seeking to engage in development work funded by foreign sources.

Organizations should now review their funding structures, align project timelines with the revised validity norms, and ensure comprehensive documentation to support compliance. Where required, NGOs may need to renegotiate grant agreements with foreign donors to reflect the new timelines and mitigate risks of non-compliance.

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<sup>1</sup>[https://fcraonline.nic.in/home/PDF\\_Doc/fc\\_notice\\_07042025.pdf](https://fcraonline.nic.in/home/PDF_Doc/fc_notice_07042025.pdf)

<sup>2</sup>Section 12(4), Foreign Contribution (Regulation) Act, 2010.

<sup>3</sup>Section 12(6), Foreign Contribution (Regulation) Act, 2010.

<sup>4</sup>Rule 9(1)(f) of Foreign Contribution (Regulation) Rules, 2011

<sup>5</sup>Section 11(2), Foreign Contribution (Regulation) Act, 2010.

<sup>6</sup>Section 35, Foreign Contribution (Regulation) Act, 2010.

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**Vaibhav Parikh, Partner, Nishith Desai Associate on Tech, M&A, and Ease of Doing Business**

March 19, 2025

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