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Foreign Contribution
(Regulation) Act (FCRA), 2010:
Forensic Due Diligence
services



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As part of the Indian government's initiative to curb black money and illegal funding, there is renewed focus on understanding the source and end use of foreign funds¹, specifically foreign contributions to non-governmental organizations (NGOs) and charitable trusts.

To fortify its efforts, the government in 2011 passed the new Foreign Contribution (Regulation) Act, 2010 (FCRA) and the Foreign Contribution Regulation Rules, 2011 (FCRR), repealing the FCRA 1976². Further, in June 2015, the government cancelled licenses of over 4470 NGOs for noncompliance with the FCRA regulations. Violations included not filing annual returns for three consecutive years and irregularities in receiving foreign contributions³.

For companies donating money to NGOs and charities, the risk of violating the FCRA norms (resulting in possible closure of operations) can have a significant impact on their reputation and hamper such companies' corporate social responsibility activities.

How Deloitte Forensic Due Diligence services can help

Companies can undertake due diligence to safeguard themselves from the risk of funding NGOs that may violate FCRA, 2010 and FCRR, 2011 provisions. Business Intelligence Services of Deloitte Forensic have helped organizations conduct such forensic due diligence on NGOs.

We have skilled and trained personnel, including sector-specialists, investigators and multi-country linguists based in India, who help us as forensic advisors to holistically ascertain the risk of noncompliance. Our unique staffing model allows us to deliver scalable solutions within stringent timelines.

Under the FCRA, 2010, foreign contribution includes

- Any donation, delivery or transfer, generating from a Foreign Source, of any currency / security, Indian or Foreign
- Donation of any article on lease by foreign source without any consideration
- Any article with a market value of more than Rs 25,000
- Interest earned on foreign contributions
- Income generated from the assets created from foreign contributions
- Infusion of foreign share capital in a company registered under Section 25 of the Companies Act, 2013
- Unsecured loans/ loans at subsidized rates from foreign source

Source: Reserve Bank of India - Master Circulars

¹Foreign funds are sources of money from foreign companies. The FCRA defines foreign companies as the government of any foreign country and its agency, international agencies excluding UN and its specialized agencies, any company incorporated in a foreign country including multinational companies, or an Indian company whose majority shareholding rests with foreign citizens/ companies.

²The Act outlines strict provisions with respect to disclosures, filing of annual returns, maintaining accounts, end use of funds received, and management of funds. Noncompliance with the Act can be treated as a criminal offense. Source: <http://www.fcra.co.in/offences-and-penalties.html>

³Source: Newspaper article in the DNA titled 'Government cancels license of 4,470 NGOs. Link - <http://www.dnaindia.com/india/report-government-cancels-license-of-4470-ngos-2094043>



Deloitte India “two level check” procedures for due diligence⁴

Level 1 due diligence

Research of public domain information on the following aspects:

- Registration and Validity of FCRA registration of the target NGO/ charity
- Reputation and track record of NGO and Trustees*
- Mandatory documentation with the MHA (Form FC-6, annual returns, FCRA bank details, and donors)
- Nature of the NGO association (religious, cultural, economic, educational, social) and the purpose of foreign contributions received

Level 2 due diligence

Market intelligence to get information on the following areas:

- Renewal status of FCRA application
- Maintenance of Books of accounts exclusively for foreign contributions

⁴Under the FCRA, donations or grants are prohibited to political parties, politicians, media persons, judiciary, and government servants.

Select credentials

Over the years, as forensic advisors we have assisted several foreign donor organizations to ascertain the reputation and integrity of NGOs and charities that they are interested in supporting by collecting data on the following aspects.

- NGO Background
- Details about its board members
- Organizational structure and donors' information
- Funding obtained by the NGO
- Past litigation history – criminal and civil
- Political affiliations
- Adverse media coverage
- Loan defaults
- Detailed review of at least 3 years audited financial statements and accounts

Contact Us

For more details on how we can help companies identify potential risks associated with funding in NGOs and charities in India, please contact the under mentioned people.

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