

RBI/2004-05/388
DBOD.AML.BC. No.74 /14.01.055/ 2004-05

March 05, 2005

The Chairman & CEOs of all scheduled commercial banks
(excluding RRBs)

Dear Sir,

**Master Circular - Foreign Contribution (Regulation) Act, 1976 - Obligations
of banks**

As you are aware, the provisions of Foreign Contribution (Regulation) Act, 1976 impose certain obligations on banks in respect of receipt of foreign donations. We have been issuing instructions to banks from time to time for ensuring scrupulous adherence to the FCRA provisions. However, Home Ministry, Government of India has, on several occasions, brought to our notice violations committed by banks in this regard. In view of the seriousness of the issue and the concerns expressed by the Government in this regard, it has been decided to compile the instructions issued earlier and issue a Master Circular for benefit of banks. Banks are advised to bring the contents of the enclosed Master Circular to the notice of controlling offices/ branches and ensure that instructions are duly complied with. The Master Circular has been placed on the RBI website (<http://www.rbi.org.in>).

Yours faithfully,

Sd/-
(Prashant Saran)
Chief General Manager

Enclosure – Master Circular (FCRA, 1976)

Master Circular on Provisions of FC(R)A, 1976 Regulating Receipt of Foreign Contributions by Associations/ Organizations in India

Statutory Provisions

The Foreign Contribution (Regulation) Act, 1976 (FCRA, 1976) stipulates in terms of Section 4 ibid 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 also provides that no organization 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.

Conditions for accepting foreign donation by banks

2. Banks are required to strictly adhere to the provisions of FCRA,1976 while dealing with receipt of foreign contributions. It has been brought to our notice by

the Government 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.

3. In this connection, banks have been advised several times to scrupulously adhere to the provisions of FCRA, 1976. A list of circulars issued earlier in this regard is annexed. You are once again advised to ensure that violation of the provisions of FCRA, 1976 are avoided and procedure as indicated below is followed while receiving foreign contributions:

- (a) To 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) To 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) To 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) Not to 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) Not to 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) Not to allow the credit of the proceeds of the cheques/demand drafts etc., to the organizations 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 organizations;

- (g) To 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.

Acceptance of donation from foreign source

4. It is further clarified that these organizations/associations 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/organizations 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 /organizations would require registration under FCRA or prior permission of the central Government before accepting contributions from a 'foreign source'.

Common Irregularities Observed

5. Some of the irregularities noticed in this regards 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 of cheques/drafts representing foreign contribution and withdrawal thereof 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.

Periodical Reporting to Central Government

6. 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 giving the details of the contributions received for crediting into the account of associations/organizations concerned. Such statements are required to be furnished directly to Government of India within two months of the closure of the half year. It has been reported by the Government that banks are not furnishing the information to the Home Ministry regularly. This assumes significance as it is feared that some part of the foreign donations received through banking channels is getting diverted to fund unlawful activities. The Government of India has therefore taken a serious view of the lapses in complying with the provisions of Foreign Contribution (Regulation) Act, 1976 by banks.

Miscellaneous

7. Under Section 10(a) of Foreign Contribution (Regulation) Act, 1976 Government has prohibited some of the Associations/Organisations from receiving foreign contribution. Further, some organisations have been declared as being organisations of political in nature, not being a political party under section 5 of the Act *ibid*. Banks are requested to advise all their branches to keep a special watch on the accounts of these 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.

8. Banks are, therefore, advised to bring the contents of the circular to the notice of all their branches/ controlling offices with instructions to ensure strict adherence to the instructions issued. Banks may 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. Violations observed will be viewed seriously.

Appendix**Master Circular on Provisions of FC(R)A, 1976 Regulating Receipt of Foreign Contributions by Associations/ Organizations in India****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 17.01.2002
14.	DBOD.No.BP.BC.	67/21.01.023/2001-02	Dated 14.02.2002
15.	DBOD.No.AML.BC.	67/14.01.055/2004-05	Dated 04.01.2005