

## Social Sector Hotline

November 11, 2006

### TIGHTER CONTROLS FOR FOREIGN CONTRIBUTIONS

#### TIGHTER CONTROLS FOR FOREIGN CONTRIBUTIONS

With a view to tightening control over the flow of foreign contributions to not-for-profit organizations in India, the central government ("CG") has given the green signal for the introduction of a new bill, the Foreign Contribution (Regulation) Bill, 2006 ("Bill"). The Bill seeks to repeal the Foreign Contribution (Regulation) Act, 1976 ("FCRA" or "Act") with a slew of more stringent measures to regulate the receipt, utilization and accounting of foreign contributions with greater efficiency. The changes are part of the measures to counter the financing of terrorist activities in the country.

#### AMONG THE PROPOSED CHANGES:

- Organizations of political nature (other than political parties) now face a complete ban from receiving foreign contributions. Under the FCRA, such organizations could receive foreign funding with the prior permission of the CG. Other organizations and individuals facing the ban are: associations or companies engaged in production or broadcast of audio news, or audio-visual news, or current affairs programs through the electronic media or any other mode of mass communication, and correspondents, columnists, cartoonists, editors, owners of associations or companies relating to mass communication.
- It will be mandatory for banks to submit annual reports to the government on foreign contributions deposited with them.
- Banks will be required to share information with the designated authority at more frequent intervals with regard to transactions that exceed a specified limit (suggested to be set at INR 500,000 in the first instance), or suspicious transactions. Repeated inward remittances from the same or different foreign sources would be treated as "suspicious transactions" in this context. The designated authority, in turn, would be required to convey such information to security agencies.
- IA registration fee will be imposed, and the period of registration validity will be limited to five years. Under the FCRA, no fee was charged and registrations, once granted, were permanent. However, registrations will be automatically renewed except in the case of defaulters.
- The CG will be empowered to lay down the process for disposal of assets created out of the foreign contributions when the organization is wound up.
- The Bill takes a sterner view of violations and introduces the concepts of cancelling and suspending registrations. The proposed suspension period is 180 days.
- Recipients would also be allowed to utilize the foreign contributions through more than one bank.
- The power of registration or the regulation shall not be delegated to district collectors as proposed earlier, but at the central level.
- A cap of 50 per cent on the utilization of funds for administrative purposes. There is, however, a provision that empowers the government to exempt non-government organizations from this limit on a case-to-case basis.
- While the Bill retains penal provisions stipulating imprisonment to offenders, it also provides for the compounding of certain offences where the accused may only be fined a cash penalty.
- Foreign contributions or any income arising from it cannot be used for speculative businesses.
- Amounts received from any foreign source as a fee or payment for services rendered would be excluded from the definition of "foreign contributions".

As a measure of sincerity of purpose, the Bill also provides for transparency in the process of

## Proud Moments

**Benchmark Litigation Asia-Pacific:** Tier 1 for Government & Regulatory and Tax  
2020, 2019, 2018

**Legal500 Asia-Pacific:** Tier 1 for Tax, Investment Funds, Labour & Employment and TMT  
2020, 2019, 2018, 2017, 2016, 2015, 2014, 2013, 2012

**Chambers and Partners Asia Pacific:** Band 1 for Employment, Lifesciences, Tax and TMT  
2020, 2019, 2018, 2017, 2016, 2015

**IFLR1000:** Tier 1 for Private Equity and Project Development: Telecommunications Networks.  
2020, 2019, 2018, 2017, 2014

**AsiaLaw Asia-Pacific Guide 2020:** Tier 1 (Outstanding) for TMT, Labour & Employment, Private Equity, Regulatory and Tax

**FT Innovative Lawyers Asia Pacific 2019 Awards:** NDA ranked 2nd in the Most Innovative Law Firm category (Asia-Pacific Headquartered)

**RSG-Financial Times:** India's Most Innovative Law Firm  
2019, 2017, 2016, 2015, 2014

## Research Papers

**Privacy & Data: India's Turn to Bat on the World Stage**

May 31, 2020

**Introduction to Cross-Border Insolvency**

April 30, 2020

**Don't Mind: You've been Acquired!**

April 28, 2020

## Research Articles

**Chambers Global Practice Guide: Gaming Laws**

December 19, 2019

**The Tips and Traps to Avoid When Investing in India**

December 31, 2018

**Evolving HR Law: Giving GCs**

registration, in that any rejection of an application will have to be accompanied by the grounds on which it has been rejected.

The Bill will be tabled before the Indian Parliament in its winter session that starts on November 22, 2006. It remains to be seen what form the act, when passed, will finally take.

While foreign not-for-profit organizations seeking to set up operations by establishing entities in India may find the proposed legislation somewhat daunting, they may derive some comfort from the fact that once registered under the new act, if passed, they will enjoy even greater credibility with contributors both at home and abroad.

**- Rina Kamath & Daksha Baxi**

Sources:

[Hindustan Times, November 9, 2006](#)

[The Hindu, November 9, 2006](#)

[The Financial Express, November 10, 2006](#)

[Business Standard, November 10, 2006](#)

---

## DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

## Sleepless Nights?

June 01, 2017

---

## Audio

**Seminar: Possible Last Window for the Start-Up Community's Say on Proposed Privacy Law**

February 19, 2020

**Webinar: India Budget 2020: Implications for the International Community**

February 05, 2020

**Webinar: A New Dawn for Privacy in India: the Personal Data Protection Bill, 2019**

December 17, 2019

---

## NDA Connect

Connect with us at events, conferences and seminars.

---

## NDA Hotline

[Click here to view Hotline archives.](#)

---

## Video

**NDA cCep - Client Continuing Education Program**

**Big Deal: Experts discuss how Facebook-Jio deal could impact FDI inflows into India (May 01, 2020)**

**CNBC TV18 Startup Street**