Most Immediate

No. II/21022/58(97)/2011-FCRA-I
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya
Foreigners Division
(FCRA Wing)
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Jaisalmer House
26 Mansingh Road
New Delhi – 110003
Dated: the **20th September, 2011**

OFFICE MEMORANDUM

Subject: **Guidelines for consideration of proposals for acceptance of foreign hospitality under the Foreign Contribution (Regulation) Act, 2010.**
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The Foreign Contribution (Regulation) Act, 2010 (FCRA, 2010) and the Foreign Contribution (Regulation) Rules, 2011 (FCRR, 2011) have come into force with effect from 01.05.2011. The provisions under the Act/Rules relating to 'foreign hospitality' and guidelines to be followed for consideration of proposals for acceptance of the same are hereby circulated for information and compliance by all concerned.

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2. **Statutory Provisions:** The relevant provisions of FCRA, 2010 are reproduced below:

Section 2 (1) (i): "**Foreign Hospitality"** means any offer, not being a purely casual one, made in cash or kind by a foreign source for providing a person with the costs of travel to any foreign country or territory or with free boarding, lodging, transport or medical treatment.

Section 2 (1) (j): "**Foreign source"** includes -

(i) the Government of any foreign country or territory and any agency of such Government;
(ii) any international agency, not being the United Nations or any of its specialized agencies, the World Bank, International Monetary Fund or such agency as the Central Government may, by notification, specify in this behalf;
(iii) a foreign company;
(iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;
(v) a multi-national corporation referred to in sub-clause (iv) of clause (g)*;
(vi) a company within the meaning of the Companies Act,1956, and more than one-half of the nominal value of its share capital is held, either singly of in the aggregate, by one or more of the following, namely:-

(A) the Government of a foreign country or territory;
(B) the citizens of a foreign country or territory;
(C) corporation incorporated in a foreign country or territory;
(D) trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory;

(E) foreign company:

(vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;

(viii) a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;

(ix) a society, club or other association of individuals formed or registered outside India;

(x) a citizen of a foreign country.

*A corporation incorporated in a foreign country or territory shall be deemed to be a multi-national corporation if such corporation –

(a) has a subsidiary or branch or place of business in two or more countries or territories; or

(b) carries on business, or otherwise operates, in two or more countries or territories.

Section 2 (1) (k): **"Legislature"** means -

(A) either House of Parliament;

(B) the Legislative Assembly of a State, or in the case of a State having a Legislative Council, either House of the Legislature of that State;

(C) Legislative Assembly of a Union Territory constituted under the Government of Union Territories Act,1963;

(D) Legislative Assembly for the National Capital Territory of Delhi referred to in the Government of National Capital Territory of Delhi Act,1991;

(E) Municipality as defined in clause (e) of article 243P of the Constitution;

(F) District Councils and Regional Councils in the States of Assam, Meghalaya, Tripura and Mizoram as provided in the Sixth Schedule to the Constitution;

(G) Panchayat as defined in clause (d) of article 243 of the Constitution; or

(H) Any other elective body as may be notified by the Central Government.

Section 2 (1) (m): **"person"** includes:-

(i) an individual;

(ii) a Hindu undivided family;

(iii) an association;

(iv) a company registered under section 25 of the Companies Act,1956.

Section 2 (1) (n): **"political party"** means:-

(i) an association or body of individual citizens of India –

(A) to be registered with the Election Commission of India as a political party under section29A of the Representation of the People Act,1951; or

(B) which has set up candidates for election to any Legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order,1968;

(ii) a political party mentioned in column 2 of Table 1 and Table 2 to the notification of the Election Commission of India No. 56/J&K/02, dated the 8th August,2002, as in force for the time being.

Section 6 - Restriction on acceptance of foreign hospitality:

No member of a Legislature or office-bearer of a political party or Judge or Government servant or employee of any corporation or any other body owned or controlled by the Government shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality:

Provided that it shall not be necessary to obtain any such permission for an emergent medical aid needed on account of sudden illness contracted during a visit outside India, but, where such foreign hospitality has been received, the person receiving such hospitality shall give, within one month from the date of receipt of such hospitality an intimation to the Central Government as to the receipt of such hospitality, and the source from which, and the manner in which, such hospitality was received by him.

Section 9 - Power of the Central Government to prohibit receipt of foreign hospitality in certain cases –

The Central Government may –

.....

(b) require any person or class of persons, not specified in section 6, to obtain prior permission of the Central Government before accepting any foreign hospitality;

.....

(e) require any person or class of persons, not specified in section 6, to furnish intimation, within such time and in such manner as may be prescribed, as to the receipt of any foreign hospitality, the source from which and the manner in which such hospitality was received;

Provided that no such prohibition or requirement shall be made unless the Central Government is satisfied that the acceptance of foreign contribution by such person or class of persons, as the case may be, or the acceptance of foreign hospitality by such person, is likely to affect prejudicially –

(i) the sovereignty and integrity of India; or
(ii) public interest; or
(iii) freedom or fairness of election to any Legislature; or
(iv) friendly relations with any foreign State; or
(v) harmony between religious, racial, social, linguistic or regional groups, castes or communities.

3. Provisions under the Rules: The relevant provisions of FCRR, 2011 are reproduced below:

Rule 7 - Receiving foreign hospitality by specifies categories of persons. –

(1) Any person belonging to any of the categories specified in Section 6 who wishes to avail of foreign hospitality shall apply to the Central Government in Form FC-2 for prior permission to accept such foreign hospitality.
(2) Every application for acceptance of foreign hospitality shall be accompanied by an invitation letter from the host or the host country, as the case may be, and administrative clearance of the Ministry or Department concern in case of visits sponsored by a Ministry or Department of the Government.
(3) The application for grant of permission to accept foreign hospitality must reach the appropriate authority ordinarily two weeks before the proposed date of onward journey.

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(4) In case of emergent medical aid needed on account of sudden illness during a visit abroad, the acceptance of foreign hospitality shall be required to be intimated to the Central Government within sixty days of such receipt giving full details including the source, approximate value in Indian Rupees, and the purpose for which and the manner in which it was utilized.

Provided that no such intimation is required if the value of such hospitality in emergent medical aid is upto one lakh rupees or equivalent thereto.

4. Copy of Form FC-2 is available on MHA's web-site – *http://mha.nic.in/fcra/forms/fc-2.pdf*

5. List of agencies of the United Nations and other International Organisations, which are **not** treated as "foreign source", are available on MHA's website *http://mha.nic.in/fcra/intro/FCRA-exemptedAgenciesUN.pdf*

6. The following cases need **not** be submitted to this Ministry for grant of permission to accept foreign hospitality:-

(i) Where the entire expenditure on the proposed foreign visit is being met by the Central/ State Government or any Central/State PSU etc.
(ii) Where the proposed foreign visit is being undertaken by a person in his/her personal capacity and the entire expenditure thereon is being met by the person concerned.
(iii) Where the foreign hospitality is being provided by an Indian national living in a foreign country or territory.
(iv) Cases involving acceptance of an assignment on salary, fee or remuneration etc.
(v) Cases involving funding offered by an agency/organization mentioned in Annexure-2.
(vi) Cases involving visits undertaken by the Members of an Indian Parliamentary delegation under bilateral exchange.
(vii) Cases involving visits undertaken in pursuance of a bilateral agreement between the Government of India and the Government of the country concerned, approved by the Ministry of Finance (Department of Economics Affairs).
(viii) Cases involving long term/short term foreign training courses approved by the Ministry of Personnel, Training and Public Grievances.

7. The responsibility of ensuring full compliance with the provisions FCRA, 2010 lies with the person proposing to avail the foreign hospitality. It should, therefore, be ensured that the foreign visit involving acceptance of foreign hospitality is undertaken only after obtaining the requisite permission under the said Act.

8. Permission accorded under FCRA, 2010 to accept foreign hospitality should not be construed as equivalent to administrative clearance, which has to be obtained separately by the person concerned from the competent authority in the concerned Ministry/Department.

9. All Ministries/Departments are requested to ensure that the following points have been complied with while forwarding application to the Ministry of Home Affairs, Foreigners Division:

(i) All columns in Form FC-2 must be filled up.
(ii) All proposals for acceptance of foreign hospitality should be accompanied with a specific recommendation of the Administrative Ministry/Department.

(iii) The Administrative Ministry /Department should certify the essentiality of the foreign visit. It should also be clearly indicated whether the proposal has the approval of the Ministry of External Affairs, the cadre controlling authority (applicable in respect of training programme/workshop/seminar/study tour organized by international agencies), and the competent authority.

(iv) A copy of the offer/invitation containing details of the foreign hospitality being offered should be invariably enclosed with each application.

(v) Each application for grant of permission to accept foreign hospitality, complete in all respects, should reach the Ministry of Home Affairs, Foreigners Division at least **10 working days before** the scheduled date of departure of the person(s) concerned.

(J.K. Chattopadhyay)
Deputy Secretary to the Government of India
Tel: 23071157

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