

# FCRA

## **Bombay Chartered Accountants Society - The Chamber of Tax Consultants**

**1-Sep-18; Jolly Bhawan, New Marine Lines Mumbai**

**DevelopAid Foundation**

**[www.DevelopAid.org](http://www.DevelopAid.org)**

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# Registration / Renewal

# FCRA License

- **Prior-permission: Form FC-3**
- **Registration: Form FC-3**
  - **After 3 years**
  - **10 lakh of program spending**
- **Renewal: Form FC-3**

# Darpan ID

- **Darpan ID must for applying**
- **Create Login ID at <http://ngodarpan.gov.in/>**
- **Takes about three months after application completed**

# Renewal

- **Use form FC-3**
- **Apply online at least 6 months before expiry**

# Common Issues

- **Delays in processing**
  - **Apply 9-12 months in advance**
- **Clarification not submitted**
- **Status shows 'deemed to be lapsed'**
- **Correct form not filed / fees not paid**



गृह मंत्रालय, भारत सरकार  
Ministry of Home Affairs, Govt. of India  
FCRA Online Services

## Payment Receipt

1. File No

2. Association Name

3. Payment Amount

500.00

4. Receipt No

5. Transaction Date

11/03/2016

[Click here to continue](#)

# Status

- **Check email regularly**
  - **Whose email?**
- **Login to FCRA account regularly**
  - **[https://fcraonline.nic.in/fc\\_renew\\_FileStatus.aspx](https://fcraonline.nic.in/fc_renew_FileStatus.aspx)**
  - **Check status**



**Please Enter the MHA File Number and Click on "Submit" Button**

**MHA File Number:**  **10 Digit MHA FileNumber**

**Enter access Code:**

**Access Code :** **JRQA7**

**Submit**

# AccountAble™

AccountAble 27 (rev): FCRA Renewal

March '16

## IN THIS ISSUE

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Details of Applicant • Details of Registration
- Nature of Association • Office Bearers • Profile of Board Members • Branch, Unit or pg2  
Associate • Bank Details • Enclosures
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Foreign Connection • Receiving & Using Funds
- Delays in Processing • Delayed Application • That Feeling of Rejection... pg4

FCRA 2010 calls for renewal of FCRA registration every five years. There's been a lot of uncertainty about timeline for filing and renewal. FCRA rules ask you to file your renewal application 6-12 months before expiry. Therefore, most NGOs filed

### Which Login ID?

The renewal option is available only if you use the login ID and password provided by FCRA Department. If you create a new login ID yourself,

inet

# Accounts & Audit

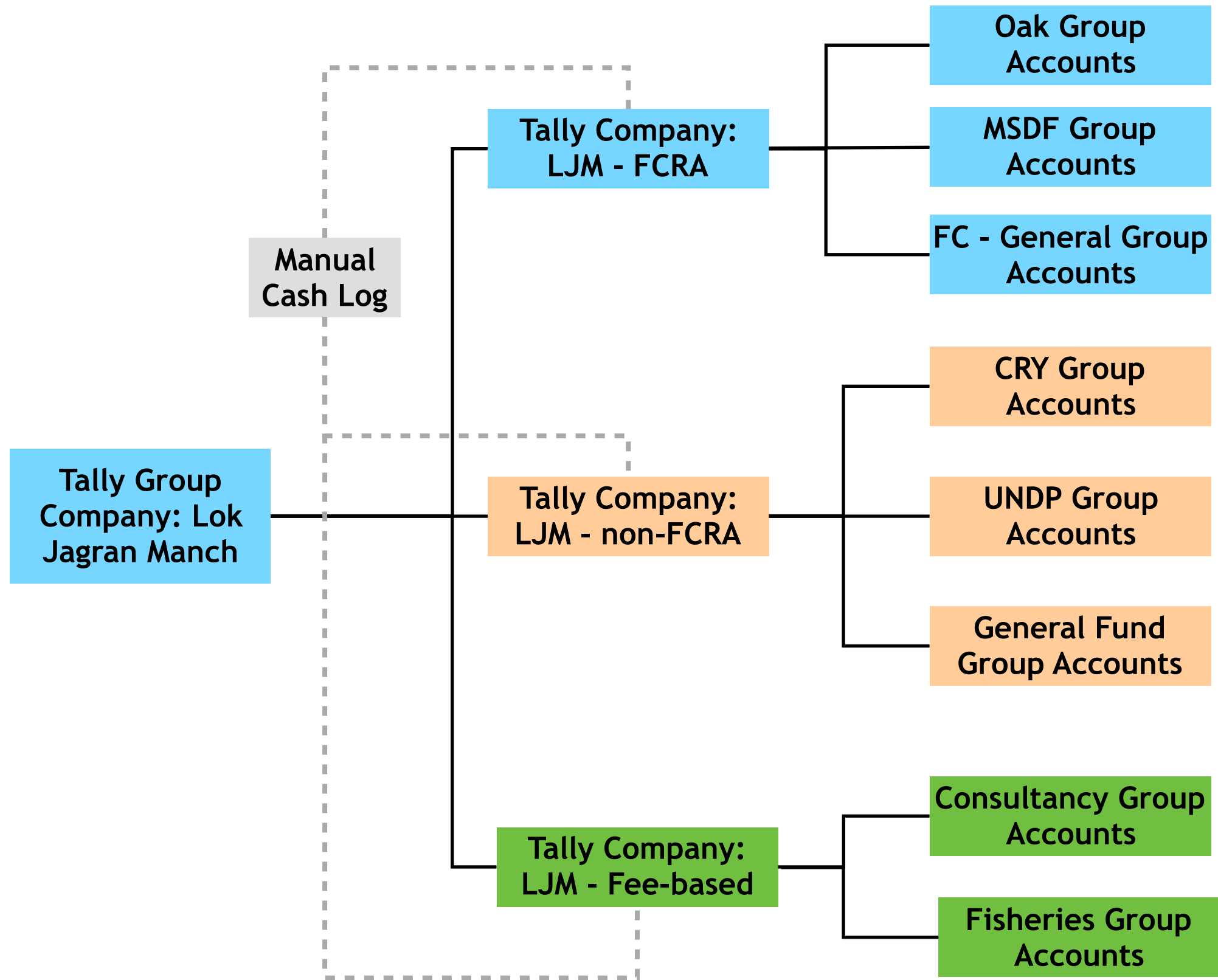
# Separate Books for FC

- Rule 11 asks for **one separate set** of books and records for FCRA
- Many NGOs keeping project-wise books
- Penalty of 1 lakh or 5% of FC received

# **Rule 11: A separate set of books**

## **11. Maintenance of accounts -**

**Every person who has been granted registration or prior permission under section 12 shall maintain **a separate set** of accounts and records, exclusively, for the foreign contribution received and utilised.**



# Separate Records

- **Salary Register**
- **Fixed Assets Register**
- **Investment Register**
- **Stock Register**
- **Distribution Register**

# Separate Bank Accounts

- **Designated**
- **Utilisation**



# Bank Monitoring

- **Real-time Viewing by MHA**
  - **All accounts must be PFMS Compliant**
- **Avoid large / frequent Cash withdrawals**
- **Avoid expenses > Rs. 20,000 in cash**

# Quarterly Receipts

## Details of Quarterly Receipt of Foreign Contribution

1. Name of the Association: Pally Unnayan Samiti
2. FCRA Registration Number: 147110011
3. Address of the Association: Baruipur, Bishop House Baruipur, South 24 Parganas -743302., 24 Parganas-(S and N), West Bengal,

Financial Year: 2017-2018

Quarter: JULY,2017 - SEP,2017

Total Amount received During this quarter: 14621032.14

Sl.No	Name of donors	Institutional/Individual	Detail of the donor: official Address; Email address; website address:	Purposes for which received	Amount (Rs.)
1	Katholisches Frauenwerk In Osterreich	Institutional	Wilhelminenstrabe, 91/11 fA, 1160 Wein, Austria, Europe , Austria, Email Id: Eva.Wallensteiner@dk a.at, Website Address : http://www.teilen.at	Social	1140075.20
2	ABCD	Institutional	52D, Radhanath Choudhury Road, Kolkata- 700 015 , India, Email Id: abcdcalcutta@gmail.co	Social	25000.00

# Online filing: Problems

- **No facility for correction**
- **Delays tracked**
- **Option: upload on own web-site**

# FC-4

- **Use FCRA supplied login & password**
- **Must fill up and file online**
  - **Documents to be scanned and attached**
  - **Signatures to be uploaded**
- **Don't send printed copy by post**

# Audited Statements

- **Do not file Consolidated Accounts with FC4**
- **Mark Audited FCRA Accounts clearly as ‘FCRA funds only’**
- **FC Income & Expenditure also to be filed**

# Nil Return

- **Must file even if no FC received or used**
- **Need not file audited accounts or CA certificate**

# AccountAble™

109. Accounting for FC-4

May'17

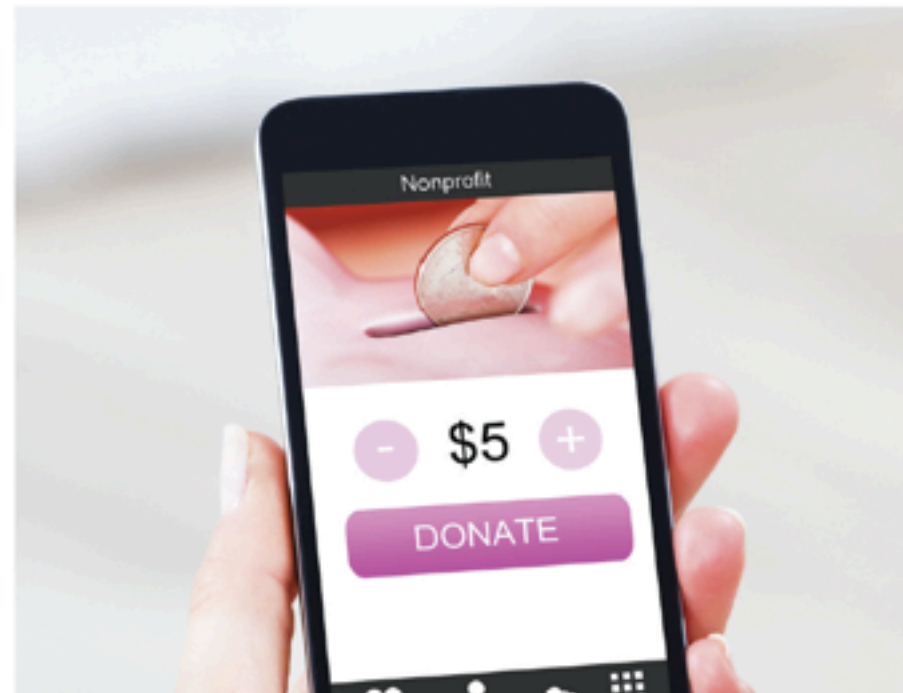
## IN THIS ISSUE

- Books of Account • Basis of Accounting • Basis for FC-4 pg1
- Sample Utilisation Worksheet for FCRA Accounting & Reporting pg2
- Financial Statements • Chart of Accounts pg3
- No Room for Error pg4

FCRA became law in 1976. It called on NGOs to keep separate accounts for foreign contribution, and file reports. Unfortunately, the accounting rules were not clear. Forty years later, some rules remain unclear even under the new version of FCRA 2010. This often makes it difficult to prepare and reconcile FC-4, the annual FCRA return. This issue of AccountAble tries to explain how FCRA accounting should be done. It also suggests a method to link your account books with FC-4.

### BOOKS OF ACCOUNT

All FCRA accounts and records must be kept separately. You should avoid any transfers or transac-



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# Contribution in Kind

- **Free equipment, such as computers / laptops**
- **Free software**
- **From Foreign Source?**
  - **Does NGO, school, etc. have FCRA?**
- **File FC-1 by 31-December**



# Application for Intimation to the Central Government of receipt of foreign contribution (FC - 1)

## FORM FC-1 [See rule 6]

Please be ready with the image of Applicant signature, which is saved in JPG/JPEG format and available for uploading.

SI. No.	Instruction for Image
1.	Image Dimension of Signature should be 140(Width) * 60(Hight) Pixel only.
2.	Ensure that the size of the scanned signature image is not more than 50 KB.

Please choose any one of the following which you want to apply:

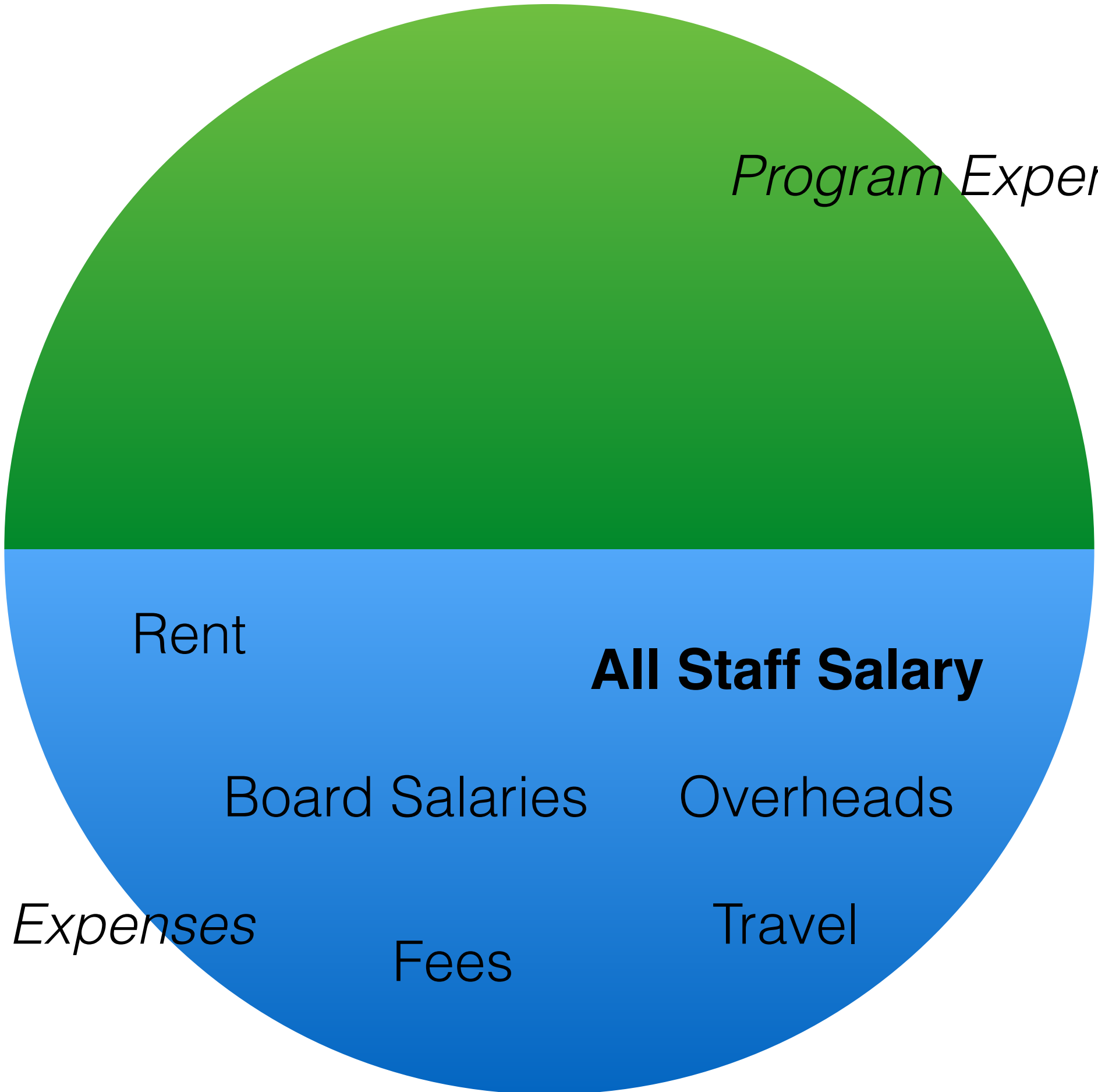
- Online Filing for giving Intimation of receipt of foreign contribution by way of gift from relative by an individual
- Online Filing for giving Intimation about Foreign Contribution by way of (Articles) from relative by an individual
- Online Filing for giving Intimation about Foreign Contribution by way of (Securities)
- Online Filing for giving intimation to the Central Government of Receipt of Foreign Contribution received by a candidate for Election

[Click here to Apply](#)

# Other Issues

# Administrative Expenses

- Capped at 50% of total FC received in a financial year
- Rule 5 definition includes **all salaries** except:
  - Trainers, field superiors, etc. in training / research organisations
  - Teachers, doctors, etc. in welfare-oriented organisations
- Reporting required in FC-4
- Not being calculated or reported as per rule 5



*Admin Expenses*

*Program Expenses*

Rent

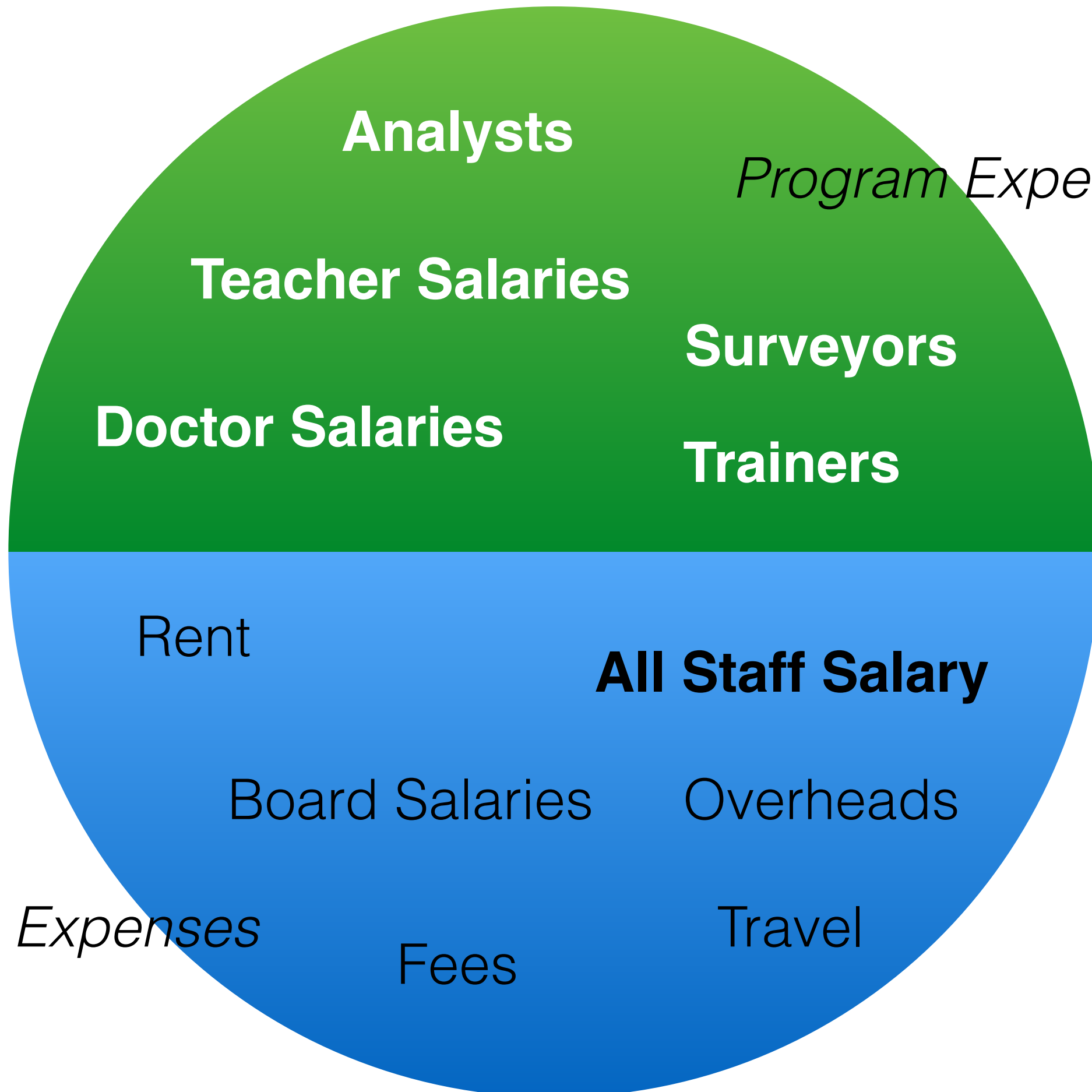
Board Salaries

Fees

**All Staff Salary**

Overheads

Travel



# Implications

- **Separate reporting of admin expenses in FC-4**
- **Denial of renewal if over >50%**
  - **Show-cause notice**

# **Suggested Approach**

- **Calculate with reference to Rule 5**
- **Modify program / budget where needed**
- **Include note in audited accounts showing calculation**
- **Review presentation of FCRA Accounts**

# FC Receipts & Payments A/c

Receipts	Payments	
<p style="background-color: yellow; border-radius: 50%; padding: 10px; text-align: center;">Including salaries of teaching staff etc.</p>	<b>Program Expenditure:</b>	
	- Education Programs	10,00,000
<p style="background-color: yellow; border-radius: 50%; padding: 10px; text-align: center;">Including salaries of doctors etc.</p>	- Awareness Programs	20,00,000
	- Health Program	15,00,000
	<b>Admin Expenditure:</b>	
	- Office Rent	2,00,000
	- Salaries	6,00,000
	- Travel	1,50,000
	- Stationery & Printing	50,000
	<b>Total Admin</b>	<b>10,00,000</b>



# AccountAble™

AccountAble 54: Administrative Expenses under FCRA

Mar-16

## ■ IN THIS ISSUE

Administrative expenses [pg1](#)      Exceptions • Mangerial staff or All staff [pg2](#)  
Other doubts • Budgeting [pg3](#)      Tracking • Monitorng • Reporting • Implications [pg4](#)

FCRA 2010 places a limit of 50% on administrative expenses. This means that only up to 50% of foreign contribution can be used for administrative expenses.<sup>1</sup> If you are likely to use more than 50% on administration, you should get prior-approval from the Government.<sup>2</sup>

However, till now, there has been no mechanism to monitor spending on administrative expenses. This has changed now. The new form FC-4 (annual return) requires disclosure of foreign contribution spent on

Rule 5	Interpretation
(i) salaries, wages, travel expenses or any remuneration realised by the Members of the Executive Committee or Governing Council of the person	Remuneration and Travel to Office Bearers
(i) all expenses towards hiring of personnel for management of	• Remuneration and travel to Staff

d.net

# Mixing FC & non-FC Funds

- **Inter-bank transfers: FC ↔ non-FC**
- **FC payments from non-FC funds**
- **Allocating non-FC expenses to FC books**

# Filing FC-6

- **When Board changes > 50%**
- **For reclassification of purpose (CREES)**
- **For change of designated bank account**
  - **Wait for approval, before switching**
- **After opening utilisation account**

# Compounding

- **Once in three years for a particular type of offence**
- **Penalties for multiple offences to be added up**
- **Apply to Secretary, with DD of Rs. 1000**
  - **Application on letterhead sent by post and email**
- **Decision by Director or Deputy Secretary**

# Compoundable Offences I

Offence	Culprit	Penalty	Sec. & Rule
Foreign Hospitality	Govt. Servants, Judges,	Rs. 10,000	Sec. 6, Rule 7. Form FC-2
Passing on FC to unregistered NGO	NGO which transfers	Higher of 1 lakh or 10%	Sec. 7
Accepting FC w/o registration or permission	NGO which accepts	Higher of 1 lakh or 10%	Sec. 11
Spending > 50% on admin	NGO	Higher of 1 lakh or 5%	Sec. 8, Rule 5
Not reporting FC credited to a customer's account	Bank	Higher of 1 lakh or 3%	Sec. 17, rule 16

# Compoundable Offences 2

Offence	Culprit	Penalty	Sec. & Rule
Depositing FC in wrong bank account	NGO	Higher of 1 lakh or 5%	Sec. 17, rule 9
Depositing local funds in FC Bank account	NGO	Higher of 1 lakh or 2%	Sec. 17, rule 9
Not filing FC-4 / FC-1 by due date	NGO	Higher of 1 lakh or 5%	Sec. 18, rule 17
Not keeping FCRA accounts / records properly	NGO	Higher of 1 lakh or 5%	Sec. 19, rule 11

# AccountAble™

152: FCRA Compounding

Jun'18

Foreign Contribution (Regulation) Act 2010 (FCRA 2010) has a provision for compounding of offences. This allows the Government to enter into a compromise with the offender. They can simply pay a compounding fee, instead of facing court proceedings, and possibly a fine and imprisonment. This helps the Government keep litigation costs down, while earning some useful revenue. In theory, all the offences under the Act are eligible

for compounding. However, in practice, only notified offences can be compounded. FCRA Department had notified some offences for compounding in 2011 and then in 2013. Some of the penalties were lowered in 2016. It has now come out with a longer list and bigger fines. This issue of AccountAble explains what offences can be compounded as well as the procedure.

## Compoundable Offences

Following notified offences can be compounded:<sup>1</sup>

Nature of offence	Compounding Fee	Payable by
• Bureaucrat, judge, MP, MLA, politician, etc. enjoys foreign hospitality while abroad without permission or intimation	Rs. 10,000	Bureaucrat, judge, MP, MLA, politician, etc.
• NGO with FCRA permission or registration passes on foreign contribution to unregistered	Rs. 1 lakh or 10% of contribution transferred, whichever is higher	NGO which transferred the FC

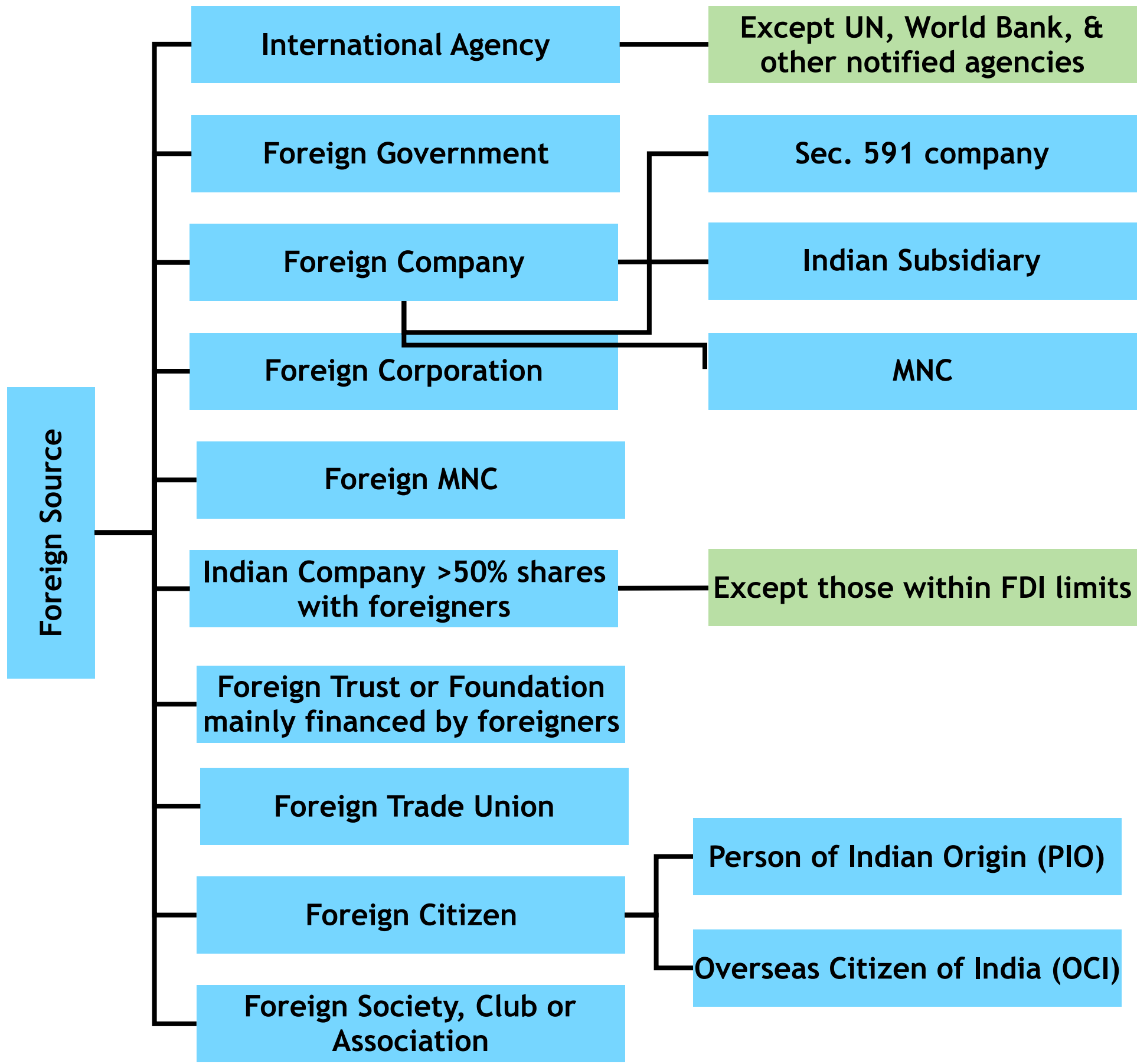
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# CSR

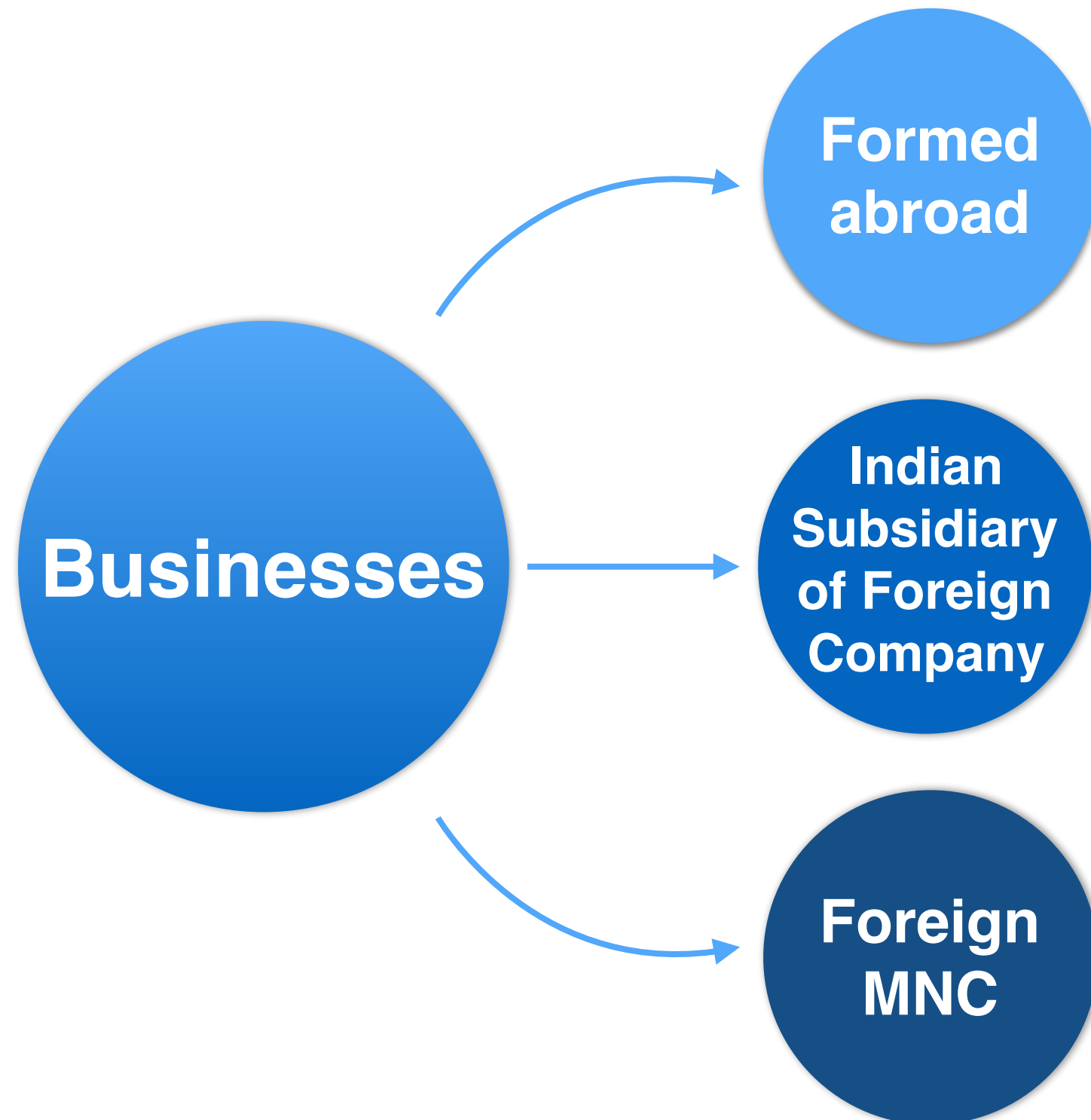
## FCRA & Tax Implications



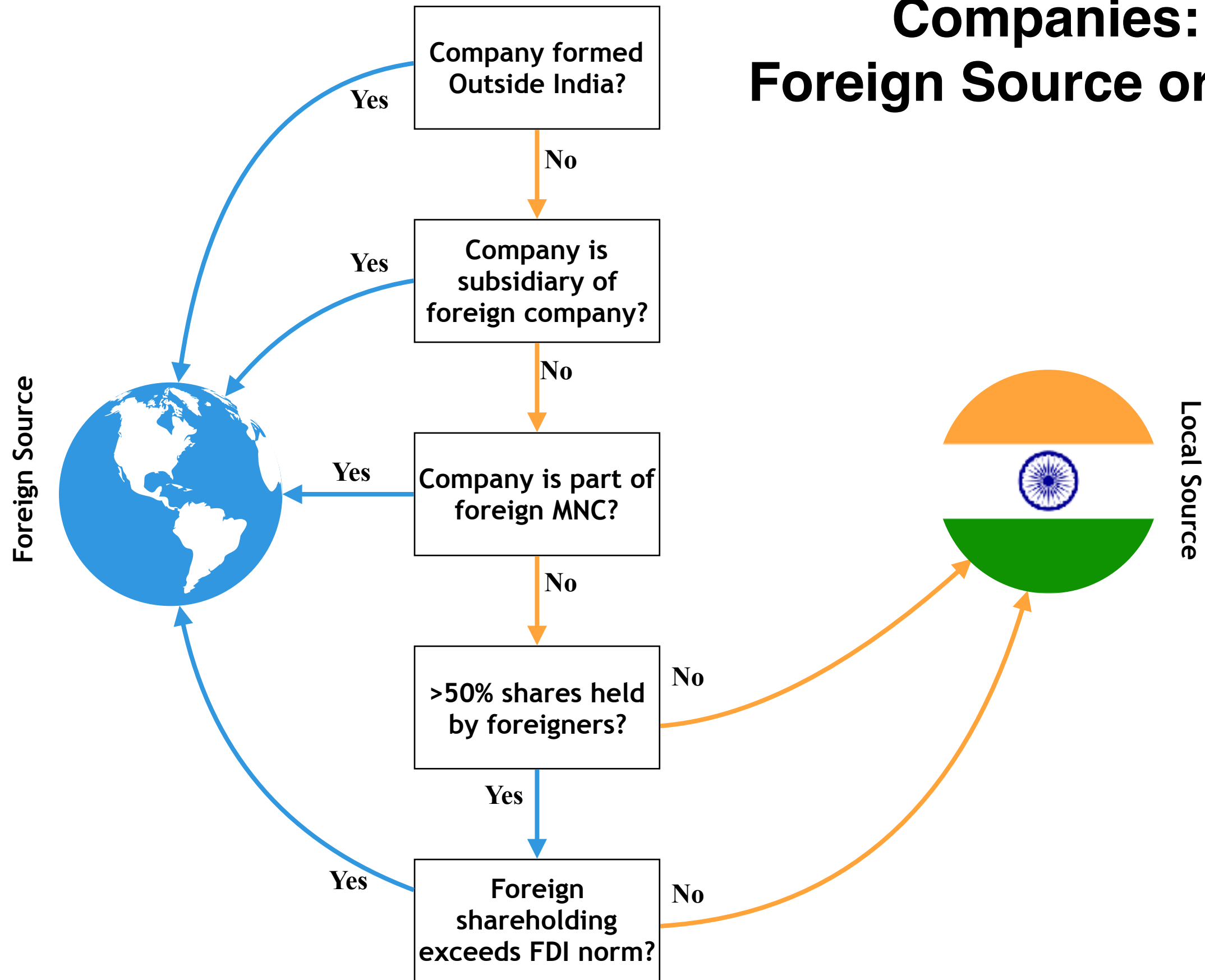
# **Indian Company: Foreign Source?**



# Foreign Source after 2016 amendment (Effective 1976)



# Companies: Foreign Source or not?



# AccountAble™

84: Foreigners & Foreign Companies in FCRA 2010

Aug'18

During Trojan wars (when fear of foreigners bearing gifts first arose), it was fairly easy to make out who was a foreigner and who was not. In these days of globalisation, it is much more confusing. Name, skin colour, dress or type of hair is no longer a reliable indicator of one's foreignness. The tortuous definition in FCRA also does not help.

In this issue of Accountable, we try to help by explaining what a foreign source under FCRA 2010 looks like.

## ***Foreign Source***

Foreign source is defined in sec. 2(1)(j) of FCRA 2010 (see chart). The foreignness of most of these sources is self-evident. However, people and companies pose a challenge. We discuss these below.

## ***People: Foreigners***

How do you know whether a person is foreign or not? This is based on his or her citizenship — not on their ethnicity. A person with citizenship of a foreign country is a foreign source. Always!

A foreigner living in India, married to an Indian or earning money in India remains a foreign source. This is true even if the



# **Grant or Service Contract?**

# CSR: Donation or Contract?

- **Grant contract structure:**
  - **Service provider to company?**
  - **Corporate branding requirements?**
  - **Invoices / other terminology?**
  - **TDS?**
- **May attract GST**
- **Business receipts for sec. 2(15)?**

# Acknowledgement

[www.AccountAid.net](http://www.AccountAid.net) for

**AccountAble™**



# Doubts?

Write to us at

[query@developaid.org](mailto:query@developaid.org)

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# Thanks!