

# Learner's Deck

## FCRA and Spend Restructuring

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Supported By:



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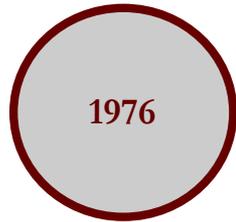
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# FCRA Rules and Administrative Expenses

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## Foreign Contribution (Regulation) Act, 1976

- No restrictions
- Only required to report source of funds and how they were spent

## Foreign Contribution (Regulation) Act, 2010

- Cap on Administrative Expenses was introduced
- Was set at 50%

## Amendments, 2020

- Cap of 20% on Administrative Expenses

# Amendments in FCRA Rules - Administrative Expenses

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- Section 8 of FCRA, 2010 - Cap of 20% on Administrative Expenses w.e.f 29 September 2020
- Organisations could spend upto 50% on Administrative Expenses until 28 September 2020, for financial year 2020-21
- Cap as a percentage of all foreign contributions received in a financial year, not individual contributions
- To spend more than 20%, prior approval from the Central Government is necessary

# Performance Metrics in Administrative Overheads

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## Performance Metric Standards for Non-profit Organisations by Charity Navigator

### Program Expense Percentage

Percentage of total functional expenses spent on programs and services

- Higher the better
- Organization sending 85%+ have been rated at 10/10
- NPOs spending between 33-50% do not live up to their missions and have been rated at 0/10

### Administrative Expense Percentage

Percentage of total functional expenses spent on management or in general

- Those spending upto 15% received the highest rating of 10/10 and upto 20% was considered good(7.5/10)
  - Lower the better
  - In India
    - 10-15%; Ideal
    - 15-25%; Fair
    - 25-35%; Acceptable depending on nature, scale, outreach
  - Restrict to 20% as donors also hesitate to release more

# Interpretation of Administrative Expenses - Rule 5

Provision	Interpretation	Provision	Interpretation
Salaries, Wages, Travel Expenses, Remunerations - Members of the Executive Committee or Governing Council	Remuneration and Travel Expenses of Office Bearers	Cost of accounting for and administering funds	Salaries of Accountants, Cashiers
Hiring of personnel for management of activities; Salary, Wages, Travel Cost of said personnel	Hiring expenses of personnel managing the activities of the organisation Remuneration and Travel of personnel	Expenses towards running and maintaining vehicles	Vehicle fuel and maintenance
Legal and Professional Charges	Fees to Lawyers, Consultants	Rent for Premises, Repairs to Premises	Rent and Repairs
Cost of Filing Reports	Fees to Auditors, Professionals	Expenses related to electricity, post, printing, stationery, telephone, water,	Purchase of Office Equipment/Utilities and Overheads

# Exceptions to Administrative Expenses

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Exclusions under Rule 5 apply;

(i) Provided that the **expenditure** incurred on **salaries** or **remuneration of personnel** engaged in **training** or for **collection** or **analysis of field data** of an association primarily engaged in **research** or **training** shall **not** be counted towards **administrative expenses**.

(ii) Provided further that the expenses incurred directly in furtherance of the stated objectives of the **welfare oriented organisation** shall be **excluded** from the **administrative expenses** such as **salaries to doctors of hospital, salaries to teachers of school** etc.

## Other Exceptions

- **Fundraising Expenses**
- **Purchase of Capital Items other than Office Equipment**
- **Purchase of Vehicles, Buildings**
- **Insurance of Assets**
- **Medicines, Books, other items for distribution among communities**
- **Advertisement and Publicity Expenses**
- **Salary of Non-Managerial Staff**
- **Interest Paid to Banks, Bank Charges, Hospitality Expenses**

# Potential Challenges

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Determining 'what' an administrative expense is



Coming into force in the middle (29 September 2020) of FY 2020-21, reorientation of program costs and implementation



Impact on program management costs



Hindrance to internal capacity building as it could be an expense on management staff



Clear segregation of expenses



Attracting relevant talent, especially when read along with the blanket ban on sub-granting



Focus on innovation

# How to calculate administrative expenses

## Step 1

What is the nature of your organisation?

The four options given in Rule 5 are

1. Research organisation
2. Training organisation
3. Welfare oriented organisation
4. Not included in the above

## Step 2

List your FCRA contribution received during the year in an excel sheet.

## Step 3

List out all your FCRA expenses as per your chart of accounts on a cash basis

## Step 4

Identify those expenses that are purely program related and then move on to the next column

## Step 5

Identify the admin expenses as listed out by Rule 5. By matching the descriptions and move it to the next column. This is the total of all the admin expenses

## Step 6

Now if you are a research organisation, then move the salaries, remuneration, travel and other direct expenses of the field analysts and data collectors to next column.

# How to calculate administrative expenses

## Step 7

Similarly for training organisations then move the salaries, remuneration, travel and other direct expenses of the trainers etc to then next column

## Step 8

If you are a welfare organisations, move all the direct expenses for achievement of objectives to the next column.

## Step 9

The amount that remains in the first column is the admin expenses

## Step 10

The limit of 20% of Administrative Expenditure is on the basis of Foreign Contribution received during the year.

Calculate this amount and track if the total admin expenses are within this limit

## Step 11

If not, identify all the monthly recurring and fixed expenses relating to admin and make a decision internally as to the expenses that will be booked as admin expenses.

## Step 12

If there is surplus, then book the balance of the expenses that fall under the Admin expenses as per rule 5. If not explore other options

# Securing compliance with the amended rules: Methods to be adopted

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## Review the chart of accounts/accounting structure

- Verify the nature of expenses in each head of account to ensure that they pertain to the purpose for which they have been incurred.
- Create either a cost centre in the COA for Admin expenditure or a grouping to book and track the admin expenses as per rule 5



## Review the organisation structure

- Review the organisation structure and the JD's to verify if their roles and responsibilities pertain to program or non program activities.



## Review the cost allocation process and policies

- Look into the nature of the expenses to identify them as direct or program costs. For eg printing and stationary costs by nomenclature is admin costs, but if incurred for printing worksheets for children is direct or program costs

# Securing compliance with the amended rules: Methods to be adopted

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## Develop a cost allocation policy

- To identify what will be classified as direct / program costs and indirect/ non program costs.

## Structure your budget and the budgeting process

- Budget heads must be structured according to Program and Non-Program (Admin) expenses a
- This must be in line with FCRA % allocations



## Strengthen domestic funding capabilities

- Use retail fundraising techniques to attract Indian individual donors
- Leverage social media to improve your call-to-action to donate
- Create a fundraising plan to target domestic funders and corporations



# Securing compliance with the amended rules: Methods to be adopted

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## Collaborations for admin expenses/outsourcing

- Multiple NGOs can explore the option of creating a Shared Service Centre to pool administrative resources and reduce auxiliary expenses. This would help meet the restrictive 20% cap on administrative expenses.



## Application for approval for higher limits

If the organisation estimates that it will be unable to adhere to the 20% restrictions, it may apply to the FCRA Department for approval of higher limits than the stipulated %

# Consequences of Non-Compliance

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## Penalty payment

- The FCRA provides for criminal penalties for violations of its provisions which attracts a maximum penalty of imprisonment up to five years, along with monetary penalties which may go up to five times the value of the article or the currency
- It also provides for a penalty for assisting or accepting foreign contribution in violation of the FCRA
- The NGO/entity receiving the funds and its officers in charge can be prosecuted for such offences

## Compounding of offence

- It may be noted that under section 41(2) an offence once compounded cannot be compounded again within a period of 3 years i.e. second or subsequent offences cannot be compounded within a block of 3 years. In other words a violation pertaining to administrative expenditure cannot be compounded more than once in block of three years.
- The Act does not specifically provide for the penalty for second or third offence pertaining who administrative expenses, but it will be treated as a violation under the Act which may lead to non renewal or cancellation of the certificate of registration.

# Self Declaration to Funders

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A self declaration or undertaking given to your donors in line with the requirements may be useful to them

- a) CSR funders will have to ensure either by diligence or by taking a warranty from the nonprofit partners that they do not have any public servants on their governing board;
- b) CSR funders will have to ensure their funds are not further distributed by the recipient entity by incorporating necessary restrictions in the terms of engagement with the nonprofit partner.
- c) CSR funders will also have to ensure that the 20 percent cap on administrative expenses is clearly marked in the budget/purpose of utilisation shared by the nonprofit partners.
- d) CSR funders will also need to be aware of the date of validity of the FCRA registration of their nonprofit partners, to ensure that projects do not get stalled midway due to delay in process of renewal of FCRA certificate.