

Operation of bank account by a Chairperson who is US citizen of Indian origin in the context of FCRA and RBI rules.

NGOs in the matters of funding is currently regulated by Foreign Contribution (Regulation) Act 1976. The NGO will have to obtain FCRA registration in order to receive foreign funds from US based donors. Society Registration Act, 1860 does not prohibit foreign members being trustees or board member of the society. Legally there is no bar on granting FCRA registration to an NGO having a definite cultural, economic and relevant social objectives, and having foreigners as its members or board members.

However, FCRA authorities exercise greater vigil and caution in granting registration to organization with foreigners on board. There are very few examples where registration under FCRA have been granted to organization, where foreigners are members of the organization or are in the board of the organization.

Even if the chairperson receives PIO (Person of Indian Origin) card it is doubtful whether it will affect the above stated position. Chief benefit of PIO card relates mainly in terms of stay period of the PIO card holder in India, it does not grant citizenship to the card holders. PIO card holders can undertake activities only as specified in VISA document.

Regarding opening of bank accounts by a foreigner, there might be different rules by different banks. However, a foreigner cannot open bank accounts in India, unless they have proper work permit. If they have work permit and they have stayed in India for at least 180 days then they can open bank accounts. Banks generally demand passport and visa of the applicant foreigner for opening accounts. And if they can produce these two documents along with other documents supporting his claim then there should be no problem in opening bank accounts.

*Please note that the above opinion of ours may not be construed to be conclusive legal status on the issue. It is advised that appropriate Acts, Rules and other pronouncements may be referred. Proper legal advice may be sought before applying the above opinion.*

Yours sincerely,

FMSF Resource Team