

**Brief from Philanthropic Foundations Canada  
To the Standing Committee on Finance  
Pre-Budget Consultations**

**August 2017**

**Summary of Recommendations to the Committee:**

- a) Endorse the recommendations of the Consultation Panel on the Political Activities of Charities and encourage the Ministers of Finance and Revenue to implement.**
- b) Ask the CRA to establish a clear set of guidelines regarding program-related investing (loans to charities and non-profits or below market-rate impact investments by foundations).**
- c) Recommend the reinstatement of the collection of key data on the non-profit sector by Statistics Canada that would enable better policy – making and more effective business planning by the non-profit sector in Canada**

# Philanthropic Foundations Canada

July 2017

## 1. Introduction

Philanthropic Foundations Canada (PFC) is a Canada-wide membership association of over 135 grantmakers, including private and public foundations and corporate giving programs. Our mission is to promote the growth of effective and responsible foundations and organized philanthropy in Canada. In 2015, the grantmakers we represent contributed **over \$532 million in grants and over \$346 million in expenditures on charitable programs** to organizations and communities right across Canada.

Charitable foundations are an important source of annual funding to charities, making grants of about **\$5.6 billion** in 2015 to Canadian charities, per Canada Revenue Agency (CRA) figures. This philanthropic funding is an important source of support for Canadian communities, and contributes to the productivity and wellbeing of these communities. Nevertheless, we believe that there are opportunities for the federal government through its regulatory framework both to increase the flow of philanthropic capital to Canadian charities and non-profits and to enable charities to contribute more effectively in ways that will enhance their impact on communities.

## 2. Creating a More Modern Regulatory Framework for the Charitable Sector

Productivity is about more than simply investing in the capacity of business to grow and to create jobs. Productive workers are supported by education and training, child care and strong social infrastructure (affordable housing, access to recreation and health services etc). Many of these supports are provided and operated by organizations in the charitable and nonprofit sector. And many of these organizations have front line experience and policy capacity that they can contribute to public policy makers to make the work of government smarter and more effective. What might be in their way? A federal regulatory system that has been designed to constrain effective partnerships within the charitable sector and between the charitable sector and public policy makers. Disproportionate reporting requirements, rigid rules governing relations between charities and non-charities as agents, rules that have been interpreted to discourage charities from contributing to public policy development, and lack of government clarity on ways in which investment capital can be provided by charitable funders in the form of program-related investments, all combine to make charities and charitable funders less innovative, less effective and less productive, in ways that limit the productivity of our economy overall. We would like to see federal regulation and law that encourages not inhibits productive partnerships between charities and policy-makers.

The government has indeed recognized this need. In 2015 the Prime Minister directed the Ministers of Finance and National Revenue to modernize the rules governing the charitable and non-for-profit sectors. The mandate letters to these Ministers (as well as to the Ministers of Justice and of Families, Children and Social Development) stated that this work “will include clarifying the rules governing “political activity,” with an understanding that charities make an important contribution to public debate and public policy.” We agreed strongly with this latter statement.

The Consultation Panel on the Political Activities of Charities of five experienced sector leaders and regulatory experts, appointed by the Minister of National Revenue in September 2016, has produced a thorough Report calling for changes to the federal administrative and legislative framework governing the charitable sector. PFC strongly supports all four of the Panel’s recommendations. **We recommend to the Committee that it endorse these recommendations and encourage the Ministers of Finance and Revenue to implement them:**

1. Revise the CRA’s administrative position and policy to enable charities to fully engage in public policy dialogue and development.
2. Implement changes to the CRA’s administration of the ITA in the following areas: compliance and appeals, audits, and communication and collaboration to enhance clarity and consistency.
3. Amend the ITA by deleting any reference to non-partisan "political activities" to explicitly allow charities to fully engage, without limitation, in non-partisan public policy dialogue and development, provided that it is subordinate to and furthers their charitable purposes.
4. Modernize the legislative framework governing the charitable sector (ITA) to ensure a focus on charitable purposes rather than activities, and adopt an inclusive list of acceptable charitable purposes to reflect current social and environmental issues and approaches.

PFC is working closely with other charitable sector organizations to promote a positive response by the federal government. These recommendations are widely supported by the sector and would immediately open the door to more effective policy contributions and more innovative approaches by charities and funders alike. We believe that recommendations 1, 2 and 3 could be implemented for the 2018 Budget.

Beyond the issue of charitable engagement in policy development, we believe that the time is long overdue for a modernization of the definition of what constitutes charitable purpose and activity (the focus of Recommendation 4). Today the charitable and non-profit sectors are working more and more with the business sector and with social enterprises to pursue public and community benefit. The regulatory regime for charities does not easily accommodate intersectoral activity or social innovation. To allow

charities to contribute more fully and productively to the community, we need to review the *Income Tax Act's* rules regarding the regulation of charitable activities. We hope to continue a dialogue with the Minister of Finance on this important point.

### **3. Expanding Opportunities for Financing The Sector**

Charities and non-profits need access to all forms of capital, whether earned income, loans or investments, since donations and grants together cannot meet all their financing needs. Social innovation and entrepreneurial activity in the non-profit sector is not typically financed from charitable giving. Grants can in fact be made *only* to qualified donees, or charities, per the *Income Tax Act*, regardless of whether the charity and the non-profit share a similar charitable or public benefit purpose. The invested assets of charitable foundations, by contrast, can be made available to businesses and nonprofits such as social enterprises as well as to charities (through loans for example).

It is incontrovertible that Canadian non-profits and charities need more diversified sources of financing to make a greater contribution to productivity, job creation and community wellbeing. We believe that this effort should be given a more prominent place in federal strategies for increasing productivity in the social sector as well as in the business sector. The philanthropic sector is certainly very interested in developing the impact investing and debt capital marketplace for charities. Private funders supported the work of the Canadian Task Force on Social Finance in 2010, contributed to the establishment of the MaRS Centre for Impact Investing in 2011 and participated in the Canadian National Advisory Board to the G8 Social Impact Investing Taskforce in 2014. This work continues. We were encouraged by the recent step taken by the Minister of Families, Children and Social Development to create an advisory group to help define a national strategy on the development of social finance and social innovation in Canada. This group could examine mechanism such as catalytic capital funds which as demonstrated in other jurisdictions can attract other investors and accelerate the growth of intermediaries that act as a bridge between investors and the charitable and non-profit sectors. We expect that the advisory group would make recommendations with respect to how such a fund might best be established in Canada.

PFC is committed to working with other philanthropic organizations to promote education and information-sharing on mission and program-related investing with the goal of increasing the availability of charitable resources for the benefit and growth of communities. We look to the federal government to play its part in addressing legislative and policy barriers to investment in the non-profit and charitable sector, with a focus on the *Income Tax Act* and associated regulations.

To create a facilitative regulatory regime for charitable funders who wish to provide more of their capital in the form of loans and investments in charities and non-profits we ask the Committee to recommend that:

- The CRA establish a clear set of guidelines regarding **program-related investing** (loans to charities and non-profits or below market-rate impact investments by foundations).

This type of program-related investing or PRI has had little regulatory recognition other than in a CRA policy guidance document on community economic development (CG-014) first published in 1999 and revised in 2012. While the revisions in 2012 were helpful in defining PRIs and in clarifying that foundations can make PRIs even to non-profits (not just charities) if agency rules are followed, the regulations are not entirely clear and their requirements for direction, control and reporting are a disincentive to the use of these mechanisms especially by smaller foundations. The guidance on PRIs could be set out more broadly so that it is not embedded in a document on community economic development but established as a tool that can be used for any recognized charitable purpose or, more broadly, for public benefit, pursued by a registered charitable foundation. The requirements for direction and control of funds, and rules on reporting should also be reviewed to ensure that they are proportional to the risk incurred and to the capacities of the smaller lenders. At present, these rules are overly onerous and restrictive to charities and their agents.

#### **4. Establishing A More Solid Data Framework for the Charitable Sector**

We recommend that

- the Government reinstate the **collection of key data on the nonprofit sector** by Statistics Canada that would enable better policy-making on the regulation and capacity-building of the non-profit sector in Canada.

This recommendation is broadly supported by organizations in the sector and would address an inhibitor of sector productivity, that is the lack of information on the economic contribution and employment profile of the charitable and non-profit sector. There is widespread frustration in the sector over the lack of useful and policy relevant data on the sector. The last systematic census of the charitable and non-profit sector was conducted in 2003, over 14 years ago. The last study of the contribution of the non-profit sector to Canada's economy was done in 2009. This situation, for a sector that contributes enormously to Canadian economic and social wellbeing, should be unacceptable to a government that is concerned with growth and innovation.

The philanthropic sector would like to work in partnership with the federal government to modernize our regulatory relationship and to develop our capacity to contribute to better policy development. These recommendations would lead to significant improvement in our ability to do our work on behalf of Canadian communities and to collaborate with government on mutual goals and objectives.

Thank you for your consideration.