



MEMBER ADVISORY #1-2019

March 25, 2019

To: PFC Members
From: Hilary Pearson
RE: **Public Policy, Legal and Regulatory Update**

1. PFC Public Policy Priorities

Our ongoing public policy priorities at PFC include the following:

- a) Promoting a more facilitating regime for social finance and impact investments by charitable foundations, including clarifying the CRA guidance governing program-related investment by foundations
- b) Participating in a joint process with the federal government and the charitable sector to discuss key policy and regulatory issues affecting the sector that need modernization or increased flexibility, including provisions on direction and control.
- c) Advocating for the collection of key data on the non-profit sector by Statistics Canada that would provide key evidence for policy-making by the federal government.

We welcome comments and input from PFC members on these policy priorities.

2. Public Policy Dialogue and Development Activities of Charities

On March 7 2019, the [Minister of Revenue Canada responded](#) to the [Report](#) of the Consultation Panel on the Political Activities of Charities (“the Panel”). Two key recommendations of this Panel were to bring in legislative changes to update the regulatory regime that structures the work of charities. The federal government agreed with a central recommendation of the Report and has made changes to the rules governing charities’ political activities. These changes explicitly allow charities to fully engage **without limitation in public policy dialogue and development activities**, provided they are carried on in furtherance of a **stated charitable purpose** and do not become partisan (i.e. support or oppose, either directly or indirectly, a political party or candidate for public office).

The CRA has issued [draft guidance](#) for the sector to explain how it will go about interpreting and administering the new statutory regime on public policy dialogue and development activities. And the Agency has also provided some [Qs and As](#). The so-called 10% rule has been dropped, and the reporting requirement in the annual T3010 form for charities and foundations will no longer be enforced. The current T3010 form for 2018 does still have a reference to this reporting requirement but the CRA has clarified that a charity doesn’t have to answer all the questions. [See here](#).

3. Advisory Committee on the Charitable Sector

In response to the Panel's recommendation for further commitment to modernizing the charitable regime, the government has established a permanent [Advisory Committee on the Charitable Sector \(ACCS\)](#). This Committee will have two co-chairs from the charitable sector (myself and Bruce Macdonald of Imagine Canada, and a third co-chair who is Geoff Trueman, Assistant Commissioner of the Legislative Policy and Regulatory Affairs Branch. There will be 12 other members from the charitable sector and government (not yet named at time of writing). This Committee will discuss emerging policy and regulatory issues facing charities on an ongoing basis.

The Government is providing \$3.2 million in new funding over the 2018–2019 to 2023–2024 period to the CRA to support the ACCS to strengthen the relationship between the government and the sector. This suggests that the commitment to this permanent structure is substantial and that the sector has gained an important new channel for the ongoing discussion of important policy issues.

4. Study of the Special Senate Committee on the Charitable Sector

A study being conducted by a [Special Committee](#) of the Senate of Canada is examining “the impact of federal and provincial laws governing charities, non-profit organizations, foundations, and other similar groups, and the impact of the voluntary sector in Canada.” This Committee is chaired by Senator Terry Mercer and the Vice-Chair is Senator Ratna Omidvar (formerly of the Maytree Foundation). Hearings of the Committee have been ongoing and full transcripts are available on the Committee website. There have been some extremely useful presentations and discussions by a wide range of charities, organizations (including PFC) and foundations. The report of the Committee is likely to be tabled by June and will probably have a number of recommendations of importance and relevance to charitable foundations around directions for further modernization of the federal regime governing charities.

5. Federal Budget 2019: Public Benefit Journalism

In the March 2019 Budget, the major announcements of interest to the foundation sector were related to journalism and to social finance.

- a) The Budget builds on measures announced in the 2018 federal budget aimed at supporting Canadian journalism by introducing a tax measure that permits certain Canadian news organizations to obtain qualified donee status if they meet the criteria for a qualifying journalism organization. These Canada-based organizations must be engaged primarily in the production of original news content and must be primarily focused on matters of general interest and reports of current events. If these news organizations become qualified donees, charitable foundations will be able to make grants to them. But this qualification process is likely to take a considerable amount of time and therefore it will be 2020 or later before this is effective.
- b) In the fall of 2018, the federal government proposed to provide up to \$755 million on a cash basis over 10 years to establish a **Social Finance Fund** as well as to invest \$50 million over 2 years in investment-ready social purpose organizations to improve their ability to participate successfully in the social finance market. The government proposed that the Fund would help charitable, not-for-profit, and other social purpose organizations access financing for projects that have a positive social impact.

The 2019 Budget contains new details on how the Fund will work.

- Funding will be managed through professional investment managers with expertise in social impact reporting and a proven ability to promote inclusive growth and diversity in the social finance market, to be selected through a competitive selection process in the fall of 2019.
- The fund manager(s) will invest in existing or emerging social finance intermediary organizations that have leveraged private or philanthropic capital for co-investment.
- The fund manager(s) will be required to leverage a minimum of two dollars of non-government capital for every dollar of federal investment, except for investments for Indigenous-led or Indigenous-owned funds.
- A minimum of \$100 million will be allocated towards projects that support greater gender equality – leveraging existing philanthropic and private sector funds towards this purpose in order to help them reduce the social and economic barriers faced by diverse groups of Canadians of all genders.
- A \$50 million investment will be made in the newly proposed Indigenous Growth Fund, a fund aimed at encouraging investments in Indigenous-led businesses. The Budget contemplates that the Indigenous Growth Fund will be managed by the National Aboriginal Capital Corporations Association.

In addition, the federal Budget included many new spending measures. With thanks to our colleagues at **Miller Thomson Social Impact** who prepared a [newsletter](#) from which this summary is sourced, here are the key spending measures of interest to foundations:

- The Budget contains many funding allocations for organizations that carry on programs for young people in Canada. A [Youth Book](#) details the measures that will impact Canadians under the age of 34. This document will interest charities focused on youth.
- The Budget contains measures that will interest education charities such as increased funding for student loans, apprenticeships, and international education.
- The Budget includes investments aimed at Indigenous Peoples, including allocated funding to support core governance needs of First Nations governments, a new 10-year inflation adjusted grant structure for First Nations, and investments designed to provide better access to post-secondary education for Indigenous Peoples.
- The Budget announced the largest ever increase in funding for research grants. Organizations with activities in the research field will be interested in the announcement of increased funding for the **Clean Resource Innovation Network**, which carries on research to lower the oil and gas industry's environmental impact. The Budget also announced the creation of a new Strategic Science Fund for investments in research and technology.
- A Canada Cultural Spaces Fund contemplates new financial support for cultural infrastructure projects in Canada by investing in traditional arts and heritage facilities such as museums, theatres, and performing arts centres. A new Canada Arts Presentation Fund, will support not-for-profit professional performing arts organizations, including festivals and performing arts series.
- As part of the national Poverty Reduction Strategy announced in August 2018, the Budget includes funding for local food infrastructure and funding for community projects that improve the lives of seniors. The Budget indicates that the government plans to move ahead with legislation to adopt an official poverty line based on a basket of goods and services that Canadians require to achieve a modest standard of living in communities across the country. This will be relevant to the definition of "poverty" used by many charities.