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Report #4 of

The Advisory Committee on the Charitable Sector

Towards a federal regulatory environment that enables and
strengthens the charitable and nonprofit sector

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Dear Minister Bibeau:

This report is presented to you on behalf of the 12 sector members of the [Advisory Committee on the Charitable Sector \(ACCS\)](#). We are writing to you today to give an overview of our April 2024 Consolidated Report which builds on and complements the [first three reports](#) by the Committee and submitted to your predecessor, the Hon. D. Leboutillier.

We note that the Government of Canada has acted on a number of previous ACCS recommendations (qualifying disbursements, enhancements to [Form T3010](#), etc.). It is our wish that the proposals and advice in this and the previous three submissions continue to be received and considered favourably.

This, our fourth report, covers the recommendations from four dedicated working groups on issues the ACCS determined were priorities for the charitable sector.

- 1. Definition of charity and charitable purposes working group (DCCPWG):** The group examined the current regulatory approach to charitable purposes and activities to determine what, if anything, is missing. It examined the advantages and disadvantages of a statutory definition of “charity” in the [Income Tax Act](#). The group's recommendations emphasize the importance of reconciliation-focused policy reviews and consultations with Indigenous communities. Their suggestions aim to modernize charity law and regulation, making it more inclusive and equitable.
- 2. National inherent risk assessment working group (NIRAWG):** The group considered the impact of the [2023 National Inherent Risk Assessment \(NIRA\)](#) on the charitable sector by reviewing the policy by centering both the charitable sector and by using the Government's [Gender-based Analysis Plus \(GBA Plus\)](#) framework. It recommends a comprehensive risk assessment approach for the anti-money laundering and anti-terrorist financing (AML/ATF) regimes. This approach will ensure [Charter](#) compliance and incorporate gender and diversity considerations. The NIRAWG seeks to make the regulatory measures within the sector fairer and more effective.
- 3. Transparency and data related to other qualified donees and non-profit organizations working group (TDWG):** The group reviewed the data landscape to find ways to improve data quality and transparency for charities, other qualified donees, and nonprofit organizations who seek to make data-informed program and policy decisions. The group proposes the development of publicly available tracking tools and the use of artificial intelligence for data analysis. Their recommendations aim to make the data housed within the regulatory

environment easier to understand, more transparent, and more useful to the sector.

4. **Relationship between the CRA and the charitable sector working group** (CRACSWG): The group seeks to improve the relationship between the [Canada Revenue Agency](#) (CRA) and the charitable sector by providing recommendations to help improve administrative practices and procedures demanded by the regulatory system. It highlights the need for improved outreach and communication between the CRA and charitable organizations, suggesting the rebuilding of the [Charities Partnership and Outreach Program](#) and the creation of a more engaging and supportive environment for charities.

Each group's recommendations are designed to address specific challenges within the sector, from legislative definitions and risk assessments to transparency, data management, and the relationship between the CRA and charities.

All working groups have undertaken extensive and original research to support their recommendations. In the case of the DCCPWG and NIRAWG, the background papers are particularly extensive because of the complex and technical nature of the topics they addressed.

We believe the recommendations in our fourth report will significantly contribute to the development and modernization of the charitable sector in Canada, and help ensure the regulatory environment supports the important work that charities do.

We look forward to your feedback and the opportunity to discuss these recommendations further.

Sincerely,

ACCS Sector Co-chairs



Sheherazade Hirji
ACCS Sector Co-chair, Former Resident Representative, Aga Khan Development Network,
Afghanistan



Kevin McCort
ACCS Sector Co-chair, President & CEO, Vancouver Foundation

Definition of charity and charitable purposes working group

The report from the Definition of charity and charitable purposes working group (DCCPWG) examines Canada's legal approach to defining charity and charitable purpose. Prompted by sector representatives and a 2019 Senate report, [Catalyst for Change: A Roadmap to Stronger Charitable Sector](#), the Working Group explored whether there is a need for minor revisions or significant legislative reform, given the reliance on common law for defining charitable purposes. The report acknowledges resource constraints and other challenges faced by the CRA and the [Charities Directorate](#) to undertake this type of comprehensive research.

The report outlines stakeholder concerns regarding the current Canadian approach and summarizes consultations with experts on charity law in Canada, England and Wales, New Zealand, and Australia. It highlights three main areas for further research: the role of independent charities regulators, the use of legislation to define [charitable purposes](#), and federalism considerations that might impact federal reforms.

Comparative analysis in the report reveals that common law and civil law jurisdictions have moved towards legislating charitable purposes and offering broader and more inclusive definitions than those traditionally provided at common law. The report suggests that reliance on the CRA for defining charitable purposes, coupled with limited options to challenge decisions, raises democratic accountability concerns and hints at the potential benefits of legislative reform. Whereas some have suggested federalism poses an obstacle to such reform, research on provincial and federal legislation suggests otherwise. By presenting for the first time a comparative analysis of provincial and international legal practices on charities, this report tackles long-standing questions and encourages proactive movement on this topic, whether by the CRA or by other federal organizations such as the [Law Commission of Canada](#).

The working group concludes with four recommendations:

1. **Legislative amendments to the *Income Tax Act*:** Suggests including certain objects as charitable purposes that have already received substantial stakeholder input, such as “advancing amateur sport and recreation” and “prevention of poverty.”
2. **Reconciliation-focused policy review:** Recommends that the [Minister of National Revenue](#) and the [Commissioner of the CRA](#) review policies that impact reconciliation (e.g. [CPS-012](#)) related to Indigenous peoples, with a lens informed by the principles of reconciliation and the [UN Declaration on](#)

[*the Rights of Indigenous People \(UNDRIP\)*](#).

3. **Support for Indigenous communities:** Advises developing outreach and support for Indigenous communities to build trust and also address tax issues affecting their work and contributions to reconciliation.
4. **Consultations on a "Home in Government":** Proposes that the Minister of National Revenue consults the charitable sector to explore the benefits of establishing an independent charities regulator or another supportive government body to modernize charity law and regulation.

In summary, the report highlights the need for a clearer legislative framework for defining charitable purposes in Canada, addressing the needs of Indigenous communities under the framework of reconciliation, and the potential for a collaborative approach between federal and provincial governments to modernize charity law and regulation.

National inherent risk assessment working group

In March 2023, the Department of Finance released the "[Updated Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada](#)", focusing on the anti-money laundering and anti-terrorism financing (AML/ATF) regime. This assessment, conducted to align with the [recommendations of the Financial Action Task Force \(FATF\)](#), evaluates threats to the financial system and identifies sectors vulnerable to exploitation for money laundering or terrorism financing. The 2023 [National Inherent Risk Assessment \(NIRA\)](#) highlights the charitable sector's high susceptibility to terrorism financing risks, prompting critical reflection on the current AML/ATF approaches and their unintended impacts on Canada's charities, particularly those supporting life-saving humanitarian aid and development work in regions that the 2023 NIRA identifies as high risk for terrorism financing.

Amidst rising concerns over potential biases in audits of charities and allegations of systemic Islamophobia, the Government initiated reviews to make sure these evaluations are fair and objective. The National inherent risk assessment working group (NIRAWG) aimed to reassess the AML/ATF risk assessment methodologies, taking into account the sector's diversity and efforts to mitigate terrorism financing risks since 9/11.

The NIRAWG proposes several key recommendations to the Minister of National Revenue and the Commissioner of the CRA in support of their aim to increase the effectiveness and fairness of Canada's AML/ATF regime.

The five recommendations below are based on the NIRAWG's discussions with the [Department of Finance](#), [Public Safety Canada](#), [Global Affairs Canada](#), the CRA's Review and Analysis Division, and some NGOs and members of the charitable sector.

1. **Adopt a more comprehensive risk assessment approach:** Encourage the Department of Finance to integrate both inherent and residual risk analyses to more accurately represent the charitable sector's vulnerabilities. This would align with international practices and maintain public trust.
2. **Ensure Charter compliance:** Urge the development and dissemination of guidance for AML/ATF regulatory bodies to fulfill their responsibilities while adhering to the [Charter of Rights and Freedoms](#).

3. **Incorporate gender and diversity considerations:** Suggest the inclusion of [Gender-based Analysis Plus \(GBA Plus\)](#) in future NIRAs, making sure risk assessments and regulatory duties account for diverse impacts and support equitable compliance practices across all sectors.
4. **Clarify legal frameworks:** Seek clarification from the Department of Public Safety Canada on the implications of recent [Criminal Code amendments](#) related to the charitable sector, ensuring alignment with Canada's policy positions and giving clear guidance for navigating potential contradictions.
5. **Establish an advisory body:** Create a collaborative advisory group involving key ministries and humanitarian bodies to review and advise on policy applications and decisions, ensuring a balanced and inclusive approach to AML/ATF measures.

These recommendations aim to refine Canada's AML/ATF regime, fostering a more inclusive, fair, and effective approach that respects diversity and upholds the principles of justice and equality.

Transparency and data related to other qualified donees and non-profit organizations

The Transparency and data related working group (TDWG) has been actively engaged in addressing the data and technology challenges within the charitable and non-profit sector, in light of recent legislative changes and their impact on the sector's operations.

In Canada, the state of transparency and data related to charities and non-profits has been steadily evolving, yet ongoing challenges remain related to data comprehensiveness, timeliness, and accessibility. While large amounts of information and data can be accessed via CRA or [Statistics Canada](#), it is not always easy for the general public nor the charitable sector to understand or use it effectively. There is also a call for more real-time data and less administrative burden on charities when reporting their information.

The TDWG's recommendations stem from research, consultations, and collaboration with governmental bodies. Notably, the recommendations stem from the changes the CRA implemented as a result of [Budget 2022](#) related to granting to non-qualified donees and the disbursement quota (DQ). The focus has been on making sure the regulatory environment is easier to understand, more transparent, and facilitates the sector's work, especially concerning the DQ adjustments and the regulations around granting to non-qualified donees.

The sector is eager to see further improvements in transparency and data practices. Technology and policy reforms can help create a digitally enabled nonprofit sector where Canada's charities, nonprofits, donors, and policy makers use data to advance their missions, and multiply their impact.

Recommendations to the Minister of National Revenue and the Commissioner of the CRA include:

1. Disbursement quota

- a. Creation of a transparent tracking tool: The ACCS suggests directing the CRA to develop a public tool using data from [Form T3010, Registered Charity Information Return](#), to track each charity's specific DQ amount and their actual disbursements, increasing compliance transparency.
- b. Improved public reporting: Introduce DQ reporting features on the Charities and giving web page's "[Quick View](#)" section for public awareness and add an aggregated annual report on sector compliance.

2. Granting to non-qualified donees

- a. Transparent tracking for non-qualified donee grants: Develop a publicly accessible tool showcasing the percentage of funds granted to non-qualified or other qualified donees by each charity, leveraging reported data to increase transparency and accountability.
- b. Use of artificial intelligence (AI) for data analysis: Encourage the CRA to explore generative AI for analyzing data from [Form T1441, Qualifying Disbursements: Grants to Non-Qualified Donees \(Grantees\)](#), in collaboration with reputable partners.

3. Filing with the CRA

- a. Improvement of data quality: Suggest enhanced training for the sector on T3010 completion to ensure data accuracy and quality.
- b. Encouragement of electronic filing: Continue the push for a transition to electronic filing to reduce errors and improve efficiency. Simplify the process for changing authorized representatives to make online account management more accessible for charities.

These recommendations, some of which were also contained in [previous ACCS reports](#), aim to bolster the regulatory framework for charities, improve data quality and accessibility, and make sure the sector can effectively evaluate the impact of legislative changes and public policies.

Relationship between the CRA and the charitable sector working group

The relationship between charities in Canada and the [CRA's Charities Directorate](#) is multifaceted, involving both regulatory oversight and support to ensure compliance with tax laws. This relationship has its complexities and has seen both challenges and improvements over the years. The primary concern centers on the complex administrative tasks faced by charitable organizations in Canada, particularly in registration, audit, and reporting processes. The sector experiences difficulties with the CRA's digital platforms and perceives the registration process as cumbersome, leading to a need for costly legal services.

The Relationship between the CRA and the charitable sector working group (CRACSWG) reviewed the previous reports submitted by the ACCS (in particular the work of the Vulnerable Populations Working Group), held additional community-level focus groups and undertook extensive working group discussions prior to developing its recommendations. The CRACSWG centered feedback from focus groups, highlighting issues and potential improvements in the relationship between the CRA and the charitable sector. Despite the limited number of focus groups and overall participants, their input was considered representative and aligns with ongoing discussions and government priorities identified by ACCS members, and with recommendations from previous ACCS reports.

Recommendations to the Minister of National Revenue and the Commissioner of the CRA include:

1. Streamline online processes:

- a. Improve the online platform to allow easier data entry and retrieval, possibly by reusing existing data (tombstone data) and improving functionality in the [T3010](#) form completion process.
- b. Address challenges related to [My Business Account \(MyBA\)](#) and ensure easy access and functionality by the appropriate organizational leadership.

2. Revise registration procedures:

- a. Simplify the registration process to make it more accessible, particularly for small, grassroots organizations. This involves a comprehensive review and potential simplification of current procedures to reduce the need for legal representation.

3. Improve educational support:

- a. Re-establish education programs similar to the [Charities Partnership and Outreach Program](#) to provide compliance-related education and training.
- b. Offer clear guidance on allowable administrative expenses and management reporting and provide training through webinars and practical case studies to improve understanding and compliance accuracy.

4. Improve engagement and support:

- a. Use digital innovations, like chatbots and interactive websites, to improve user experience and accessibility.
- b. Develop outreach campaigns to assure charities that engagement with the CRA will not necessarily lead to increased scrutiny.
- c. Create a mentorship program to help organizations through the registration process.

5. Facilitate access and communication:

- a. Establish more flexible communication channels, including after-hours support and targeted communication strategies for small and volunteer-run organizations.
- b. Increase the CRA's presence at sector events to build trust and give direct support through workshops and information sessions.

6. Partnership and community engagement:

- a. Partner with legal education and information providers, including umbrella groups and non-profit networks, to offer free or low-cost services to charities.
- b. Connect with community groups and health organizations to understand and address sector-specific needs and challenges.

The report acknowledges recent improvements in the CRA's engagement with the charitable sector. By implementing these recommendations, the CRA can further improve its relationship with the sector, leading to more efficient processes and better support for charitable organizations across Canada.