

Updating Charities and Not-For-Profits on recent legal developments  
and risk management considerations

### JUNE 2019

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## **RECENT PUBLICATIONS AND NEWS RELEASES**

### **Special Senate Committee on Charitable Sector Releases Final Report**

By [Terrance S. Carter](#), [Theresa L.M. Man](#) and [Ryan M. Prendergast](#)

On June 20, 2019, the Special Senate Committee on the Charitable Sector released its final report, [\*Catalyst for Change: A Roadmap to a Stronger Charitable Sector\*](#) (“Report”), setting out its findings from a year-long study with respect to the charitable and non-profit sector and making 42 recommendations to the Government of Canada. The Report is intended to provide a “roadmap to ensure that genuine change is delivered so that the sector can reach from great to exceptional” as well as a “roadmap to a stronger and brighter future for the sector.”

For the balance of this *Bulletin*, please see [\*Charity & NFP Law Bulletin No. 451\*](#).

### **CRA News**

By [Jacqueline M. Demczur](#)

### **Electronic Filing System for Charities (CHAMP) Now Active**

The Canada Revenue Agency (“CRA”) has been offering [new digital services](#) since June 1, 2019 to charities in order to lighten the administrative burden that many charities face with respect to their filings. These services are the product of the Charities IT Modernization Project (also known as “CHAMP”), made possible in 2014 as a result of the 2014 Federal Budget discussed in [\*Charity Law Bulletin No 330\*](#), which allocated \$23 million to the Charities Directorate for the purpose of modernizing its IT system over the next five years. The rollout of CHAMP is now complete and online services are available through ‘[My Business Account](#)’ (“MyBA”) to assist with handling a charity’s tax matters.

MyBA allows organizations to apply for charitable status by submitting the T2050 form and allows charities to complete and file their annual T3010 Registered Charity Information Return, as well as update their information, such as addresses, list of directors, representatives, and certain post-registration amendments. Further, MyBA allows charities to upload supporting documents, correspond with the Charities Directorate on certain matters, access payroll and GST accounts, file T4 slips and GST returns, and view their account balance, transactions, and remitting requirements.

Directors and trustees of registered charities who wish to use the online platform will need to use their CRA user ID and their business number to get access to these services. Multiple users may access the same account simultaneously, although only one user will be able to perform specific tasks on the platform at a time. The CRA webpage, '[Registration process to access the CRA login services](#)' provides more information with respect to how to obtain access.

Authorized representatives, including accountants, employees and lawyers, may also file materials on behalf of charities. In order to register as a representative, the representative must first register him or herself as such using the '[Represent a Client](#)' service, after which the representative will receive a "RepID." Alternatively, a business representing a charity, such as an accounting or law firm, can also be registered as a representative through a group account ("GroupID"), through which that business can manage the access and roles of its employees. Any representatives associated with that GroupID will have online access to the client information, provided that authorization has been given by the charity. Charities then need to authorize the representative (using the representative's RepID, GroupID, or business number), either online through MyBA or by mailing the RC 59 Business Consent for Offline Access form. Obtaining the charity's authorization will require the representative to submit an online request, enter the authorization request information, print the certification for the director or trustee's signature, and submit the document online. More information can be found on the CRA webpage, '[Represent a Client Overview](#)'.

## Legislation Update

By [Terrance S. Carter](#)

### **Bill C-97, Budget Implementation Act, 2019, No. 1, Receives Royal Assent**

On June 21, 2019, [Bill C-97, Budget Implementation Act, 2019, No. 1](#) ("Bill C-97"), received Royal Assent. Bill C-97, which was discussed in the [April 2019 Charity & NFP Law Update](#), implements new tax measures with respect to Canadian journalism, removes the "national importance" criteria with respect to donations of cultural property for the purposes of receiving a tax benefit, and implements several health-related measures.

## **Bill C-59, *An Act respecting national security matters*, Receives Royal Assent**

Also on June 21, 2019, after two years of debates in both Chambers of Parliament, [Bill C-59, An Act respecting national security matters](#) (“Bill C-59”), received Royal Assent. As mentioned in the [June 2017 Anti-Terrorism Law Update](#), Bill C-59 was introduced in the House of Commons on June 20, 2017 and later amended by Committee, as discussed in the [May 2018 Anti-Terrorism/Money Laundering Update](#). Bill C-59 introduces a number of changes to the *Criminal Code* and various other federal statutes, and enacts the *National Security and Intelligence Review Agency Act*, *Avoiding Complicity in Mistreatment by Foreign Entities Act*, *Intelligence Commissioner Act*, and the *Communications Security Establishment Act*.

## **Trademarks Act Amendments Now in Force**

On June 17, 2019, amendments to the *Trademarks Act* arising from [Bill C-31, Economic Action Plan 2014 Act, No. 1](#) (“Bill C-31”) came into force enabling Canada to accede to the Singapore Treaty, the Madrid Protocol, and the Nice Agreement. The amendments in Bill C-31 as discussed in [Charity Law Bulletin No 360](#) and the [November 2018 Charity & NFP Law Update](#), introduce significant changes to Canada’s trademarks regime, including, the removal of the “use” requirement to register a trademark, the introduction of new types of trademarks, the ability to file international applications through the Madrid System, the requirement to classify goods and services according to the Nice Classification, a shortened registration term, and expanded enforcement tools as further discussed in [Trademark Amendments In Force: What To Do Now](#), below.

## **Ontario Bill 117, *OPSCA (Interim Period), 2019* Receives Royal Assent**

On June 6, 2019, Ontario Bill 117, *Ontario Society for the Prevention of Cruelty to Animals Amendment Act (Interim Period), 2019* (“Bill 117”) received Royal Assent. Bill 117 was introduced as a result of the Ontario Society for the Prevention of Cruelty to Animals’ (“OSPCA”) decision to relinquish its responsibilities with respect to the enforcement of animal welfare legislation in Ontario once its contract with the government ended on March 31, 2019, as reported in its [March 4, 2019 news release](#). The move to end its enforcement services came in response to a recent Ontario Superior Court decision, [Bogaerts v. Attorney General of Ontario](#) (discussed in the [January 2019 Charity & NFP Law Update](#)), in which the court found that it was unconstitutional for the government to enact legislation that delegated law enforcement responsibilities to a private organization because of the lack of transparency and accountability to the public. As such, the court invalidated the provisions that govern the powers of the

OPSCA with respect to warrantless search and/or seizure powers, but suspended such declaration for an interim period of one year to allow legislation to establish a new framework with respect to animal welfare enforcement.

Bill 117 addresses this interim period and amends the existing *[Ontario Society for the Prevention of Cruelty to Animals Act](#)* (the “Act”) by adding section 21.1, which authorizes the Solicitor General to appoint any person as the Chief Inspector for the interim period. Further, [O Reg 101/19](#) was filed on May 17, 2019 and amended the *[General Regulation](#)* (“O Reg 59/09”) under the Act by expanding on the responsibilities of the Chief Inspector. The Amending Regulation states that the Chief Inspector has the authority to establish standards for the inspectors and agents of the OPSCA “in the performance of their functions” and generally oversees “the performance of their functions.” It also makes clear that the Chief Inspector does not have authority over inspectors and agents of affiliated societies that were appointed by the OPSCA or Chief Inspector. However, affiliated societies may make a written request to the Chief Inspector, which the Chief Inspector may accept or decline, to appoint one of the societies’ employees as an inspector or agent. The Chief Inspector may also revoke any such appointments that were made.

#### **Bill 116, Foundations for Promoting and Protecting Mental Health and Addictions Services Act, 2019**

On May 27, 2019, Ontario [\*Bill 116, Foundations for Promoting and Protecting Mental Health and Addictions Service Act, 2019\*](#) was introduced to the Legislative Assembly of Ontario. If Bill 116 is passed, it will enact two Schedules, the *Mental Health and Addictions Centre of Excellence Act, 2019* (“Mental Health Act”) and the *Opioid Damages and Health Costs Recovery Act, 2019* (“Opioid Act”). The Mental Health Act lays the foundation to support a “mental health and addictions strategy” (the “Strategy”) in Ontario that would recognize mental health and addictions care as a “core component of an integrated health care system”. Further, under the Mental Health Act, Ontario Health will establish and maintain the Mental Health and Addictions Centre of Excellence to implement the Strategy, provide mental health services, collect data and research on the system, as well as provide resources and support to health service providers, integrated care delivery systems and other related parties.

The Opioid Act sets out a framework under which the government of Ontario may seek to “recover the cost of health care benefits caused or contributed to by an opioid-related wrong” against manufacturers and wholesalers of opioid products. Ontario would have a “direct and distinct action”, could seek to recover costs on an aggregate basis, and defendants could be held jointly or severally liable. Further, the

Opioid Act sets out unique limitation period rules, allowing Ontario to commence an action for damages or for the recovery of the cost of health care benefits with respect to opioid-related wrong within 15 years after the relevant provision in the Act comes into force. The Opioid Act is being enacted in part to support Ontario's participation in a [national class action lawsuit](#) British Columbia launched in August 2018 against more than 40 opioid manufacturers and wholesalers, on behalf of provincial, territorial, and federal governments.

## Corporate Update

By [Theresa L.M. Man](#)

### New Regulations Amending the *Canada Not-for-profit Corporations Regulations* and *Canada Cooperatives Regulations*

As reported in the [March 2019 Charity & NFP Law Update](#),<sup>1</sup> proposed amendments to the *Canada Not-for-profit Corporations Regulations* ("CNCR") and the *Canada Cooperatives Regulations* ("Co-op Regulations") were published in the *Canada Gazette* on March 16, 2019, with proposed regulatory text to amend both regulations. Subsequent to that, the final [Regulations Amending the Canada Not-for-profit Corporations Regulations: SOR/2019-224](#)<sup>2</sup> and the [Regulations Amending the Canada Cooperatives Regulations: SOR/2019-226](#)<sup>3</sup> were published in the *Canada Gazette* on June 17, 2019.

The final amending regulations are substantively the same as the draft regulations published in March 2019, although certain fees have been changed. In this regard, the amendments to the CNCR generally focus on fees and online services, and include reducing the fees for certain online services; adding new online services; increasing the fees for certain non-online services; removing certain fees; and imposing new fees, with a proposed escalator clause to adjust the fees periodically. Similarly, the proposed amendments to the Co-op Regulations generally focus on changes to service fees, and include a similar escalator clause. Amendments to both the CNCR and Co-op Regulations will come into force on January 15, 2020.

<sup>1</sup> <http://www.carters.ca/pub/update/charity/19/mar19.pdf>

<sup>2</sup> <http://www.gazette.gc.ca/rp-pr/p2/2019/2019-06-26/html/sor-dors224-eng.html>

<sup>3</sup> <http://www.gazette.gc.ca/rp-pr/p2/2019/2019-06-26/html/sor-dors226-eng.html>

## OPC Reframes Consultation on Data Transfers

By [Esther Shainblum](#)

On June 11, 2019, the Office of the Privacy Commissioner of Canada (“OPC”) [announced](#) that it is reframing its “Consultation on transborder data flows.” Originally launched on April 9, 2019 following the release of the OPC’s Equifax Report of Findings, as discussed in [Charity and NFP Law Bulletin No. 445](#), the consultation was later suspended following the release of the Digital Charter by the Government of Canada on May 21, 2019, as discussed in [Charity and NFP Law Bulletin No. 449](#). The OPC has now given the consultation a new name – it is now entitled the “Consultation on transfers for processing” – and a new scope. Although the reframed consultation continues to invite stakeholders to share their views on how to interpret and apply the current law, as originally framed, the OPC has, in response to the Digital Charter, expanded the scope of the consultation to include a series of new questions on how a future privacy law could effectively protect privacy in the context of transborder data flows. The new deadline for submissions is August 6, 2019.

In its [reframed discussion document](#) (the “OPC Paper”), the OPC again recognizes that its interpretation of the existing legislation in the Equifax Report of Findings was a departure from its previous guidances. In this regard, it had characterized the cross-border transfer of personal information for processing as a “disclosure” of personal information within the meaning of the *Personal Information Protection and Electronic Documents Act* (“PIPEDA”) requiring consent, rather than a “use”, which does not require consent. Acknowledging that this is a period of “some uncertainty”, the OPC Paper confirms that, at least until the conclusion of the consultation, the OPC does not expect organizations to change their practices.

The OPC Paper further identifies the Digital Charter, and its accompanying white paper, which discusses areas of potential amendment to PIPEDA, as having introduced a new “factor of uncertainty.” In this regard, the OPC Paper advises that the OPC intends to make recommendations to the Federal Government regarding amendments that should be made to PIPEDA and has therefore expanded this consultation in order to obtain stakeholder views on what recommendations would be desirable. It is not clear from the OPC Paper why stakeholders could not make such recommendations directly to the Federal Government rather than to the OPC, which is not responsible for PIPEDA or for making legislative amendments to PIPEDA. Pointing out that legislative change could take years, the OPC Paper states that it is necessary for the OPC to continue to receive submissions on how it should apply the current law, suggesting that it

may publish amended guidelines concerning transborder data flows, even if they are destined to be short-lived.

Stating that the OPC's long-term goal is to ensure effective privacy protection in the context of transborder data flows and transfers for processing, the OPC Paper points out that the PIPEDA principle of accountability "is not always effective in protecting privacy", as demonstrated in Equifax, and suggests that PIPEDA be amended to empower the OPC to proactively inspect the practices of organizations to ensure that they truly are accountable. The OPC paper also suggests that Canada should seriously consider adopting a regime of standard contractual clauses approved by an "independent public authority" (which it suggests to be the "domestic regulator", presumably the OPC), to add an additional level of review.

The OPC Paper also expresses the OPC's concern with respect to the risk that information about activities that are legal in Canada, but which do not enjoy equal protection outside Canada, such as the purchase and use of cannabis, or donations to religious or political causes, could be used against individuals outside of Canada. Stating that the Government of Canada must protect its citizens in these circumstances, the OPC Paper suggests that one option might be to require meaningful consent when a transfer of personal information entails such risks. In an apparent softening of its position as stated in Equifax, the OPC Paper states that the OPC would not recommend that consent be required in the longer term for data transfers for processing if other effective means are found to protect the privacy rights of individuals.

Advising that it did not reach its conclusion in the Equifax decision lightly, but that it felt that its new interpretation was more consistent with PIPEDA, the OPC Paper states that the OPC now wishes to hear from all stakeholders in order to decide whether to apply the Equifax interpretation to all organizations. It is clear from the OPC Paper, however, that the OPC is still of the view that, as stated in Equifax, that transfers for processing are "disclosures" rather than "uses." The OPC Paper goes on to ask its new questions about how a future law should effectively protect privacy in the context of transborder data flows and transfers for processing, followed by the original consultation questions about how the current law should be applied.

The OPC's position on transborder data transfers and transfers for processing could have significant implications for charities and not-for-profits that are subject to PIPEDA or that choose to comply with PIPEDA. In this period of uncertainty, charities and not-for-profits should closely monitor the progress of this consultation process and may even wish to make a submission. Since it appears the OPC and the

Federal Government still have some work to do in terms of coordinating their efforts, charities and not-for-profits should also stay alert to guidelines and changes to current legislation coming from the Federal Government in the context of the Digital Charter.

## Trademark Amendments In Force: What To Do Now

By [Sepal Bonni](#)

As reported in the [Legislation Update](#) above, significant amendments to Canada's trademark law came into force on June 17, 2019. Most recently, these changes have been outlined in the [March 2019](#), [April 2019](#), and [May 2019 Charity & NFP Law Update](#).

One significant change that was introduced to Canadian trademark law is that trademark applicants are no longer required to have first used the trademark prior to obtaining a registration certificate. The unintended consequence of removing the "use" requirement from Canadian trademark law is the increase in trademark "trolls" and squatters that have pre-emptively filed numerous trademark applications preventing legitimate trademark owners from registering their trademarks. Many within the sector are concerned that these trademark "trolls" will try to extort value for the trademark registrations from the unregistered trademark owners.

Given this increased threat of trademark trolls and squatters, charities and not-for-profits must be vigilant of possible attempts by third parties to usurp their trademark rights. Charities and not-for-profits must therefore actively monitor the marketplace for unauthorized use of their trademarks by conducting periodic Internet searches, subscribing to "trademark watching" services, and encouraging employees and volunteers to be vigilant in watching for unauthorized trademark use. Trademark counsel should be utilized to enforce trademark rights through cease and desist letters and through the new and revised statutory mechanisms introduced to Canada's *Trademarks Act* in order to provide trademark owners with enhanced tools to enforce trademark rights, as further described below:

**Amendments to Opposition Proceedings** – Charities and not-for-profits should be aware that the grounds for initiating an opposition proceeding against a pending trademark application have been expanded to allow parties to oppose a trademark application on the grounds of "bad faith". Although not defined in the Act, the Canadian Intellectual Property Office has advised that the "bad faith" ground would include a situation where a third party can prove that a trademark has only been registered for the purpose

of extorting value from the unregistered trademark owner. As a result, the addition of the bad faith ground may be a helpful tool against the misuse of the registration system and trademark squatting.

**Amendments to Non-Use Proceedings** – Trademark registrations are vulnerable to expungement from the Trademarks Database if they are not used within three years after the registration date. An expungement proceeding (*i.e.*, non-use proceeding) can be initiated by any third party, at which time the trademark owner is required to furnish evidence of use of the trademark. Prior to the changes to trademark law coming into force, if an expungement proceeding was initiated, trademark owners were required to provide evidence of use of all of the goods and services covered in the registration certificate. These changes to expungement proceedings may be a strategic tool for charities and not-for-profits in overcoming confusion objections raised by the Trademarks Office, as a registrant may be less likely to defend an expungement request for only some of the goods and services, as opposed to a request to expunge a registration in its entirety.

**Notification of Third Party Rights** – Charities and not-for-profits may now provide a “[Notification of Third Party Rights](#)” to the Trademarks Office in an effort to enforce trademark rights. Prior to this mechanism coming into force, third parties would be required to wait until a trademark application was advertised for opposition before initiating any concerns regarding the trademark application. The Canadian Intellectual Property Office has indicated that “[n]otifications of third party rights are an informal way for third parties to bring to the attention of the Registrar information bearing on the registrability of a pending trademark application. This correspondence procedure is limited to three grounds, does not create an *inter partes* proceeding between the applicant and the third party, and does not replace opposition proceedings.” The three specified grounds that the Trademarks Office will accept third party correspondence in connection with an application are: (i) the trademark is confusing with a registered trademark pursuant to the *Trademarks Act*; (ii) the applicant is not the person entitled to registration of the trademark in view of the *Trademarks Act* (*i.e.*, confusion with a pending application); and (iii) registered trademark(s) are being used in the application to describe the goods or services.

The recent legislative amendments provide charities and not-for-profits with additional mechanisms to enforce their trademark rights. Trademark owners should therefore become familiar with these additional mechanisms in order to best protect their assets. Importantly, charities and not-for-profits must also keep in mind that these same countermeasures may be used against them by third parties. As such, charities and

not-for-profits should ensure that a proactive approach to trademark management is taken by conducting comprehensive trademark searches prior to launching new brand and registering trademarks with the Canadian Intellectual Property Office on a timely basis.

## Duty to Accommodate Ends When Employment Contract is Frustrated

By [Barry W. Kwasniewski](#)

On April 4, 2019, the Ontario Superior Court of Justice (Divisional Court) (the “Court”) released its decision in *Katz et al v Clarke*, clarifying the extent to which an employer must fulfil its duty to accommodate and reaffirming that such duty ends when an employee with a disability is unable to work for the foreseeable future. An employee who is on disability leave is protected under provincial human rights legislation, in that an employer cannot terminate the employment relationship on the basis of the employee’s disability. Accordingly, if an employer fails to reasonably accommodate an employee with a disability or cannot demonstrate that such treatment or dismissal was unrelated to the employee’s disability, it may be held liable for claims with respect to discrimination and wrongful termination. In this case, the plaintiff employee made a claim of wrongful dismissal against his employer on grounds of discrimination with respect to his disability. The Court found in favor of the employer, holding that the employer had no duty to accommodate an employee who could not return to work. This Bulletin will review the *Katz* decision, which principles would be applicable to Ontario charities and not-for-profits.

For the balance of this *Bulletin*, please see [Charity & NFP Law Bulletin No. 452](#).

## Alberta Privacy Commissioner Finds Real Risk of Significant Harm from Accidental Email

By [Esther S.J. Oh](#)

On February 14, 2019, the Information and Privacy Commissioner of Alberta (“IPC”) released her decision in [YWCA Calgary, Re Decision No. \(P2019-ND-013\)](#) requiring a not-for-profit incorporated by special act to notify an affected individual of a breach pursuant to Alberta’s [Personal Information Protection Act](#) (“PIPA”). The breach occurred on March 25, 2018, when a practicum student of the YWCA Calgary (“YWCA”) accidentally forwarded an email to a client instead of a co-worker with the same name. The information accidentally sent consisted of a name, email address and possible dates and times for intake. The student became aware of the error on the same day and several steps were taken in response:

the student attempted to recall the email; the YWCA contacted its privacy counsel, asked the unintended recipient to delete the email, and sent an internal email instructing its workers on how to remove autocomplete contacts in emails. However, the YWCA did not receive confirmation from the recipient that the email had been deleted and not copied or distributed to others. The YWCA notified the affected individual by letter sent on March 28, 2018.

In the decision, the IPC wrote:

The Organization reported that “The likelihood that harm could result is very low. There was only one person who the information was sent to via the misdirected email. The information was not highly sensitive and no vulnerable individuals were involved.”

In my view, although the unauthorized disclosure was caused by human error and the email was accidentally sent to a known unintended recipient, the likelihood of harm resulting from this incident is increased because the Organization did not receive confirmation from the unintended recipient that the email was deleted and not copied, forwarded or otherwise distributed.

The IPC decided that there was a real risk of significant harm to the affected individual and that the YWCA was required to notify the affected individual pursuant to section 19.1 of the *Personal Information Protection Act Regulation*. As the YWCA had already notified the affected individual before it received the IPC decision, the IPC stated that the YWCA would not be required to notify the affected individual again.

The IPC in this case took a liberal approach to the determination of what constitutes “real risk of significant harm” under Alberta PIPA. Although the Alberta PIPA does not apply to organizations that operate outside of that province, this case may be illustrative of how the “real risk of significant harm” analysis could potentially be applied under PIPEDA’s new mandatory breach reporting provisions, which uses the same test. This case also underscores the importance of all charities and not-for-profits having a privacy breach protocol in place, the need to carefully safeguard all personal information (whether sensitive or not), especially when sending emails, as well as the need to ensure that all staff and volunteers verify the names and email addresses of all recipients before pressing “send.”

## Anti-Terrorism/Money Laundering Update

By [Nancy E. Claridge](#), [Sean S. Carter](#) and [Terrance S. Carter](#)

### Joint Statement by Federal, Provincial and Territorial Governments

On June 14, 2019, several representatives from federal, provincial, and territorial governments, including ministers responsible for anti-money laundering and beneficial ownership transparency, released a [joint statement](#) (the “Joint Statement”) to advance a new initiative to combat money laundering and terrorist financing in Canada.

The Joint Statement highlights the federal, provincial, and territorial governments’ commitment to protecting Canadians and the integrity of Canadian institutions. It also recognizes the importance of coordinated action by the different levels of government to prevent criminals from exploiting gaps and vulnerabilities across jurisdictions.

As well, the Joint Statement reaffirms the commitment to improving transparency of beneficial ownership information for law enforcement, tax and other authorities, with appropriate privacy safeguards, in order to target criminals who use corporations to hide or launder money, without deterring good corporate citizens from conducting their regular business activities.

In terms of next steps, the Joint Statement recognizes the importance of consultations with vulnerable sectors, and announced the creation of a new working group with the Federation of Law Societies of Canada. The representatives also agreed to work together on cross-government anti-money laundering best practices to be reported by January 2020.

### Last FATF Plenary Meeting for the 2018-2019 Period

Between June 16 and 21, 2019, the Financial Action Task Force (“FATF”), an independent inter-governmental body that develops and promotes anti-money laundering and anti-terrorist financing policies and standards, had its last [Plenary meeting](#) for the 2018-2019 period. At this Plenary meeting, the FATF discussed the mitigation of risks from virtual asset activities and finalized the Interpretive Note to Recommendation 15 which sets out the application of the FATF Standards for the regulation and supervision of activities and service involving virtual assets.

Recommendation 15 and its Interpretive Note are annexed to the FATF’s “[Guidance for a Risk-based Approach for Virtual Assets and Virtual Asset Service Providers](#)” (the “Guidance”). The Guidance is

intended to further assist countries and providers in complying with their anti-money laundering and counter-terrorism financing obligations. The Guidance describes how the FATF Recommendations apply to virtual asset activities and service providers. In the case of Recommendation 8, the Guidance provides that the risk-based approach to protect non-profit organisations from terrorist financing abuse must consider the clandestine diversion of funds through the use of virtual assets.

In anticipation of the FATF's Interpretive Note to Recommendation 15 and the Guidance, the G20 Finance Ministers and Central Bank Governors Meeting, held between June 8 and June 9, 2019 in Japan, also reaffirmed their commitment to applying the FATF Standards to virtual assets and service providers for combating money laundering and terrorist financing.

### **Consortium for Financial Access Releases Guidance to Address Issue of De-risking**

The Consortium for Financial Access, comprised of a number of large multi-national financial organizations, community banks, money services businesses, security firms, credit unions, charities, law enforcement, regulators, advisory firms and academics, who all originally came together by initiative of the Association of Certified Anti-Money Laundering Specialists and the World Bank, has released its guidance document entitled [Banking Nonprofit Organizations – The Way Forward](#) (the "Guidance"). The Guidance provides policy and practice recommendations for not-for-profits, financial institutions and governments, and it is aimed at improving financial access for not-for-profits.

The Guidance relies on the most recent National Terrorist Financing Risk Assessment by the United States Department of the Treasury, discussed in the [March 2019 Anti-Terrorism/money Laundering Update](#), to emphasize that the not-for-profit sector does not present a uniformly high risk and, as such, financial institutions "should be careful to not require excessive or unnecessary information from [not-for-profits] and should ensure that all information collected from [not-for-profits] is relevant to the stated purpose, remembering that [not-for-profits] have legal and ethical obligations to protect the privacy of their donors, beneficiaries and members."

Further, the Guidance calls for governments and financial regulators to promote financial access for not-for-profits by emphasizing appropriate due diligence for the sector, which is not inherently risky, clarifying that the policy objectives of combating money laundering and promoting humanitarian and development assistance are complementary goals, and with appropriate policy statements stressing governments' support for the not-for-profit sector and its humanitarian and developmental efforts.

## **Theresa L.M. Man to Chair CBA 2019-2020 Charities and Not-for-Profit Law Section**

Carters is very pleased to announce that [Theresa L.M. Man](#) will be assuming the role of Chair of the Canadian Bar Association's Charities and Not-for-Profit Law Section starting in September 2019. The CBA Charities and Not-for-Profit Law Section addresses and advocates on behalf of its members on legal issues related to charity and not-for-profit law, and regularly liaises with governments and non-governmental organisations. Theresa currently is the Vice-Chair of the CBA Charities and Not-for-Profit Law Section.

## **IN THE PRESS**

[\*\*Charity & NFP Law Update – May 2019 \(Carters Professional Corporation\)\*\*](#) was featured on Taxnet Pro™ and is available online to those who have OnePass subscription privileges.

## **RECENT EVENTS AND PRESENTATIONS**

All six sessions of the [\*\*Spring 2019 Carters Charity & NFP Webinar Series\*\*](#) are available as “On Demand/Replay”:

- [\*\*Legal Challenges in Social Media for Charities and NFPs\*\*](#) was presented by Terrance S. Carter on Wednesday, April 17, 2019 – [On Demand/Replay](#).
- [\*\*Protecting Your Brand in the Digital Age\*\*](#) was presented by Sepal Bonni on Wednesday, May 1, 2019 – [On Demand/Replay](#).
- [\*\*Clearing the Haze: Managing Cannabis in the Workplace in Ontario\*\*](#) was presented by Barry W. Kwasniewski on Wednesday, May 15, 2019 – [On Demand/Replay](#).
- [\*\*Charities and Politics: Where Have We Been and Where Are We Going\*\*](#) was presented by Ryan M. Prendergast on Wednesday, May 29, 2019 – [On Demand/Replay](#).
- [\*\*The Coming of the ONCA \(We Hope\) and What to Start Thinking About\*\*](#) was presented by Theresa L.M. Man on Wednesday, June 5, 2019 – [On Demand/Replay](#).
- [\*\*Critical Privacy Update for Charities and NFPs\*\*](#) was presented by Esther Shainblum on Wednesday, June 12, 2019 – [On Demand/Replay](#).

**Evolving Trends in Philanthropy and Planned Giving** was presented at the STEP National Conference on June 6, 2019. Terrance S. Carter was part of the joint presentation with Elena Hoffstein from Fasken and Brenda Lee-Kennedy from Price Waterhouse Cooper LLP.

## **UPCOMING EVENTS AND PRESENTATIONS**

**York Region Community Development Unit and United Way Greater Toronto** is hosting a workshop entitled **Managing in Challenging Times** on July 5, 2019 in Newmarket, Ontario, at which Ryan M. Prendergast will participate in the panel discussion

**CSAE Trillium Summer Summit** will be held on July 11, 2019, in Windsor, Ontario. Terrance S. Carter will be presenting on the topic of **Legal Check-Up: Top 10 Tips to Effective Legal Risk Management for NPOs and Charities**.

**SAVE THE DATE** for the **26th Annual Church & Charity Law Seminar™** to be held on **Thursday November 7, 2019**, hosted by Carters Professional Corporation in Greater Toronto, Ontario. Details will be posted soon at [www.carters.ca](http://www.carters.ca).

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**Barry W. Kwasniewski**, B.B.A., LL.B. – Mr. Kwasniewski joined Carters' Ottawa office in 2008, becoming a partner in 2014, to practice in the areas of employment law, charity related litigation, and risk management. After practicing for many years as a litigation lawyer in Ottawa, Barry's focus is now on providing advice to charities and not-for-profits with respect to their employment and legal risk management issues. Barry has developed an expertise in insurance law, and provides legal advice pertaining to insurance coverage matters to charities and not-for-profits.



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## ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

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