

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

JUNE 2020

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RECENT PUBLICATIONS AND NEWS RELEASES

COVID-19 UPDATE

Stage 2 of Reopening Ontario: An Overview for Charities and Not-For-Profits

By [Terrance S. Carter](#), [Barry W. Kwasniewski](#), and [Esther Shainblum](#)

On April 27, 2020, the Ontario government released [A framework for reopening our province](#) (the “Framework”), outlining the government’s gradual three-stage regional approach to reopen businesses, services and public spaces, by balancing the needs of people and organizations, including charities and not-for-profits (“NFPs”), while at the same time ensuring that public health and workplace safety remains a top priority by following the Chief Medical Officer of Health of Ontario’s recommendations. The Framework consists of the emergency orders passed as regulations under the *Emergency Management and Civil Protection Act*. This *Bulletin* provides an overview of Stage 2 of the Framework, including the application of workplace health and safety legislation and privacy law, which will be of relevance to charities and NFPs.

For the balance of this *Bulletin*, please see [Charity & NFP Law Bulletin No. 474](#).

COVID-19 Contact Tracing App in Canada will use Bluetooth

By [Esther Shainblum](#)

The Ontario government [announced](#) on June 18, 2020 that, in partnership with the federal government, it is launching a “privacy-first”, voluntary contact tracing mobile app (or application) called “COVID Alert”, which will alert Ontarians if they may have been exposed to COVID-19. The app is expected to be available for download in Ontario starting on July 2, 2020.

Once launched, Ontarians may voluntarily download and install the COVID Alert app on their mobile devices. The COVID Alert app will not collect or store personal, health or location data, and will notify users anonymously if they have been exposed to another app user who tested positive for COVID-19 in the past 14 days if they uploaded their results anonymously to the app. The app, which will be compatible with Apple and Android systems, uses the Bluetooth technology that is included in nearly all mobile devices to send out encrypted anonymized codes to other nearby mobile devices that also have the app.

The COVID Alert app will also connect users to Ontario’s public health resources and recommend any necessary measures such as self-monitoring, self-isolation and testing.

Although the app is being launched for testing in Ontario, Prime Minister Justin Trudeau has said that it will eventually be used nationwide, will be a “crucial” public health step, and will be most effective when as many people as possible have it.

According to Ontario Premier Doug Ford, privacy and security for users was the top priority in the development of the app. This approach is in keeping with the advice provided by the federal, provincial and territorial privacy commissioners who, on May 7, 2020, released a [Joint Statement by Federal, Provincial and Territorial Privacy Commissioners](#) (the “Commissioners”) providing a set of privacy principles for contact tracing apps. The Commissioners urged both levels of government to ensure that contract tracing apps respected certain key principles, including ensuring that the use of apps is voluntary; that the measures have a clear legal basis and that consent is meaningful; that the measures taken are evidence-based, proportional and minimally intrusive; that personal information is used for the intended public health purpose and for no other purpose; ensuring that de-identified or aggregate data is used whenever possible; implementing ongoing public monitoring and evaluation of the measures, as well as oversight by an independent third party; and ensuring that appropriate legal and technical security safeguards are put in place to prevent unauthorized access or misuse of personal information.

The provincial government has indicated that the COVID Alert app will not use GPS technology. Instead, as stated above, it will rely on Bluetooth to send encrypted, anonymized codes only to other nearby phones that also have the app installed.

The Office of the Privacy Commissioner of Canada has not yet commented on the app and is “working diligently and responsibly” to provide advice to the federal government. The federal government is also establishing an external advisory council to guide the rollout of the app and ensure transparency, also in keeping with the advice of the Commissioners.

New Bill C-17, If Passed, Would Introduce New Changes Affecting Charities and NFPs

By [Jacqueline M. Demczur](#)

The federal government introduced [Bill C-17, An Act Respecting Additional COVID-19 Measures](#) (“Bill C-17”) for first reading in the House of Commons on June 10, 2020. However, without the support of

opposition parties, it is unclear whether Bill C-17 will eventually pass. At this time, Bill C-17 contains a number of provisions that will be of interest to charities and NFPs.

Part 1 of Bill C-17 proposes to amend the ITA to revise the eligibility criteria for the Canada Emergency Wage Subsidy (“CEWS”). This would be done by allowing an “eligible entity” (which would include “trusts” under a proposed amendment to section 125.7 of the ITA) to qualify for the CEWS if, on March 15, 2020, the entity had its own business number and made remittances to Canada Revenue Agency (“CRA”) as required under section 153 of the *Income Tax Act* (“ITA”) or had its payroll administered by another person or partnership (referred to as a “payroll service provider”) which used its own business number to make remittances to CRA as required under section 153 of the ITA in respect of the employees of the eligible entity.

Part 2 of Bill C-17 would enact the *Time Limits and Other Periods Act (COVID-19)*, which would suspend or extend (or temporarily enable Ministers to suspend or extend) certain time limits and periods established by or under various Acts of Parliament, including in relation to proceedings before the courts, for a maximum of six months. Of note, this proposed legislation would enable the Minister under the *Canada Not-for-Profit Corporations Act* (“CNCA”) to make orders to extend or suspend time limits retroactive to March 13, 2020 for: i) calling and providing notice of meetings of members; ii) placing annual financial statements before members at annual meetings, and iii) providing copies of annual financial statements to members and directors.

Part 3 of Bill C-17 would amend the ITA and the *Children’s Special Allowances Act* to provide for a one-time payment to persons with disabilities for reasons related to COVID-19.

Part 4 of Bill C-17 proposes changes to the Canada Emergency Response Benefit (“CERB”), a taxable benefit of \$2,000 every four weeks for up to four months for eligible workers who have lost their employment income as a result of the COVID-19 pandemic. Under the proposed legislation, workers who fail to return to work when it is reasonable to do so or decline a reasonable job offer will not be eligible for the CERB. As well, workers who make false or misleading representations, provide false or misleading information or knowingly receive benefits that they were not eligible to receive will be subject to both monetary penalties and imprisonment.

With legislative and administrative changes occurring on a daily basis in the context of the COVID-19 pandemic, charities and NFPs should continue to monitor the progress of Bill C-17 or any substitute bill or bills tabled by the federal government in the coming weeks.

COVID-19 Rent Relief for Commercial Landlords and Tenants

By [Adriel N. Clayton](#) and [Luis R. Chacin](#)

To provide rent assistance for commercial landlords and tenants impacted by the COVID-19 pandemic, the federal government, in partnership with provincial and territorial governments, announced the creation of the [Canada Emergency Commercial Rent Assistance](#) (“CECRA”) for small businesses on April 24, 2020. Relief under CECRA would be available for charities and NFPs, whether they are commercial landlords or small business tenants, provided that both the landlord and tenant meet the program’s eligibility requirements, discussed below.

In addition to financial assistance through CECRA, the Ontario government also passed [Bill 192, Protecting Small Business Act, 2020](#) (“Bill 192”) on June 18, 2020. Bill 192 amends Ontario’s *Commercial Tenancies Act* to temporarily protect tenants, including charities and NFPs, from being evicted or locked out, and from having their assets seized by their landlords, even if they have defaulted on their rent payments. This *Bulletin* outlines the temporary relief provided to charities and NFPs as both landlords and tenants through CECRA and Bill 192.

For the balance of this *Bulletin*, please see [Charity & NFP Law Bulletin No. 475](#).

New Infectious Disease Emergency Leave Provides Relief to Ontario Employers

By [Barry W. Kwasniewski](#) and [Luis R. Chacin](#)

The Ontario government filed [Regulation 228/20, Infectious Disease Emergency Leave](#) (the “Regulation”) under the *Employment Standards Act, 2000* (the “ESA”) on May 29, 2020, providing an unpaid job-protected Infectious Disease Emergency Leave to non-unionized employees whose employers have temporarily reduced or eliminated their hours of work. The Regulation provides employers, including charities and NFPs, with temporary relief from the ESA’s provisions regarding termination, severance and constructive dismissal for non-unionized employees, including “assignment employees.” This temporary relief is retroactive to March 1, 2020 and will expire six (6) weeks after the declared emergency ends.

For additional information, please see [COVID-19 Resource for Charities & NFPs: New Infectious Disease Emergency Leave Provides Relief to Ontario Employers](#).

CRA News

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

CRA Filing Deadlines for Corporations and Trusts Extended

In a [news release](#) dated May 25, 2020, the CRA acknowledged the impact of the COVID-19 pandemic on Canadian businesses and tax preparers, and indicated an extension of certain filing deadlines to provide support to Canadians. As mentioned in the [April 2020 Charity & NFP Law Update](#), the filing deadline for T3010 Registered Charity Information Returns originally due between March 18, 2020 and December 31, 2020 has also been extended to December 31 2020.

The filing date for T2 Corporation Income Tax Returns due in June, July or August has been extended to September 1, 2020. In addition, any income tax balance due between March 18 and September 1 will also be due on September 1, 2020.

The filing date for T3 Trust Income Tax Returns due in June, July or August, has also been extended to September 1, 2020, with income tax balances due between March 18 and September 1 also due by September 1, 2020.

Further, the CRA's [Income tax filing and payment deadlines](#) webpage indicates that the filing date for other information returns, including the T1044 Non-Profit Organization (NPO) Information Return, which must be filed by non-profit organizations under paragraph 149(1)(l) of the ITA, has also been extended to September 1, 2020 where those returns were otherwise due in June, July or August. As with the T2 and T3, income tax balances due between March 18 and September 1 are also due by September 1, 2020.

To avoid penalties and interest, the above returns should be filed with CRA and all payments made by their respective filing dates, unless otherwise extended.

Federal Government Launches 2021 Pre-Budget Consultations

By [Jennifer M. Leddy](#)

The House of Commons Standing Committee on Finance (the “Committee”) published a [News Release](#) on June 12, 2020, launching its annual pre-budget consultation process in preparation of the 2021 Federal Budget. As usual, Canadians are invited to share their priorities for the next budget. Given the widespread effects that the COVID-19 pandemic has had on the Canadian economy, the Committee has indicated that it is particularly interested in receiving submissions on “measures the federal government could take to restart the Canadian economy, as it recovers from the COVID-19 pandemic.” Written submissions and recommendations can be made online to the Committee until Friday, August 7, 2020. After considering the submissions, a report will be tabled in the House of Commons in December 2020.

Mitigating Financial Losses and Navigating the Courts During COVID-19

By [Sean S. Carter](#) and [Heidi LeBlanc](#)

The COVID-19 pandemic has had a yet undetermined, but significant, impact on charities and NFPs. As the provinces, and Ontario in particular, move to new stages of the reaction to COVID-19, much of the initial emergency financial assistance and relief will likely soon come to an end. It is yet unknown what provincial and federal governments will do during these next stages, but it is almost certain that there will be ‘growing pains’ as both society and the economy start to slowly gear back up. Charities and NFPs, as well as businesses, will all need to carefully review how to mitigate the impact of COVID-19 on their organizations during this period. However, with proactive strategy and legal assistance, it is possible to minimize the risks and potential losses. This *Bulletin* reviews some of the strategies in this regard that charities and NFPs may want to consider in conjunction with their legal counsel, and provides an update on what is happening in the courts in Ontario during COVID-19.

For the balance of this *Bulletin*, please see [Charity & NFP Law Bulletin No. 476](#).

Imagine Canada Publishes Report on Charities and COVID-19

By [Terrance S. Carter](#)

Imagine Canada’s [Sector Monitor: Charities & the COVID-19 Pandemic](#) (the “Report”) was released in late May, 2020, summarizing Imagine Canada’s findings from an online survey on the impact of the

COVID-19 pandemic on charities conducted between April 15 and April 28, 2020. The Report highlights the changes in demand for different services provided by charities as well as changes to the organizational capacity of charities as a result of COVID-19; discusses the financial impact of COVID-19 on charities and outlines the types of organizations and income streams most impacted; and outlines the different ways charities are adapting to systemic change through innovation and program changes.

The Report indicates that physical distancing requirements have impacted charities differently, with some experiencing increased demand (*e.g.* health and social services organizations), while demand for others has decreased (*e.g.* arts and recreation organizations). Despite this, it also found that charities in general have experienced significant declines in revenue as a result of COVID-19, and have made significant reductions to staff, with more cuts likely to come. Similarly, charities have had difficulty engaging volunteers during the COVID-19 pandemic

However, the Report also found that innovation has played a central role for charities. 54% of respondents indicated that they were transitioning their in-person programs to online platforms instead, and 42% of respondents had developed entirely new programs to respond to needs.

The Report outlines some of the important issues that many in the charitable sector are facing during the COVID-19 pandemic, and is therefore a helpful resource for understanding both the sector's struggles and response to the pandemic.

OTHER CHARITY AND NFP MATTERS

Legislative Proposals for Journalism Organizations under the ITA

By [Ryan M. Prendergast](#)

As a result of the 2019 Federal Budget, amendments were introduced to the ITA to support local Canadian journalism through a new category of qualified donees for registered journalism organizations (“RJOs”) effective as of January 1, 2020. Since then, the CRA has released a guidance to provide further clarity on the ITA provisions supporting Canadian journalism, as discussed in greater detail in [Charity & NFP Law Bulletin No. 459](#). More recently, the Department of Finance released [Legislative Proposals Relating to the Income Tax Act \(Support for Canadian Journalism\) and Explanatory Notes](#) (the “Proposals”) on April 14, 2020, proposing additional amendments to ITA to further clarify the journalism provisions.

The Proposals will amend the definition of a qualified Canadian journalism organization (“QCJO”) to require organizations to be “primarily engaged in the production of original news content.” Further, given that a prerequisite of becoming a “qualifying journalism organization” is that the organization must first be a QCJO, the “primarily” requirement will be removed from the requirement that a qualifying journalism organization be “primarily engaged in the production of original written news content,” likely to remove duplication. Similarly, the definition of “digital news subscription”, for which a tax credit is available, will be amended by removing a requirement that a QCJO providing the subscription be primarily engaged in the production of written news content, and instead requiring that content provided under the subscription be primarily original written news. Further, QCJOs will be required to inform subscribers when their digital news subscriptions cease to qualify for the tax credit.

Additionally, the Proposals will also amend definitions under subsection 125.6(1) of the ITA concerning the labour tax credit. Of particular note, these amendments will clarify that qualifying journalism organizations cannot hold a “licence” as defined in subsection 2(1) of the *Broadcasting Act*. Further, the amount of the labour tax credit available to a qualifying journalism organization will be reduced based on any funding that the organization receives from the Aid to Publishers component of the Canada Periodical Fund. However, the Proposals will also expand eligibility of the tax credit to members of a qualifying journalism organization that is a partnership. Currently, the labour tax credit cannot be allocated to members of a partnership.

A new section 168.1 has also been proposed, and will add rules concerning timing of the designation and revocation of a QCJO’s status. Organizations that apply for designation as a QCJO will generally be deemed to have become designated at the time of application. The section also provides the Minister of National Revenue with the power to revoke a QCJO’s designation.

The Proposals have not been enacted yet, and will first need to be drafted into a bill and passed before they can be brought into force. It remains to be seen if and when this will happen. In the meantime, Canadian journalism organizations remain subject to the ITA provisions as proposed in the 2019 Federal Budget and passed through Bill C-97.

Corporate Update

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

Ontario Releases Proposed Regulations for Corporate Legislation

In another step towards bringing the Ontario *Not-For-Profit Corporations Act, 2010* (“ONCA”) into force, Ontario’s Ministry of Government and Consumer Services published [Proposed regulations to support proclamation of the *Not-for-Profit Corporations Act, 2010*](#) (the “Draft ONCA Regulations”) on June 5, 2020.

Two draft regulations were released – a [Draft General Regulation](#) and a [Draft Corporations Sole Regulation](#). The Draft General Regulation contains provisions related to technical matters under the ONCA, including setting out standards and requirements for financial statements, corporate registers, and proxy form; and setting out what information must be in writing (such as directors’ or auditors’ resignations, and members’ consent to the dissolution of a corporation).

The Draft Corporations Sole Regulation lists 55 provisions under the ONCA that apply to corporations sole, with applicable modifications. A corporation sole is a corporation constituted in a single person who, in right of some office or function, has corporate status. It is created by special legislation. Unlike other not-for-profit corporations, corporations sole do not have boards of directors, officers, or members. Examples of ONCA provisions proposed to apply to corporations sole include: section 5 regarding conflict with other law; section 15 regarding the corporation having the capacity, the rights, powers and privileges of a natural person); subsections 46(1), (6) and (7)(a) regarding indemnification of directors and officers, and ability to purchase and maintain directors’ and officers’ insurance, subject to meeting the requirements of the Ontario *Charities Accounting Act* by charitable corporations; and section 77 regarding requirements for annual financial reviews. The Draft Corporations Sole Regulation also defines the individual whose office is the corporation sole as being the “office holder”. Where certain sections of the ONCA refer to directors and officers, modifications have been made for those sections to instead apply to office holders in the case of corporations sole. Examples of these modified sections include section 40 liability to employees for wages; subsections 46(1) and (6) indemnification and insurance provisions; sections 70, 72, 75, 78 and 79 audit provisions; and remedy provisions under sections 182 and 191.

In addition to the Draft ONCA Regulations, the Ministry of Government and Consumer Services also released [Proposed regulations to support proclamation of schedules, 6, 7 and 8 of the *Cutting Unnecessary*](#)

[Red Tape Act, 2017 and the proclamation of the Not-For-Profit Corporations Act, 2010](#) (the “Draft Red Tape Regulations”) on June 5, 2020. The Draft Red Tape Regulations include 11 separate draft regulations under the ONCA, *Business Corporations Act*, *Business Names Act*, *Corporations Act*, *Corporations Information Act*, *Extra-provincial Corporations Act*, and *Limited Partnerships Act*. These draft regulations contain provisions to accommodate electronic filing; rules governing names and naming conventions; the content, form and filing of articles, applications, and other documents, both in paper format and electronically; required supporting documents for articles and applications filed under the respective legislation; and removing requirements for manual signatures.

British Columbia Introduces Benefit Companies as of June 30, 2020

As reported in the [May 2019 Charity & NFP Law Update](#), British Columbia’s Bill M 209, *Business Corporations Amendments Act (No. 2), 2019* (“Bill M 209”) received Royal Assent on May 16, 2019, which would include a new Part 2.3 in the BC *Business Corporations Act* introducing “benefit companies” as a new category of corporation. One year after its Assent, Bill M 209 was [proclaimed](#) to come into force on June 30, 2020.

As previously reviewed, benefit companies pursue social and environmental goals, rather than just profit, and must include a “benefit statement” in their articles identifying the company as a benefit company that is “committed to conducting its business in a responsible and sustainable manner and promoting one or more public benefits.”

While BC and Nova Scotia have permitted other forms of social enterprises, *i.e.* community contribution companies and community interest companies respectively, once Part 2.3 of the BC *Business Corporations Act* is brought into force on June 30, 2020, BC will be the first jurisdiction in Canada to provide a legal framework for benefit companies to pursue social and environmental goals, rather than just profit.

Ontario Court Follows *Wall* in Unincorporated Association Decision

By [Ryan M. Prendergast](#)

The Ontario Superior Court of Justice released its decision in a well-publicised case, [Karahalios v Conservative Party of Canada](#), on May 20, 2020. While the crux of this case revolves around the disqualification of Mr. Jim Karahalios from the federal Conservative Party’s leadership contest as a result

of allegedly making racist comments, in arriving at its decision, the court considered its jurisdiction to intervene in the affairs of unincorporated associations. In doing so, it referenced and upheld the Supreme Court of Canada's decision in *Highwood Congregation of Jehovah's Witness (Judicial Committee) v Wall* ("Wall"), discussed in [Church Law Bulletin No. 54](#).

Mr. Karahalios had been a candidate in the Conservative Party's upcoming leadership contest. A complaint had been filed against him with the Conservative Party's Chief Returning Officer ("CRO") for allegedly making Islamophobic remarks. After an investigation by the CRO, a decision was made to impose a reporting obligation and financial penalty on Mr. Karahalios. He appealed the CRO's decision to the Dispute Resolution Appeal Committee ("DRAC"), and the DRAC subsequently disqualified him entirely from the leadership contest.

Mr. Karahalios then brought the matter to court, seeking to have his disqualification set aside. As a private unincorporated association, the Conservative Party argued, in part, that the court did not have the jurisdiction to review the decision. In this regard, the court noted that, in order for it to have jurisdiction to intervene in private unincorporated associations' affairs, a legal right founded in tort, contract, restitution, or statute must be at stake.

The court indicated that it did not have the jurisdiction to review the substantive merits of a private unincorporated association's decision, and that its role in reviewing the decision was "very much circumscribed." It stated that written constitutions or by-laws of unincorporated associations constituted a "contractual relationship setting out the rights and obligations of the unincorporated association and its members." The court therefore had jurisdiction to review decisions and procedures as a matter of contractual interpretation, and to enforce the contractual rights between the association and its members, as well as between the members themselves. However, this jurisdiction is limited to where "a significant private law right or interest is involved," and is further limited to whether the association's decision was carried out in accordance with the contractual terms and with the principles of natural justice (*i.e.* procedural fairness) rather than a review of the merits of the association's conduct or decision.

Although the Conservative Party argued that its governing documents contained a provision stating that the Conservative Party's decisions were final and binding without appeal (*i.e.* a "finality clause"), the court retained a "limited jurisdiction to review the procedural integrity of the association's action," and that notwithstanding the finality clause, the court had jurisdiction to determine whether the Conservative

Party acted in accordance with its rules, the principles of natural justice, and whether the decision was *bona fide*. In this regard, the court indicated that the Conservative Party’s argument “would lead to the absurd conclusion that unincorporated associations governed by contract are beyond the rule of law and the court’s normative contract law jurisdiction and access to the courts would be ousted,” and that *Wall* did not support “that patently unfair and unjust interpretation of a contract or of the law that governs associations operating in the private sector.” The court therefore found the Conservative Party’s decision was subject to private law review.

As a matter of contractual interpretation, the court ultimately found that the DRAC did not have the authority to disqualify Mr. Karahalios, but that the CRO had the authority to make its ruling to impose a reporting obligation and financial penalty on Mr. Karahalios. It therefore set aside the DRAC’s decision, reinstated Mr. Karahalios, and ordered the CRO’s decision to be restored.

This decision upholds the *Wall* decision, and is a helpful reminder of the limited jurisdiction that courts have to review decisions and actions taken by unincorporated associations. However, despite this limited jurisdiction, it is clear that unincorporated associations must abide by their governing documents and act in a procedurally fair manner, and further that the court may have jurisdiction over matters even where a finality clause exists.

WIPO Decision Highlights Importance of Maintaining Domain Name Registration

By [Sepal Bonni](#)

The World Intellectual Property Organization Arbitration and Mediation Centre released a decision under the Uniform Domain-Name Dispute-Resolution Policy (“UDRP”) on April 16, 2020, concerning the transfer of a disputed domain name. The domain name, [berrysweet.com](#), had been previously owned by Berry Fresh LLC (“Berry Fresh”) who, in addition, also owned a trademark registration for BERRY SWEET in Canada and the US. The issue arose when Berry Fresh inadvertently allowed the domain name registration to lapse through a billing miscommunication. Subsequently, a third party purchased the domain name after Berry Fresh’s registration had expired.

In an attempt to recover the domain name, Berry Fresh filed a complaint under the UDRP. In order to prevail in a domain name dispute under the UDRP, the complainant must satisfy the following three requirements:

- (i) the domain name registered is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the domain name owner has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

In its complaint, Berry Fresh argued that it had rights to the mark BERRY SWEET by virtue of its trademark registration and its commercial use of the mark since 2007. It further claimed that the domain name was identical to its BERRY SWEET trademark registration and that the new owner of the domain name had no rights or legitimate interests in the disputed domain name. It also argued that the new owner registered the domain name in bad faith and had not used the domain name for an active website, instead demanding a seven-figure amount for the disputed domain name.

The administrative panel found that Berry Fresh owned a trademark registration for BERRY SWEET and had established use of the mark for the sale of blackberries, pursuant to the UDRP. Further, it established that the disputed domain name was identical to or confusingly similar with its mark. However, in accordance with the UDRP, Berry Fresh was also required to establish that the domain name was registered and used in bad faith by the new owner. On this point, the administrative panel found insufficient evidence that the new domain name owner had registered the domain name to take advantage of Berry Fresh or its rights in the BERRY SWEET mark. As such, Berry Fresh's complaint failed, and it was unable to recover the domain name from the new owner.

This case is an important reminder to charities and NFPs of the importance in actively registering and renewing domain name registrations, and ensuring that renewal deadlines do not inadvertently lapse. Charities and NFPs should register as many relevant domain names as possible in order to prevent them from being registered by third parties. Even where the domain name is identical to an existing registered trademark owned by the charity or NFP, it is difficult to regain possession of the domain name once it has been registered by a third party.

AML/ATF Update

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

New OECD Public Integrity Handbook

The Organisation for Economic Co-operation and Development (“OECD”) published its [OECD Public Integrity Handbook](#) (the “Handbook”) on May 20, 2020. The Handbook provides a whole-of-society risk-based approach to inform public officials, companies, civil society organisations and individuals.

By way of background, the Handbook complements the [OECD Recommendation on Public Integrity](#) (the “Recommendation”), adopted in 2017 as a strategy against corruption. The Recommendation provided a set of thirteen principles for public integrity in three categories or “pillars”, namely: system, culture, and accountability. From a system perspective, the relevant principles include the adoption of standards and a strategy for their implementation; from a culture perspective, the guiding principle is having a whole-of-society approach; and from an accountability perspective, the principles highlight the importance of risk management and oversight.

The Handbook explains that the “whole-of-society” approach to public integrity requires companies, civil society organisations and individuals to ensure that their engagement with the public sector respects the shared ethical norms, principles and values of society. For civil society organisations, such as charities and NFPs, this would include ensuring that they adhere to standards of public integrity when acting as a service provider or advocating for policy issues.

In this regard, the Handbook states that civil society organisations play a critical role in promoting the public good and, as recipients of certain benefits such as tax exempt status and access to public contracts, are expected by government, business and the general public to act in alignment with their mission, to show integrity and display the highest standards of ethical conduct. As such, violations of public integrity can have a negative impact not only on the organization itself, but on the legitimacy of the entire sector.

Charities and NFPs engaged in public policy advocacy or receiving grants or funds from a federal or provincial government or agency, operating in Canada and/or abroad, should consider including the Recommendation and the Handbook as part of their governance policies.

IN THE PRESS

[Charity & NFP Law Update – May 2020 \(Carters Professional Corporation\)](#) was featured on Taxnet Pro™ and is available online to those who have OnePass subscription privileges.

RECENT EVENTS AND PRESENTATIONS

[Carters Spring 2020 Charity & NFP Webinar Series](#), hosted by Carters Professional Corporation, is available for [on demand/replay](#), including the last two sessions, as follows:

- [Navigating Privacy Breaches for Charities and NFPs](#) was presented by Esther Shainblum on Wednesday, June 3, 2020.
- [Managing Sexual Abuse Claims: The New Reality for Churches & Charities](#) was presented by Esther S.J. Oh and Sean S. Carter on Wednesday, June 17, 2020.

[Carters/Fasken Check-Up 2020: Healthcare Philanthropy in a COVID-19 World](#) was hosted by Carters Professional Corporation and Fasken on Friday, June 19, 2020. Click to watch the [YouTube On Demand Replay](#). The topics presented are:

- 2020 Update - Charity Law in the Pandemic - Jacqueline M. Demczur
- The Impact of COVID-19 on Donor Agreements - Corina Weigl
- Due Diligence and Crisis Management During a Pandemic - Terrance S. Carter
- Advancing Your Health Mission During COVID-19 - Laurie Turner

UPCOMING EVENTS AND PRESENTATIONS

[CSAE Trillium 15th Annual Summer Summit - Virtual Event](#) will be held on various dates by webinar at which Theresa L.M. Man and Terrance S. Carter will present on the topic of CNCA 10 Years In: Lessons Learned and Pitfalls to Avoid on Thursday, July 23, 2020 from 1:24 to 2:24 pm.

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