

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

MAY 2023

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PUBLICATIONS & NEWS RELEASES

1. Primer on Donor Advised Funds and Current Issues – Revisited

By [Jacqueline M. Demczur](#)

The topic of donor advised funds (“DAFs”) has generated a considerable amount of attention in the past decade or so, receiving both praise as well as criticism. While some of this criticism may warrant further review and consideration, many of the concerns regarding DAFs, particularly here in Canada, are either unfounded or exaggerated. In 2019, the author wrote a primer on DAFs and current issues, which outlined the context of DAFs, current issues then associated with these funds, and practical advice for those advising clients about DAFs. Four years later, given the ongoing and accelerating interests in DAFs, it is important to revisit the topic of DAFs.

For the full text of this paper, originally presented to the National CBA Charity Law Symposium on May 12, 2023, please [click here](#).

2. Legislation Update

By [Terrance S. Carter](#) and [Adriel N. Clayton](#)

Bill S-211, *Fighting Against Forced Labour and Child Labour in Supply Chains Act*

Canadian organizations, including certain large charities and not-for-profits, may soon be required to file public reports on their efforts to prevent and reduce the risk of forced labour and child labour in their supply chains. [Bill S-211, *Fighting Against Forced Labour and Child Labour in Supply Chains Act*](#) (the “Act”), which sets out the requisite reporting obligations, received Royal Assent on May 11, 2023, and will come into force on January 1, 2024.

Reporting obligations will apply to “entities”, which are defined in section 2 of the Act as:

- a corporation or a trust, partnership or other unincorporated organization that
 - (a) is listed on a stock exchange in Canada
 - (b) has a place of business in Canada, does business in Canada or has assets in Canada and that, based on its consolidated financial statements, meets at least two of the following conditions for at least one of its two most recent financial years:

- (i) it has at least \$20 million in assets,
 - (ii) it has generated at least \$40 million in revenue, and
 - (iii) it employs an average of at least 250 employees; or
- (c) is prescribed by regulations [*emphasis added*].

The Act does not set out what a “business” is under paragraph (b) of the definition for an “entity”, and regulations have not yet been published.

Once the Act is in force, entities that meet the above criteria and that produce, sell or distribute goods in Canada or elsewhere; import into Canada goods produced outside of the country; or control an entity engaged in these activities, will be required to report on the “steps the entity has taken during its previous financial year to prevent and reduce the risk that forced labour or child labour is used at any step of the production of goods in Canada or elsewhere by the entity or of goods imported into Canada by the entity” (*emphasis added*). Reports will also need to include the following information:

- (a) [the entity’s] structure, activities and supply chains;
- (b) its policies and its due diligence processes in relation to forced labour and child labour;
- (c) the parts of its business and supply chains that carry a risk of forced labour or child labour being used and the steps it has taken to assess and manage that risk;
- (d) any measures taken to remediate any forced labour or child labour;
- (e) any measures taken to remediate the loss of income to the most vulnerable families that results from any measure taken to eliminate the use of forced labour or child labour in its activities and supply chains;
- (f) the training provided to employees on forced labour and child labour; and
- (g) how the entity assesses its effectiveness in ensuring that forced labour and child labour are not being used in its business and supply chains.

Reports must be filed with the Minister of Public Safety and Emergency Preparedness by May 31 of each year, commencing on May 31, 2024, and entities must make the report available to the public, including by “publishing it in a prominent place on its website”.

The Act does not contain any exemptions for charities or not-for-profits, and therefore will apply to such organizations, provided that they fall with the Act’s definition of “entity”. However, given the criteria set out in the definition, the Act will only apply to a few large charities and not-for-profits.

Ontario Bill 91, *Less Red Tape, Stronger Economy Act, 2023*

Ontario's omnibus [Bill 91, *Less Red Tape, Stronger Economy Act, 2023*](#) is in its Third Reading at the Legislative Assembly as of May 30, 2023. As reported in the [April 2023 Charity & NFP Law Update](#), Bill 91 proposes amendments to section 27.2 of the *Trustee Act* to clarify that delegated investment managers will be permitted to invest in mutual funds, pooled funds and segregated funds under variable insurance contracts.

Further, as reported in the [April 2023 Charity & NFP Law Update](#), the Bill also proposes amendments to the *Not-for-Profit Corporations Act, 2010* and the *Corporations Act*, among other statutes, to generally facilitate certain virtual processes by replacing, in part, the temporary legislative framework for virtual processes (including virtual meetings), which was enacted in response to the COVID-19 pandemic and which is set to expire on September 30, 2023. In this regard, corporations would be able to hold virtual or hybrid meetings, and voting could be conducted virtually or in hybrid form, unless the corporation's governing documents provide otherwise. Bill 91 would also better facilitate the sending of notices or other documents by electronic means, and would permit affected corporations, businesses, and partnerships to store records electronically and facilitate the electronic examination of records remotely.

3. Corporate Update

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

Certain Changes to the BC Societies Act Came into Force on May 4, 2023

As reported on in the [November 2021 Charity & NFP Law Update](#), changes were made to the British Columbia *Societies Act* to make the Act more accessible and consistent and to address uncertainties and omissions in the Act. These changes were made through Bill 19, [Societies Amendment Act, 2021](#), which received Royal Assent on October 28, 2021.

Certain changes that did not come into force upon Royal Assent have now come into force as of May 4, 2023, by virtue of [Order in Council No. 274](#) approved on May 1, 2023, such as:

- by-laws must state when a director without a term of office will cease to hold office (if other than at the close of the next annual general meeting after a director's election);
 - additional information is required for the society's register of directors and of members;
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- directors may not vote by proxy at board meetings;
- notice of a general meeting must now include the date, time and (if applicable) location of the meeting as well as any instructions for attending and participating in an electronic meeting by telephone or other communication methods; and
- directors and senior managers who are in a conflict can remain in a meeting to provide information so long as one director, or a greater number if the bylaws so require, requests that they remain.

Certain other amendments to the *Societies Act* introduced by Bill 19 have not yet come into force, such as certain provisions regarding the restoration of a dissolved society; and the power to allow the Lieutenant Governor in Council to make certain regulations regarding record keeping by societies.

For a full list of the changes, please refer to the provisions in Order in Council No. 274 in conjunction with Bill 19 and the *Societies Act*.

4. CRA News

By [Esther S.J. Oh](#) and [Lynne M. Westerhof](#)

CRA Updates T3010, Introduces New Form T1441 to Report Qualifying Disbursements

The CRA has updated the [T3010](#), Registered Charity Information Return, (“T3010”) to now require that registered charities report the grants that they make to non-qualified donees (grantees) under the new qualifying disbursement regime. Registered charities must now use this updated T3010 when filing their returns, although those charities that have already filed a return for their fiscal period end will **not** be required to refile with the updated form. The T3010 now features an updated section C which asks, among other things, whether the charity made “qualifying disbursements by way of grants to non-qualified donees (grantees) in the fiscal period?” (see line 5840).

The CRA also published a new form, Form [T1441](#), entitled “Qualifying Disbursements: Grants to Non-Qualified Donees (Grantees)”, to allow charities to report detailed grant information, in accordance with applicable requirements under the *Income Tax Act*, and requirements set out in the updated Schedule C to the T3010. In general terms, when a charity makes grants totaling more than \$5,000 to a grantee in a fiscal period, the updated Schedule C to the T3010 asks charities to report the name of the grantee, the purpose

of the grant, the amount of cash and non-cash disbursements, and where the activities were carried on (if outside Canada) using the T1441 form.

The CRA has advised that in the near future, it expects to update the Guide T4033, “Completing Form T3010 Registered Charity Information Return” which provides instructions on how to complete the T3010 and the T1441.

CRA Updates Form P148 Regarding Taxpayer Objections and Appeal Rights

The CRA has made changes to [Form P148](#) “*Resolving your dispute: Objection and appeal rights under the Income Tax Act*” as of May 8, 2023. Form P148 outlines what a taxpayer can do if they object to their income tax assessment or determination and would like to proceed with a formal dispute of the assessment or determination. Notably, the updated form features:

- an amended mandate for the Appeals Branch (which includes an updated focus on delivering “high quality, timely, and impartial recourse services for disputes”);
- a new reference which includes registered charities in the context of statements indicating that taxpayers have the right to object to “determinations or redeterminations such as the goods and services tax/harmonized sales tax (GST/HST) credit, the Canada Child Benefit (CCB), the disability tax credit (DTC), registered charities, and loss determinations”;
- a new list of situations in which an objection cannot be filed, such as for CPP/EI refunds and refund interest;
- a new list of objections which may be invalid, such as for late or early filed objections;
- a clarification that while objections can be submitted by various means, an objection submitted through one of the CRA’s secure portals “will ensure it is received and assigned to an appeals officer sooner”; and
- a commitment from the CRA that if a taxpayer’s objection is not considered valid, “the CRA will send [the taxpayer] an explanation of why [their] objection cannot be accepted”.

The CRA is encouraging all charities to file their information returns online through the My Business Account, since this digital service always uses the latest forms and guides to assist charities in completing their returns.

5. CRA Releases View on Directed Gifts to Municipalities

By [Ryan M. Prendergast](#)

The Canada Revenue Agency (CRA) released a technical interpretation in CRA View 2022-0945221E5 on February 1, 2023 concerning amounts collected by a charity and provided to a municipality that were to be directed to a non-profit organization. The CRA was asked for comments concerning a municipality receiving donated funds collected by a registered charity which was then to be directed to the non-profit organization, *i.e.* a non-qualified donee (“non-QD”) recipient.

In particular, a registered charity had proposed to assist the non-QD in a fundraising campaign by collecting funds and issuing donation receipts on the non-QD’s behalf. The collected funds would be donated by the charity to the municipality; the charity would then “suggest” that the municipality could provide those funds to the non-QD, as part of a municipal program.

In its response, the CRA stated that the *Income Tax Act* (ITA) does not contain specific rules relating to the use of funds by municipalities. It also stated that there may be restrictions on the use of municipal funds under provincial legislation and bylaws.

The CRA stated that registered charities may be subject to revocation if they accept a gift, the granting of which was expressly or implicitly conditional on the charity making a gift to another person, club, society, association or organization other than a qualified donee.

As well, the CRA stated that it is a question of fact whether a gift has been made to a qualified donee. It further stated that it is the CRA’s general view that donations can be received and receipted by a qualified donee, such as a municipality, provided that the municipality retains discretion as to how the donation is to be spent. However, where a municipality merely acts as a conduit by collecting funds from donors (including registered charities) on behalf of an organization that is legally or otherwise entitled to the funds so donated, the municipality is not in receipt of a gift. This is consistent with previous CRA Views concerning municipalities in essence lending their registration number to non-profit organizations in collecting donations for them in acting as a conduit in non-compliance with the ITA.

6. Employment Update

By [Barry W. Kwasniewski](#) and [Martin U. Wissmath](#)

Tax Court of Canada Rules that Insurance Adjuster was an Independent Contractor

Determining whether a worker should be properly characterized as an employee or an independent contractor at law can be challenging, especially where there are factors present in the relationship that point in both directions. In [Co-Operative Hail Insurance Company Limited v. M.N.R.](#) (the “Appeal”), an April 6, 2023 Tax Court of Canada (TCC) decision, the TCC considered a dispute between the appellant, an insurance company, and the Minister of National Revenue (the “Minister”), over the work status of an insurance adjuster. The TCC held that when a worker’s job could be interpreted as either an employee or an independent contractor based on the recognized factors, the subjective intent of the parties must be considered. That principle, noted by the TCC precedent in [Wray Agencies Ltd. v. M.N.R.](#), was a key deciding factor in the Appeal.

The Minister confirmed a CRA ruling from November 23, 2018, which stated that Mr. Casey Yeomans had worked for the Co-Operative Hail Insurance Company Limited (the “Appellant”) in the capacity of an employee and not as an independent contractor. The significance of this was that he was engaged in pensionable and insurable employment under the *Canada Pension Plan* and the *Employment Insurance Act*, respectively. The Appellant appealed this decision, maintaining Mr. Yeomans’ legal status was that of an independent contractor.

Mr. Yeomans was employed as a secondary school teacher and vice-principal who worked as a crop hail adjuster during the summer months. In April of 2016, he and the Appellant entered into an agreement specifying that he would work as an “independent contractor” for the company, adjusting claims for producer’s crop loss due to hail. Mr. Yeomans was to pay his own income tax and Canada Pension Plan contributions, and would not be provided oversight by the Appellant. He was also allowed to work on a preferred schedule, was able to decide the general geographic area in which he would be working, was free to simultaneously work for other insurance companies in a similar capacity, and could refuse any assigned work which he did not wish to engage in.

In the Appeal, the court noted that the Supreme Court of Canada case [1671122 Ontario Ltd. v. Sagaz Industries Canada Inc.](#) stated that the most significant factor in identifying an independent contractor is if the individual in question was engaged in business on their own account. A test for this was clarified in

[1392644 Ontario Inc. \(Connor Homes\) v. Canada \(National Revenue\)](#). A court must examine the subjective intention of the parties, and then four objective factors:

- control over how the work is to be done;
- ownership of tools;
- chance of profit; and
- risk of loss.

Using the *Connor Homes* test, and following the similar facts from the decision in *Wray*, the court decided to allow the Appeal. The Appellant and Mr. Yeomans unambiguously intended to enter into an arrangement where he worked for the company as a private contractor.

Mr. Yeomans had significant say over how he was to work, specifically, he could refuse any work which he found as inconvenient due to travel time to a location or personal obligations which he may have had.

The Appellant had only provided Mr. Yeomans with a pen, paper and clipboard, as well as a manual which was provided to crop adjusters through the Saskatchewan provincial government. All other equipment needed for the job, such as the vehicle and outdoor gear needed to inspect claims, was owned by Mr. Yeomans.

Mr. Yeomans was allowed to decide his schedule and could work as much or as little as he desired, provided there were claims to investigate. This satisfied the court that he had a chance of profit.

Finally, the court found that there was no real risk of loss.

This decision considering employment versus independent contractor status is a useful reminder to charities and not-for-profits to carefully consider the basis upon which workers will be hired, as an incorrect classification may result in unexpected liabilities for unremitted source deductions such as EI premiums, income taxes and CPP employer contributions.

Criminal Conspiracy Provisions Regarding Wage Fixing, No-Poaching Agreements to Come into Force

On June 23, 2022, Bill C-19, the [Budget Implementation Act, 2022, No. 1](#) became law. This Bill contained numerous provisions, some of which amended the federal [Competition Act](#) (the “Act”), that are set to come into force on June 23, 2023. Some of these provisions will have significant implications in the field of employment law.

While competition law legislation is often thought of as affecting the mercantile aspect of business, the amended Act seeks to prohibit wage-fixing and no-poaching agreements, for the purpose of protecting “workers from agreements between employers that fix wages and restrict job mobility.” This protection will come from the addition of a new provision, s. 45(1.1), which reads as such:

- (1.1)** Every person who is an employer commits an offence who, with another employer who is not affiliated with that person, conspires, agrees or arranges
- (a)** to fix, maintain, decrease or control salaries, wages or terms and conditions of employment; or
 - (b)** to not solicit or hire each other’s employees.

A penalty of an indictable offence, punishable by 14 years imprisonment or a fine at the discretion of the court, or both, can be levied against anyone convicted of infringing this new provision. The changes do not remove the ancillary restraints defence, which allows for agreements that would contravene the Act if they are ancillary to an otherwise legal agreement, and the terms in question are reasonably necessary for that agreement. As amended under section 45 of the Act:

[Ancillary Restraints] Defence

(4) No person shall be convicted of an offence under subsection (1) or (1.1) in respect of a conspiracy, agreement or arrangement that would otherwise contravene that subsection if

- (a)** that person establishes, on a balance of probabilities, that
 - (i)** it is ancillary to a broader or separate agreement or arrangement that includes the same parties, and
 - (ii)** it is directly related to, and reasonably necessary for giving effect to, the objective of that broader or separate agreement or arrangement; and
- (b)** the broader or separate agreement or arrangement, considered alone, does not contravene that subsection.

The Act applies to all businesses in Canada, regardless of whether they are federally or provincially registered. There are no exemptions for charities and not-for-profits. Matthew Boswell, the Commissioner of Competition, [stated on June 24, 2022](#) that the changes are “an important step in modernizing Canada’s competition law and building a more competitive Canadian economy” and that “the Competition Bureau will ensure businesses have clarity on how to comply with the law, and predictability with respect to the Bureau’s enforcement of the new provisions.”

The Competition Bureau published a guidance document, “[Enforcement Guidelines on wage-fixing and no poaching agreements](#)” on its website, on May 30, 2023 (the “Guidance”). The Guidance states that for an agreement to be eligible for the ancillary restraints defence, the Competition Bureau “may examine the terms of the agreement, the form of the agreement, the functional relationship or lack thereof between the restraint and the principal agreement, and how the restraint makes the principal agreement more effective in accomplishing its purpose” among other considerations.

With harsh penalties for non-compliance, it is of the utmost importance that employers’ practices are in-step with these new provisions, including charities and not for profit organizations.

7. Privacy Update

By [Esther Shainblum](#) and [Martin U. Wissmath](#)

Privacy Commissioner Reacts to Proposed Reform Bill for Federal Privacy Law Regime

Canada’s federal privacy commissioner says proposed laws are heading in the right direction, but not far enough, according to a [May 11, 2023 announcement](#) on the Office of the Privacy Commissioner (OPC) website. Bill C-27 (the “Bill”), short titled as the [Digital Charter Implementation Act, 2022](#), completed second reading on April 24, 2023 in the House of Commons and was referred to the Standing Committee on Industry and Technology. The Bill would enact the *Consumer Privacy Protection Act*, the *Personal Information and Data Protection Tribunal Act*, and the *Artificial Intelligence and Data Act*, along with consequential and related amendments to other statutes. For an in-depth look at the Bill, reference can be made to the [June 2022 Charity and NFP Law Update](#).

As noted above, one of the proposed statutes in the Bill is the *Consumer Privacy Protection Act* (the “CPPA”). If passed in its current form, the CPPA will replace the existing *Personal Information Protection and Electronic Documents Act* (“PIPEDA”). The Bill would also enact the *Personal Information and Data Protection Tribunal Act*, establishing the Personal Information and Data Protection Tribunal to adjudicate contraventions of the CPPA and have the power to impose administrative monetary penalties.

Philippe Dufresne, the Privacy Commissioner of Canada (the “Commissioner”), commented that the currently proposed reforms to the privacy regime are an improvement over PIPEDA and the former Bill C-11, which died on the Order Paper when Parliament was dissolved on August 15, 2021 for the last

federal election. However, the Commissioner also stated that the Bill “can and must go further” in protecting privacy rights, balanced with supporting innovation in the tech sector.

The OPC provided 15 [written recommendations](#) to the House of Commons Standing Committee on Industry and Technology regarding the Bill on April 26, 2023. These recommendations were made in consideration of the Commissioner’s espoused “vision for privacy”, which is that privacy should be a right, support the public interest, and increase trust in public institutions and participation in civil society.

The recommendations are:

1. Recognize privacy as a fundamental right.
 2. Protect children’s privacy and the best interests of the child.
 3. Limit organizations’ collection, use and disclosure of personal information to specific and explicit purposes that take into account the relevant context.
 4. Expand the list of violations qualifying for financial penalties to include, at a minimum, appropriate purposes violations.
 5. Provide a right to disposal of personal information even when a retention policy is in place.
 6. Create a culture of privacy by requiring organizations to build privacy into the design of products and services and to conduct privacy impact assessments for high-risk initiatives.
 7. Strengthen the framework for de-identified and anonymized information.
 8. Require organizations to explain, on request, all predictions, recommendations, decisions and profiling made using automated decision systems.
 9. Limit the government’s ability to make exceptions to the law by way of regulations.
 10. Provide that the exception for disclosure of personal information without consent for research purposes only applies to scholarly research.
 11. Allow individuals to use authorized representatives to help advance their privacy rights.
 12. Provide greater flexibility in the use of voluntary compliance agreements to help resolve matters without the need for more adversarial processes.
 13. Make the complaints process more expeditious and economical by streamlining the review of the Commissioner’s decisions.
 14. Amend timelines to ensure that the privacy protection regime is accessible and effective.
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15. Expand the Commissioner's ability to collaborate with domestic organizations in order to ensure greater coordination and efficiencies in dealing with matters raising privacy issues.

The Commissioner's primary message was that reform of privacy law is "overdue and must be achieved". From the point of view of charities and not-for-profits, the OPC noted that the CPPA would reverse a problematic modification to the definition of "commercial activity" introduced in the former Bill C-11. As discussed in our [Charity and NFP Law Bulletin No. 481](#), the definition of "commercial activity" in PIPEDA explicitly includes "the selling, bartering or leasing of donor, membership or other fundraising lists," but this language was omitted from Bill C-11. We pointed out that the omission of that language could have led to a situation in which organizations would no longer be required to obtain consent for the creation and use of donor, membership and fundraising lists. The OPC noted this potentially problematic outcome was avoided by reintroducing the words "including the selling, bartering or leasing of donor, membership or other fundraising lists" in the definition of "commercial activity" under the CPPA.

Although the federal legislative reforms do not directly apply to all charities and not-for-profits, except to the extent that they participate in commercial activity, they are of interest to all organizations that collect, use, and disclose personal information in Canada.

Political Parties Should Protect Right to Privacy, says Federal Commissioner

Even with swathes of sensitive personal information at their disposal, Canada's political parties are still not subject to privacy laws, and that's a problem, according to the Privacy Commissioner. On May 3, 2023, the OPC [published an announcement](#) after the Commissioner's appearance that day before the Standing Senate Committee on Legal and Constitutional Affairs, where he stated that political parties should be subject to legislation which ensures they respect the privacy rights of Canadians. As not-for-profits, political parties are not held to account under PIPEDA, nor the federal *Privacy Act*. The Commissioner said:

Given the importance of privacy and the sensitive nature of the information being collected, Canadians need and deserve a privacy regime for political parties that goes further than self-regulation and that provides meaningful standards and independent oversight to protect and promote electors' fundamental right to privacy.

The Commissioner's remarks were spurred by amendments proposed in Bill C-47, the [Budget Implementation Act](#). These proposals would allow political parties to collect, disclose, retain and dispose of the personal information of private individuals and use it in accordance with internal privacy policies.

In response, the Commissioner stated that the collection, use, disclosure, retention and disposal of personal information by political parties should be regulated by law. These laws, he stated, should be based on globally recognized privacy principles, which includes the ability for a neutral third party to enforce compliance with the law, and provide remedies in case of a data breach that jeopardizes sensitive personal information.

8. ATF/AML Update

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

FINTRAC Releases Video on Verifying the Identity of a Client

On May 11, 2023, the Financial Transactions and Reports Analysis Centre of Canada ("FINTRAC") released a short video which explains how to use the affiliate or member method to verify a client's identity. There are five prescribed methods to do so, specified by the [Proceeds of Crime \(Money Laundering\) and Terrorist Financing Act](#) (the "Act"). These methods are:

1. Government issues photo identification
2. Credit file
3. Dual-process method
4. Affiliate or member method
5. Reliance Method

Regulated organizations must identify a client when conducting certain transactions.

FINTRAC defines an "affiliate" as:

An entity that is affiliated with another entity if one of them is wholly owned by the other, if both are wholly owned by the same entity, or if their financial statements are consolidated.

The affiliate or member must have previously provided their identity using the government ID, credit file or dual process method. The verifying organization must be satisfied that this information is valid and current.

An affiliate, foreign affiliate or member must be:

1. An affiliate of yours that is a regulated business, referred to in paragraphs 5(a) to (g) of the Act, or
2. A foreign affiliate that carries out activities similar to those referred to in the aforementioned sections, or
3. A financial entity subject to the Act and is a member of the verifying organization's credit union central or financial services cooperative

A written agreement must be in place between the parties to use the affiliate or member method. To use the method, the verifying organization must obtain the information to confirm the identity from the affiliate or member and check that it matches the information it had previously obtained from them. If there is any question or discrepancy, the identity should be reverified. The onus of having correct information is on the verifying party.

Charities and not-for-profits subject to the Act are reminded that FINTRAC takes the verification of information seriously, and such organizations have a responsibility to ensure they make a reasonable effort to confirm the identity of any affiliate or member when a transaction falls under the purview of the Act.

Consultations Held for Creation of Foreign Influence Registry by Federal Government

The Canadian government held public consultations as part of a study about possibly establishing a foreign influence transparency registry. Public Safety Minister Marco Mendicino made the announcement on March 10, 2023, but did not provide a specific timeline for when the registry would be operational. The registry would require individuals acting on behalf of foreign states to disclose their affiliations with those governments. Its purpose is to increase transparency and prevent foreign interference in Canadian affairs. Similar registries already exist in Australia and the United States, and non-compliance could result in fines or imprisonment. The public consultations closed on May 9, 2023, and included a virtual portal on the [Public Safety Canada website](#).

According to the Department of Public Safety, foreign governments maintain legitimate channels of engagement with the Canadian government; however, concerns arise when they engage in non-transparent actions that exceed standard diplomacy and lobbying, crossing into foreign interference. Such activities pose significant risks to Canadian interests, national security, and democratic processes, the government reports.

“While Canada has a number of existing tools to support transparency,” the government states, “new measures could be considered, such as a foreign influence transparency registry, which would better align Canada’s approach with those of like-minded partners and allies, bolstering overall collective resilience.”

To initiate the development of a foreign influence transparency registry, the federal government is seeking to involve a diverse range of stakeholders. The registry aims to expand Canada's toolkit to effectively address the evolving threat of foreign interference and promote transparency surrounding foreign influence within the country. The consultation focused on crucial aspects, such as registrable activities, exemptions, information disclosure, and compliance.

A public and stakeholder [consultation paper was published](#) March 10, 2023, titled “Enhancing Foreign Influence Transparency: Exploring Measures to Strengthen Canada’s Approach.”

9. OBA’s AMS – John Hodgson Award 2022

Theresa L.M. Man will be presented with the [2022 Ontario Bar Association’s AMS - John Hodgson Award for Excellence in Charity and Not-for-Profit Law](#) on June 22, 2023. Theresa has been a key player in the charity and not-for-profit sector for over 21 years and has been the past chair of both the CBA and the OBA Charity and Not-for-Profit Law Sections. As a partner at Carters, Theresa practices exclusively in charity and not-for-profit law as well as being a prolific author and speaker on charity law.

10. Career Opportunities at Carters

Carters is seeking qualified candidates to fill four new roles in supporting the firm’s growing charity and not-for-profit law practice, including an opportunity for a charity lawyer with a minimum of three years’ experience in charity law, as well as various support staff positions. Those interested are invited to apply. Details for each position are available on the [Career Opportunities](#) page of our website.

IN THE PRESS

[Charity & NFP Law Update – April 2023 \(Carters Professional Corporation\)](#) was featured on Taxnet Pro™ and is available online to those who have OnePass subscription privileges.

RECENT EVENTS & PRESENTATIONS

[Primer on Donor Advised Funds and Current Issues: Revisited](#) was presented by Jacqueline M. Demczur at The CBA Charity Law Symposium hosted by the CBA on May 12, 2023. The [paper](#) and presentation [handout](#) are available at our carters.ca website.

Legal Approaches to Remediating Bias Terrance S. Carter acted as Moderator for a panel discussion on the topic of “Legal Approaches to Remediating Bias” with a panel of speakers including: François Boileau, Taxpayers’ Ombudsman; Geoff Hall, McCarthy Tétrault LLP; Prof. Anver Emon, University of Toronto Faculty of Law; and Molly Luu, Miller Thomson LLP.

UPCOMING EVENTS & PRESENTATIONS

Saint Paul University, Faculty of Canon Law will host a Legal Education Seminar on June 13, 2023. Terrance S. Carter will present on the topic of Interaction Between Civil Law and Canon Law with Sister Bonnie MacLellan, CSJ. Sr. Bonnie MacLellan received her Ph.D. in Canon Law from Saint Paul University in 2018.

[Volunteer Ottawa](#) will host a webinar entitled Board Volunteering Series: Being A Responsible Director presented by Esther Shainblum on June 14, 2023.

[STEP Canada’s 25th National Conference](#) will be held in Toronto on June 19 to 20, 2023. Terrance S. Carter will moderate and speak during a panel discussion entitled “The Modernization of Charitable Planning: Bringing Old Supports into a New World”. Malcolm Burrows, Head of Philanthropic Advisory Services, Scotia Wealth Management, and Karen Cooper, KPMG Law are the other panelists for this event.

LEGAL TEAM

Editor: Terrance S. Carter

Assistant Editors: Nancy E. Claridge, Ryan M. Prendergast, and Adriel N. Clayton



[Sepal Bonni](#), B.Sc., M.Sc., J.D., Trademark Agent - Sepal Bonni is a registered trademark agent and practices in all aspects of brand protection. Her trademark practice includes domestic and foreign trademark prosecution, providing registrability opinions, assisting clients with the acquisition, management, protection, and enforcement of their domestic and international trademark portfolios, and representing clients in infringement, opposition, expungement, and domain name dispute proceedings. She also assists clients with trademark licensing, sponsorship, and co-branding agreements. Sepal also advises clients on copyright and technology law related issues.



[Terrance S. Carter](#), B.A., LL.B, TEP, Trademark Agent – Managing Partner of Carters, Mr. Carter practices in the area of charity and not-for-profit law, and is counsel to Fasken on charitable matters. Mr. Carter is a co-author of *Corporate and Practice Manual for Charitable and Not-for-Profit Corporations* (Thomson Reuters), a co-editor of *Charities Legislation and Commentary* (LexisNexis, 2022), and co-author of *Branding and Copyright for Charities and Non-Profit Organizations* (2019 LexisNexis). He is recognized as a leading expert by *Lexpert*, *The Best Lawyers in Canada* and *Chambers and Partners*. Mr. Carter is a former member of CRA Advisory Committee on the Charitable Sector, and is a Past Chair of the Canadian Bar Association and Ontario Bar Association Charities and Not-for-Profit Law Sections.



[Sean S. Carter](#), B.A., LL.B. – Sean Carter is a partner with Carters and the head of the litigation practice group at Carters. Sean has broad experience in civil litigation and joined Carters in 2012 after having articulated with and been an associate with Fasken (Toronto office) for three years. He is ranked as a leading expert by *The Best Lawyers in Canada*. Sean has published extensively, co-authoring several articles and papers on anti-terrorism law, including publications in *The International Journal of Not-for-Profit Law*, *The Lawyers Weekly*, *Charity & NFP Law Bulletin* and the *Anti-Terrorism and Charity Law Alert*, as well as presentations to the Law Society of Ontario and Ontario Bar Association CLE learning programs.



[Nancy E. Claridge](#), B.A., M.A., LL.B. – Called to the Ontario Bar in 2006, Nancy Claridge is a partner with Carters practicing in the areas of corporate and commercial law, anti-terrorism, charity, real estate, and wills and estates, in addition to being the assistant editor of *Charity & NFP Law Update*. After obtaining a Master's degree, she spent several years developing legal databases for LexisNexis Canada, before attending Osgoode Hall Law School where she was a Senior Editor of the *Osgoode Hall Law Journal*, Editor-in-Chief of the *Obiter Dicta* newspaper, and was awarded the Dean's Gold Key Award and Student Honour Award. Nancy is recognized as a leading expert by *Lexpert*.



[Adriel N. Clayton](#), B.A. (Hons), J.D. - Called to the Ontario Bar in 2014, Adriel Clayton manages Carters' knowledge management and research division, and practices in commercial leasing and real estate. Before joining Carters, Adriel practiced real estate, corporate/commercial and charity law in the GTA, where he focused on commercial leasing and refinancing transactions. Adriel worked for the City of Toronto negotiating, drafting and interpreting commercial leases and enforcing compliance. Adriel has provided in-depth research and writing for the *Corporate and Practice Manual for Charitable and Not-for-Profit Corporations*.



[Jacqueline M. Demczur](#), B.A., LL.B. – A partner with the firm, Ms. Demczur practices in charity and not-for-profit law, including incorporation, corporate restructuring, and legal risk management reviews. Ms. Demczur has been recognized as a leading expert in charity and not-for-profit law by *Lexpert* and *The Best Lawyers in Canada*. She is a contributing author to Industry Canada’s *Primer for Directors of Not-For-Profit Corporations*, and has written numerous articles on charity and not-for-profit issues for the *Lawyers Weekly*, *The Philanthropist* and *Charity & NFP Law Bulletin*, among others. Ms. Demczur is also a regular speaker at the annual *Church & Charity Law Seminar*TM.



[Barry W. Kwasniewski](#), B.B.A., LL.B. – Mr. Kwasniewski is a partner with the firm and joined Carters' Ottawa office in 2008 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 has been retained by charities, not-for-profits and law firms to provide legal advice pertaining to insurance coverage matters.



[Heidi N. LeBlanc](#), J.D. – Heidi is a litigation associate practicing out of Carters’ Toronto office. Called to the Bar in 2016, Heidi has a broad range of civil and commercial litigation experience, including matters pertaining to breach of contract, construction related disputes, defamation, real estate claims, shareholders’ disputes and directors’/officers’ liability matters, estate disputes, and debt recovery. Her experience also includes litigating employment-related matters, including wrongful dismissal, sexual harassment, and human rights claims. Heidi has represented clients before all levels of court in Ontario, and specialized tribunals, including the Ontario Labour Relations Board and the Human Rights Tribunal of Ontario.



[Jennifer M. Leddy](#), B.A., LL.B. – Ms. Leddy joined Carters’ Ottawa office in 2009, becoming a partner in 2014, to practice charity and not-for-profit law following a career in both private practice and public policy. Ms. Leddy practiced with the Toronto office of Lang Michener prior to joining the staff of the Canadian Conference of Catholic Bishops (CCCCB). In 2005, she returned to private practice until she went to the Charities Directorate of the Canada Revenue Agency in 2008 as part of a one year Interchange program, to work on the proposed “Guidelines on the Meaning of Advancement of Religion as a Charitable Purpose.”



[Theresa L.M. Man](#), B.Sc., M.Mus., LL.B., LL.M. – A partner with Carters, Ms. Man practices in the area of charity and not-for-profit law, is ranked by *Lexpert*, *Best Lawyers in Canada*, and *Chambers and Partners*, and received the 2022 OBA AMS/John Hodgson Award of Excellence in Charity and Not-For-Profit Law. She is a co-author of *Corporate and Practice Manual for Charitable and Not-for-Profit Corporations* published by Thomson Reuters. She is a former member of the Technical Issues Working Group of the CRA Charities Directorate, a member and former chair of the CBA Charities and Not-for-Profit Law Section and the OBA Charities and Not-for-Profit Law Section. Ms. Man has also written on charity and taxation issues for various publications.



[Esther S.J. Oh](#), B.A., LL.B. – A partner with Carters, Ms. Oh practices in charity and not-for-profit law, and is recognized as a leading expert in charity and not-for-profit law by *Lexpert* and *The Best Lawyers in Canada*. Ms. Oh has written numerous articles on charity and not-for-profit legal issues, including incorporation and risk management. Ms. Oh has written articles for *The Lawyer’s Daily*, www.carters.ca and the *Charity & NFP Law Bulletin*. Ms. Oh is a regular speaker at the annual *Church & Charity Law Seminar*TM and has been an invited speaker to the Canadian Bar Association, Imagine Canada and various other organizations.



[Ryan M. Prendergast](#), B.A., LL.B. - Mr. Prendergast joined Carters in 2010, becoming a partner in 2018, with a practice focus of providing corporate and tax advice to charities and non-profit organizations. Ryan has co-authored papers for the Law Society of Ontario, and has written articles for *The Lawyers Weekly*, *Hilborn:ECS*, Ontario Bar Association *Charity & Not-for-Profit Law Section Newsletter*, *Charity & NFP Law Bulletins* and publications on www.carters.ca. Ryan has been a regular presenter at the annual *Church & Charity Law Seminar™*, Healthcare Philanthropy: Check-Up, Ontario Bar Association and Imagine Canada Sector Source. Ryan is recognized as a leading expert by *Lexpert* and *The Best Lawyers in Canada*.



[Esther Shainblum](#), B.A., LL.B., LL.M., CRM – Ms. Shainblum practices at Carters Professional Corporation in the areas of charity and not for profit law, privacy law and health law. She has been ranked by *Chambers and Partners*. Ms. Shainblum was General Counsel and Chief Privacy Officer for Victorian Order of Nurses for Canada, a national, not-for-profit, charitable home and community care organization. Before joining VON Canada, Ms. Shainblum was the Senior Policy Advisor to the Ontario Minister of Health. Earlier in her career, Ms. Shainblum practiced health law and corporate/commercial law at McMillan Binch and spent a number of years working in policy development at Queen’s Park.



[Martin U. Wissmath](#), B.A., J.D. – Called to the Ontario Bar in 2021, Martin joined Carters after finishing his articling year with the firm. In addition to his legal practice, he assists the firm's knowledge management and research division, providing in-depth support for informative publications and client files, covering a range of legal issues in charity and not-for-profit law. His practice focuses on employment law, privacy law, corporate and information technology law, as well as the developing fields of social enterprise and social finance. Martin provides clients with legal advice and services for their social-purpose business needs, including for-profit and not-for-profit organizations, online or off-line risk and compliance issues.



[Lynne Westerhof](#), B.A., J.D. – Lynne is a charity and not-for-profit law associate whose practice focusses on tax law, charitable status applications, corporate governance matters, legal risk management, and counter-terrorism financing law as it applies to the provision of humanitarian aid. She articulated with Carters from 2021 to 2022 and joined the firm as an associate following her call to the Ontario Bar in June 2022. In addition to her work assisting charities and not-for-profits, Lynne assists with Carter’s knowledge management, research, and publications division.



[Cameron A. Axford](#), B.A., J.D., Student at Law - Cameron graduated from the University of Western Ontario in 2022 with a Juris Doctor. While studying at law school, he was involved with Pro Bono Students Canada in the Radio Pro Bono program and participated in the BLG/Cavalluzzo Labour Law Moot. Prior to law school, Cameron studied journalism at the University of Toronto and Centennial College, receiving a BA with High Distinction from the former. He has worked for a major Canadian daily newspaper as a writer. Cameron has experience doing volunteer work for social development programs in Nicaragua and in leadership roles in domestic philanthropic initiatives.

ACKNOWLEDGEMENTS, ERRATA AND OTHER MISCELLANEOUS ITEMS

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