COMMUNITY FOUNDATIONS OF CANADA
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Submission to the Special Senate Committee on the Charitable Sector

Community Foundations of Canada

September 2018

Re: Senate Committee Study on the Charitable Sector - focus on the role of Foundations and Donor Advised Funds

Rapid technological advances, generational change, demographic shifts, and growing globalization -- every sector is undergoing an adaptive shift as we respond to the present and future realities that shape Canadian communities. The 21st century economy calls upon all sectors to identify new ways of conducting business, characterized by an emphasis on knowledge and networks.

Throughout this rapid change, Canadians continue to rely on registered charities, non-profit organizations, and social enterprises for services, leadership and innovation that touch on all areas of community and societal wellbeing. The sector generates $176 billion in income, employs two million people and accounts for more than 8% of Canada's GDP. The prominent role of the sector shows no signs of slowing: Imagine Canada forecasts that "demand for essential services provided by charities and nonprofits will rise dramatically over the next decade".

At Community Foundations of Canada, we have seen these rapid social shifts and responsive leadership by charities and nonprofits in communities in all parts of Canada. Community Foundations of Canada is the national network of 191 community foundations, and together we are a philanthropic movement working across sectors to help Canadians build strong and resilient communities. Roughly 90% of Canadians have access to a community foundation, and the movement collectively holds $5.4B in assets. These assets, alongside those of other public and private foundations, provide funding and financing for registered charities, non-profits, and social enterprises -- an important complement to government investments. In 2017, community foundations granted over $260M and invested $60M in impact investments.

With a look to the future, Community Foundations of Canada recommends that the Special Senate Committee on the Charitable Sector consider the following recommendations:

1. **That a thorough examination of the Income Tax Act be undertaken to modernize the regulation of registered charities, in line with the recommendations of both the Government of Canada's Consultation Panel on the Political Activities of Charities (March 2016) and the Social Innovation and Social Finance Strategy Co-Creation Steering Group (August 2018).**

2. **That a 'home' for the sector be formalized within government to better recognize and facilitate the vital role that charities and nonprofits play in Canadian society.**

Appended, please find additional commentary on these recommendations. We welcome questions and would be happy to engage the expertise of our colleagues at community foundations across Canada who can speak to their local realities and importance of these recommendations.

Thank you for your attention.

Recommendation 1: That a thorough examination of the Income Tax Act be undertaken to modernize the regulation of registered charities, in line with the recommendations of both the Government of Canada's Consultation Panel on the Political Activities of Charities (March 2016) and the Social Innovation and Social Finance Strategy Co-Creation Steering Group (August 2018).

The legislation governing charities in Canada is long overdue for an update: the definition of 'charity' is rooted in centuries-old common law and the sections of the Income Tax Act that cover registered charity have never been thoroughly modernized. Multiple expert panels and reports have recommended large-scale modernization of the *Income Tax Act* over the years, most recently the Government of Canada's Consultation Panel on the Political Activities of Charities (March 2016) and the Social Innovation and Social Finance Strategy Co-Creation Steering Group at Economic and Social Development Canada (August 2018).

Under the current regulatory regime, the private sector has significant flexibility to be adaptive to the 21st century economy characterized by platforms, aggregation, and cross-sector collaboration. Businesses have access debt, equity, and financing to accomplish their goals, and private sector organizations are permitted the flexibility to focus their efforts on profit, social benefit, or both. This flexibility has seen the rise of multi-million dollar companies like Benevity and GoFundMe, which facilitate employee and online giving and have flourished in terrain traditionally occupied by registered charities.

At present, Canada's registered charities and nonprofits are explicitly committed to social benefit, and yet they are restricted in the ways that they can achieve those benefits. For example, registered charities face significant barriers to working with non-qualified donees, even when such collaboration would be the most effective way of achieving their charitable purposes. Similarly, registered charities face a narrow definition of permitted "related business" activities, which limits their ability to use social enterprises to further their missions. The modernization of the *Income Tax Act,* like the addition of a 'destination test' as suggested by the 2018 Steering Group report, could unlock the ability of charities and nonprofits to engage more fully in social enterprise for the benefit of Canadian communities.

Additionally, with growing demand for their services, Canadian registered charities and nonprofits need more diversified sources of financing. Leadership by Community Foundations of Canada, Philanthropic Foundations of Canada, and a number of other foundations have worked to make much-needed debt equity and loan capital available to registered charities and nonprofits. As a natural vehicle for the sector to access capital, this is a role that foundations are well-positioned to play. However, these efforts have faced significant barriers -- both for foundations attempting to engage in social finance and for charities and nonprofits working to be recipients. With amendments to the *Income Tax Act* and clarifications and areas like program-related investments, foundations and the evolution of Donor Advised Funds can help with advancing social enterprise and social finance, providing both critical grant funding and primary capital for the sector.

Recommendation 2: That a 'home' for the sector be formalized within government to better recognize and facilitate the vital role that charities and nonprofits play in Canadian society.

Canadian charities are regulated through the *Income Tax Act* and administrative guidances issued by the Charities Directorate at the Canada Revenue Agency. The regulation of an entire sector through the tax authority frames the sector's activities and priorities through a lens of taxation and compliance, rather than a focus on the social outcomes of the sector. The 2016 Report of the Consultation Panel on Political Activities of Charities highlights the challenges associated with regulating the sector through administrative guidance, including a lack of clarity and consistency in interpretation and enforcement.

With over 85,000 registered charities in Canada, these organizations play a fundamental role in community leadership, resilience, innovation, and socio-economic well-being - a role that is too significant to be relegated to a tertiary priority of the tax authority. With a formalized home in government, the Government of Canada could better align efforts to support, engage, and track data on charities with the actual scope and strength of the sector's leadership and innovation.

A number of common law countries have passed legislation to form dedicated bodies or departments that support and engage with registered charities. In the United Kingdom, the Charity Commission for England and Wales was formed in 2007 as a non-ministerial government department. The Australian Charities and Not-for-profits Commission was formed in 2012 as a statutory body. In New Zealand, Charities Services registers and monitors registered charities from within the Department of Internal Affairs. Canada can learn much from these different approaches through which governments have identified a 'home' for the charitable sector.

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Thank you once more for considering these recommendations. We would be happy to answer questions or engage members of the community foundations who can speak from their own expertise.