



Fact Sheet: Regulatory Checklist - A Governance Risk Management Mitigant for Canadian Community Foundations

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Why is this checklist so critical?

One of the key roles of the board of a community foundation relates to their fiduciary responsibility, which is the duty to exercise reasonable care when he or she makes a decision as a steward of the organization. One of their roles as stewards is to reduce risks and protect the foundation's assets, both tangible and intangible while ensuring that there is adherence to the regulatory framework applicable to charities and non-profit organizations. Failure to do so could, among other things, jeopardize the foundation's charitable status or be in contravention of provincial employment and labour standards – both of which run the risk of negatively impacting the foundation's reputation in their community.

The chart included in this document outlines a community foundation's regulatory obligations relating to the following areas:

- CRA requirements as a charity
- federal or provincial non-profit incorporation
- risk management
- governance
- employment

There are also links to acquire more detailed information on many of the obligations. Use this checklist to review your foundation's practices and policies and which ones are current, need updating or need to be created. If there are any areas that are unclear, connect with CFC, your lawyer or accountant.

It is the board's responsibility to ensure that these obligations are met, whether undertaken by themselves (for smaller community foundations), by staff or by their professional advisors (i.e., lawyer, accountant). To ensure ongoing compliance with the current regulatory framework as well as ensuring key individuals in the foundation are aware of their responsibilities, there should



be a process to review this checklist every 3-4 years by the board as well as when a new ED/CEO is engaged.

Content for this 2021 version includes content from an earlier publications.

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REGULATORY OBLIGATIONS	YES	NO	NOT SURE	NOT APPLICABLE	FOR MORE INFORMATION
Filing Your T3010 Registered Charity Return					
You have checked that you are a registered charity on CRA's Charities Listing					CRA Charities Listing and search for your foundation's filings. The site will have your information for the previous 5 years.
You know the date of your fiscal year-end					See previous T3010 or at CRA Charities Listing
You know when to file your T3010 and file it on time					T3010 Overview
You know who is responsible for filing the T3010 in your organization					Include in ED/CEO or Treasurer's job description
You are up to date with your T3010 filings					CRA Charities Listing
CRA has your correct contact information					CRA Charities Listing
Ensuring Your T3010 is Correct and Complete					
You are using the correct form					Completing the Registered Charity Information Return (T3010)
You complete all required information on the T3010					Completing the Registered Charity Information Return (T3010)
You attach all required documentation when you file your T3010-13, such as financial statements and the Qualified Donee Worksheet					Completing the Registered Charity Information Return (T3010)
You have had your accountant and/or board members review the T3010 before it was filed					This is not required but it is a good practice to increase the likelihood of the T3010 being accurate. Changes in the 2012 Federal Budget allow CRA to suspend receipting privileges of a charity if their T3010 filing is incomplete
After filing the T3010 you have checked your T3010 online to ensure accuracy					CRA Charities Listing
You have checked that you have not made some of the most common mistakes with the T3010					Avoiding Common Mistakes When Filing Your T3010 Return
Donations					
You only provide official donation receipts for 'gifts' when appropriate					CRA Definition - What is a gift?
You only provide receipts for donations to your organization (you do not act as a conduit or lend your registration to another organization such as a non-profit or foreign charity)					CRA - Issuing Receipts
You understand the 'split-receipting' rules and ensure that any 'advantage' is subtracted from the amount of the donation to determine the eligible amount of the official donation receipt					CRA - Split Receipting
You have reviewed CRA's sample receipts and compared your own receipts to the sample					CRA - Sample Receipt
All mandatory information is included on the official tax receipts					CRA - Checklist for Issuing Accurate Donation Receipts



Your foundation locks away your receipt book or uses a secure password on any computer or program that produces official donation receipts					Incorporate this practice in your finance policies and procedures
<p>You are aware of the transactions that generally do not qualify as gifts and therefore no tax receipt is issued? For example:</p> <ul style="list-style-type: none"> • payment of a basic fee for admission to an event or to a program • payment of membership fees that convey the right to attend events, receive literature, receive services, or be eligible for entitlements of any material value that exceeds 80% of the value of the payment • payment for a lottery ticket or other chance to win a prize • purchase of goods or services from a charity • donation for which the fair market value of the advantage or consideration provided to the donor exceeds 80% of the value of the donation • a gift in kind for which the fair market value cannot be determined • donations provided in exchange for advertising/sponsorship • gifts of services (for example donated time, labour) • gifts or promises (for example gift certificates donated by the issuer, hotel accommodation) • pledges • loans of property • use of a timeshare • lease of premises 					Incorporate this list into your foundation's Gift Acceptance Policy.
Your foundation has signed agreements in place for all funds					Ensure that this is a policy of the foundation. CFC Template - Fund Agreement or Deed of Gift
Acting Outside Legal Objects					
You periodically review the legal objects in your foundation's letters patent, supplementary letters, patent/articles of incorporation, trust deed or constitution to ensure all the activities of your charity are within your legal objects.					Set up a schedule to review these documents, triggered either by a change in legislation or by frequency (i.e., every 5 years)
Are the legal objects exclusively charitable in nature					This would have been confirmed upon the registration foundation. However, if your incorporating documents change the purposes of your foundation, the new purposes MUST be sent to CRA – Charities Directorate to get their confirmation. Making Changes to Charitable Purposes - CRA
Has the foundation ensured that its charitable activities are being undertaken in accordance with its charitable objects					This would be confirmed upon registration as a charitable foundation. Refer to the link above if you are changing your purposes as CRA will require you to outline new activities to determine if they are charitable in nature.
If activities are outside the scope of your objects you have discontinued those activities or decided to modify your objects					This would need to be addressed if CRA has ruled that the activities which you are



					undertaking do not fall within your charitable purposes.
If you are modifying your legal objects, for example by filing a supplementary letters patent, you have first discussed with CRA the changes and secondly provided CRA with a copy of the supplementary letters patent					Very important to get CRA's opinion prior to changing your objects. Saves time in the long run.
Qualified Donees					
You know what a 'qualified donee' is					CRA - Guidance on Qualified Donees
You understand the rules relating to community foundations working with non-qualified donees					CFC - Better Together: A Guide for Charity and Non-Charity Partnerships
You have a disbursement or spending policy in place before the funds are distributed					See policy 2.10 Spending and Capital Preservation Policy in Key Governance and Administration Policies Template Guide for Canadian Community Foundations
You have an application process that describes the activities, budget and evaluation process					See policy 4.01 Granting in Key Governance and Administration Policies Template Guide for Canadian Community Foundations CFC Granting Toolkit
You have a grant agreement in place before the funds are distributed					CFC Granting Toolkit
You properly track activities for reporting to donors and CRA					Ensure your foundation has a process to report back to donors of designed and advised funds on distributions from their funds. Ensure your accounting or grants management system has the required information for reporting on grants to CRA (annually on the T3010 Register Charities Information Return (see link above in first section))
If you provide grants to organizations or individuals that are not qualified donees you have a "structured agreement" in place					CFC - Better Together: A Guide for Charity and Non-Charity Partnerships
Fundraising Costs and Practices					
Your foundation has read and understands the CRA's Guidance Fundraising by Registered Charities (April 2012)					CRA - Fundraising by Registered Charities
You do not engage in any prohibited activities as outlined in the CRA's Guidance Fundraising by Registered Charities					CRA - Fundraising by Registered Charities
You appropriately allocate fundraising expenditures according to CRA's Guidance Fundraising by Registered Charities					CRA - Fundraising by Registered Charities
You follow best practices as outlined in the CRA's Guidance Fundraising by Registered Charities					CRA - Fundraising by Registered Charities (see Best Practices in Appendix) Association of Fundraising Professional Code of Ethical Standards Imagine Canada - Ethical Fundraiser
Disbursement Quota					



As a charitable organization, you will need to annually expend a minimum of 3.5% of the average market value of all assets not currently used in charitable programs or administration, if these assets exceed \$100,000 for charitable organizations or \$25,000 for public or private foundations. This for example covers reserves, endowments, investments, buildings owned by a charity but not used in charitable programs or administration.					CRA - Meeting the Disbursement Quota
You review your Registered Charity Information Return Summary received from the CRA after filing your T3010 to verify your estimated disbursement quota.					Setup this review as part of your annual governance checklist, as well as a responsibility of your accountant and/or Treasurer
Transactions with Directors					
If your charity operates in Ontario, it does not have any transactions with directors or pay any amounts to directors except for reimbursement of reasonable out-of-pocket expenses related to the work of the charity, unless authorized by court order					Duties of Directors, Trustees, Charitable Fiduciaries (See Section 5. Duty to Act Gratuitously) Duties of Directors - Incorporated federally (see final paragraph)
If your charity operates in Canada, but outside of Ontario, it is careful about any transactions that it enters into with directors to ensure that there is no undue private benefit or conflicts of interest					Government of Canada: Income Tax Act - Private Benefit
Keeping Adequate Books and Records					
Your foundation maintains adequate books and records as defined by CRA					CRA - Keeping Adequate Books and Records
You keep books and records at an address in Canada that is on file with CRA					CRA - Keeping Adequate Books and Records
Your foundation undergoes an annual, independent financial audit or review. The CRA recommends that charities file audited financial statements if their gross income from all sources is more than \$250,000.00. The charity's treasurer should sign any financial statements that have not been professionally prepared.					CRA - Financial Statements
You keep records for the prescribed period of time for each record					CRA - Records Retention - Retention Period
You maintain copies or backups of all key documents at a separate site					CRA - Records Retention
Electronic documents are backed up regularly and stored off-site					CRA - Electronic Records Retention
You have easy access to governing documents (incorporating documents, constitution, trust document), bylaws, financial statements, copies of official donation receipts, copies of T3010, written agreements, board and staff meeting minutes, annual reports, ledgers, bank statements, expense accounts, inventories, payroll records, promotional materials, and fundraising materials					Ensure procedures are in place relating to accessing, backing up and retaining foundation records.
You keep source documents (eg. invoices, vouchers, work orders, delivery slips, purchase orders and bank deposit slips)					Ensure procedures are in place relating to accessing, backing up and retaining foundation records.



Maintaining Legal Status					
If your foundation is a federal corporation, it is in good standing with Industry Canada. If it is provincial, it is in good standing with the appropriate provincial corporate registrar and has filed the necessary corporate returns					CRA - Maintaining the Legal Status as a Charity CRA - Provincial and Territorial Government Information for Charities
Do you have copies of the letters patent, supplementary letters patent and by-laws for the organization?					Ensure procedures are in place relating to accessing, backing up and retaining foundation records.
Are the objects/purposes of your organization up-to-date and relevant for the current work of your non-profit?					In some cases, it may make sense to update the organization's objects as part of the corporate changes. It is important to remember that all registered charities will need to ask CRA for preapproval of these revised objects, which can take months, so this is an example of something you may wish to start sooner rather than later.
Do you know who your members are, and do you have an updated list?					Refer to your bylaws. Ensure the membership list is current. Add this review to your annual governance checklist.
Do you have a current list of directors and officers?					Add updating the directors and officers list as an annual procedure.
Are you up to date in the corporate filings for your organization?					If not, you may want to do arrears in filings. Most non-profit corporations need to file an annual return, following their annual meeting to ensure that their current directors and officers are on file.
Is your foundation involved in political activities within CRA limits?					CRA - Policy Statement - Political Activities
Is your foundation involved in related business activities within CRA guidelines?					CRA - Business Activities for Charitable Organizations and Foundations
Your foundation is aware of recent anti-terrorism and money laundering legislation					CRA - Charities in the International Context
Basic Risk Management					
Your foundation is aware of its governance risks, operational risks, financial risks, external risks, and the importance of complying with the law					Risk Management for Community Foundations Sector Source - Risk Management Basics
Your foundation has adequate internal financial controls in place to prevent misuse of charitable assets					See policy 2.09 Financial Operations Policy in Key Governance and Administration Policies Template Guide for Canadian Community Foundations
Your foundation has asked and analyzed the risk that it faces and has an informal or formal risk management plan which considers what risks will be assumed, what will be eliminated, how to reduce the risk associated with certain activities and transference of risk by insurance or outsourcing					Risk Management for Community Foundations Sector Source - Risk Management Basics
Your foundation maintains appropriate insurance					CFC - Directors and Officers Liability Insurance Sector Source - Insurance and Liability for Charities and Nonprofits
Governance					
Your board of directors is aware of its basic responsibilities					Duties of Directors, Trustees, Charitable Fiduciaries



					Duties of Directors - Incorporated federally
An independent audit committee has been established to review financial statements and the auditors' report					
There is adequate communication of board responsibilities to existing, new and future board members					The Nominating Committee's responsibilities need to include reviewing board members' responsibilities with prospective directors.
The board meets on a regular basis with all directors in regular attendance					Set up a schedule of board meetings for the year, ensuring that, at a minimum, you are in alignment with your bylaws.
Individuals who are authorized to enter into contracts as signing officers on behalf of the foundation are clearly identified in their official capacity instead of as individuals					Ensure bylaws and finance policies reflect this.
Your foundation obtains appropriate professional advice from lawyers, accountants, insurance agents etc. when required					You may want to add this responsibility to the ED/CEO's job description.
Your foundation has key policies and procedures in place					Key Governance and Administration Policies Template Guide for Canadian Community Foundations
Employment					
Your "independent contractors" really are independent contractors and not employees					CRA - Employee or Self-Employed
Your charity is deducting appropriate amounts of CPP, EI, and income tax and remitting them to CRA					CRA - Methods of calculating deductions (CPP, EI, Income Tax) (includes a link to an online payroll calculator)
You have agreements with all employees and independent contractors that cover off at least termination, confidentiality and intellectual property					Human Resources Guide policy and Procedure Template
Compensation is appropriate					Human Resources Guide policy and Procedure Template
You have current human resource policies in place					Human Resources Guide policy and Procedure Template

This Community Foundation Regulatory Checklist is for information purposes only. Before taking any action based on the information contained in this document you should consult with your legal, accounting and financial advisors.

Resources to check out:

- [CFC - The Learning Institute](#)
- [CRA - Charities and Giving](#)
- [Imagine Canada - Charity Tax Tools](#)
- [Sector Source - many resources for charities](#)

- Legal Websites:
 - [Blumbergs: Canadian Charity Law](#)



- [Carters - Charity Law](#)
- [Miller Thomson - Charity Law](#)
- [Tech Soup Canada](#) A resource for IT needs for nonprofits. Offers discounted software to charitable organizations.