

The Honourable Chrystia Freeland  
Deputy Prime Minister and Minister of Finance  
90 Elgin Street  
Ottawa, Ontario K1A 0G5

17 May 2022

Dear Minister Freeland,

Canadians are generous. Despite the COVID-19 pandemic, tax-filed charitable donations increased by 2.7% in 2020. The Canadian charitable sector, which employs over 2 million people and accounts for over 8% of Canada's GDP, works hard to tackle poverty and inequality, deliver emergency relief in times of crisis and provide critical services to marginalized communities in Canada and around the world. This life-saving and life-changing work is done by charities within an outdated and challenging Canadian legislative and regulatory regime. This is why, after years of advocacy, we welcomed the pledge in Budget 2022 to implement the spirit of Bill S-216, *The Effective and Accountable Charities Act*. Our expectation was that this commitment would result in changes to Canada's existing regulatory regime to reduce unnecessary red tape, maintain high levels of accountability to the Canadians who support our work, and allow more effective and equitable partnerships between charities and organizations not recognized as charities (non-qualified donees), such as Indigenous groups, diaspora associations and community organizations.

We are therefore disappointed at the language proposed in Bill C 19, Budget Implementation Act, 2022, No. 1 (BIA), which was tabled on 26 April, 2022. Informed by several legal opinions, our view is that the BIA reinforces the colonial and paternalistic approach to the relationship between charities and the partner organizations supporting their charitable purposes. It makes the current regime more challenging for organizations to fulfill their charitable purpose by embedding a rigid and prescriptive approach to funding non-qualified donees inside and outside Canada in legislation. It makes the system more confusing, risky and challenging for registered charities and non-qualified donees to work together, and as such, impedes philanthropic and charitable resources flowing to communities that need them the most.

Our most acute concerns with the BIA include:

- The proposed definition of a 'qualifying disbursement' - section 149.1(1)
- The proposed language relating to 'directed gifts' - section 168 (1) (f)
- The prescribed conditions for qualifying disbursements to grantee organizations - regulation 3703

We are concerned that the BIA limits opportunities for partnerships between equity-seeking organizations and Canadian charities here in Canada. For example, picture a small Indigenous-led organization working to improve health services in their community. They are experts in their local context and produce tangible impact, improving living conditions for many families. But they may be overstretched with demands and not have the resources to register as a charity, or may not be interested in achieving charitable status. Under the changes proposed, given this Indigenous-led organization's status as a non-qualified donee, a partnership between a charity and this organization would need to meet a long list of 'prescribed conditions' outlined in the Income Tax Act, conditions that perpetuate a colonial dynamic. This administrative red tape could deter the charity and the Indigenous-led organization from entering into a partnership, and mean that critical resources for this important work do not flow to the organization and support the transformational work they are doing in their community.

The current Ukraine crisis offers another illustration of the problems in the proposed BIA. In European countries such as Moldova, Poland, Romania and Ukraine, local civil society organizations are knowledgeable of local conditions and have established and trusted networks in which they work effectively. Millions of dollars have been generously donated by Canadians to help Ukrainians survive

trauma, access safe water and dignified shelter, and escape human trafficking. However, to meet the BIA ‘prescribed conditions’ for qualifying disbursements, Canadian charities will have to exert operational control on life-saving operations that require a nimble and knowledgeable response and flexible arrangements. Canadian organizations know that good partnerships require mutual trust and that their charitable status can be revoked if they engage in corrupt partnerships. They are also highly motivated in times of crisis to get resources into the hands of those who best understand the local context so that charitable dollars can have the greatest impact. The language in the BIA would greatly impede Canadian charities’ capacity to do this.

### **Proposed amendments to the BIA**

Since the tabling of the BIA and raising our concerns, the Canadian charitable sector has welcomed the government’s openness to dialogue. We have been clear that it is essential that the BIA be amended before being passed into law. These amendments will move us forward as a country, rather than backward, and put us more in line with global best practice in charity regulation. Our proposals will prevent the perpetuation of a colonial dynamic between charities and equity-seeking partners in Canada and around the world, and create the conditions for more, rather than less, partnerships between the charitable and philanthropic sector and communities that need the resources the most.

At a minimum, we strongly urge that the BIA be amended, at minimum, to:

- Refine the proposed definition of ‘qualifying disbursement’, section 149.1(1). Remove the reference to disbursement meeting ‘prescribed conditions’ and replace it with a requirement that the charity instead takes reasonable steps to ensure that the resources disbursed are used exclusively in furtherance of a charitable purpose.
- Amend language related to ‘directed giving’, paragraph 168(1)(f). This would allow Canadian charities to contribute to pooled funds supporting non-qualified donees.
- Delete proposed Regulation 3703 in its entirety. This would allow for regulations to be in the CRA guidance documents rather than exist as codified rules in the Income Tax Act.

We acknowledge and fully support the need for accountability in our fiscal regime. We are confident that the changes we propose will ensure the upmost accountability of Canadian charities and the trust of our supporters. We urge the government to address the unintended consequences of the BIA language so that we can put in place a regulatory framework that is connected to the reality and operations of Canadian charities improving lives in Canada and abroad.

### **Signatories**

1. ACTED
2. Action Against Hunger
3. Action Canada for Sexual Health and Rights
4. ADRA Canada
5. AidWatch
6. Association québécoise des organismes
7. Alberta Council for Global Cooperation
8. Alternatives
9. Atlantic Council for International Cooperation (ACIC)
10. British Columbia Council for International Cooperation (BCCIC)
11. Canada World Youth | Jeunesse Canada Monde
12. Canadian Centre for Christian Charities
13. Canadian Feed the Children
14. Canadian Foodgrains Bank
15. Canadian Lutheran World Relief

16. Canadian Partnership for Women and Children's Health - Partenariat canadien pour la santé des femmes et des enfants (CanWaCH)
17. CARE Canada
18. Centre d'étude et de coopération internationale - Centre for International Studies and Cooperation (CECI)
19. Climate Action Network Canada - Réseau action climat Canada
20. Coady Institute
21. Cooperation Canada | Coopération Canada
22. CPA Sans Frontières
23. Crossroads International
24. Cuso International
25. Development and Peace Caritas Canada
26. Engineers Without Borders Canada | Ingénieurs Sans Frontières Canada
27. Equality Fund
28. Equitas - International Centre for Human Rights Education
29. ERDO
30. Farm Radio International | Radios Rurales Internationales
31. Food for the Hungry Canada (FH)
32. Health Partners International Canada
33. Hope and Healing International
34. HOPE International Development Agency
35. Human Concern International
36. InterPares
37. Islamic Relief Canada
38. Jane Goodall Institute of Canada
39. KAIROS Canada
40. Kentro Christian Network
41. KIDS Initiative Inc.
42. Manitoba Council for International Cooperation
43. Médecins du Monde Canada
44. Mennonite Economic Development Associates
45. Mission inclusion
46. Northern Council for Global Cooperation
47. Nutrition International
48. ONE Canada
49. Ontario Council for International Cooperation
50. Operation Eyesight
51. Oxfam Canada
52. Oxfam-Québec
53. Partners In Health Canada
54. PEGASUS Institute
55. Penny Appeal Canada
56. Plan International Canada
57. Results Canada
58. Samaritan's Purse
59. Saskatchewan Council for International Cooperation
60. Save the Children Canada
61. SeedChange
62. SOCODEVI
63. SOS Children's Villages Canada
64. Steelworkers Humanity Fund
65. SUCO
66. Sumar & Associates Ltd.
67. The Canadian Partnership for Women and Children's Health (CanWaCH)

68. The McLeod Group
69. The Primate's World Relief Development Fund
70. The United Church of Canada
71. Veterinarians Without Borders
72. VIDEA
73. War Child Canada
74. World Accord
75. World Vision Canada
76. WUSC-EUMC