

## Charity Law Update

### *Revisions to the Code of Governance for Charities and IPCs*

#### **Overview**

On **4 April 2023**, the revised Code of Governance for Charities and Institutions of a Public Character (“**IPCs**”) (the “**Revised Code**”) was published by the Charity Council. These revisions, which were the result of several rounds of public consultation, came into effect on **1 January 2024**. The aims of the revisions, according to the press release on the Revised Code by the Ministry of Culture, Community and Youth, were to “raise the standards of governance in the Charity Sector” and “instil confidence in Singaporeans to give and support our charities and their causes”.

Broadly speaking, the Revised Code imposes stricter organisational oversight on charities while clarifying expectations and enabling charities to more easily comply with the guidelines in place. Key revisions include the addition of 6 principles that charities should fulfil, the implementation of 10-year Board Term Limits for certain classes of charities, and the revision of the tiering structure for charities.

#### **Structure of the Revised Code**

Several key features of the structure of the Revised Code have been highlighted below.

##### **A) ‘Comply or Explain’**

The ‘comply or explain’ regime in the code pre-dates the revisions made to it, and this regime mandates that every charity (with certain exceptions<sup>1</sup>):

1. Is required to submit a Governance Evaluation Checklist on the Charity Portal, which will be made available for public viewing;
2. Should explain why it cannot fully comply or can only partially comply with certain guidelines; and
3. Should indicate the steps it plans to take to comply or explain why it is unable to comply.

In other words, charities must comply with the guidelines provided in the Revised Code, or share their reasons for being unable to do so as per the Checklist.

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<sup>1</sup> These exceptions include charities which are not IPCs and have gross annual receipts (or total expenditure, whichever is higher) of less than \$50,000. They also include exempt charities and self-funded grantmakers which do not have IPC status, such as philanthropic foundations funded with private money or institutional money.

## **B) 6 Principles**

The Revised Code lays down 6 principles which charities should adopt to achieve a high standard of governance and attain long-term sustainable success. These principles are accompanied by guidelines that charities are encouraged to follow.

The principles are listed as follows:

1. The charity serves its mission and achieves its objectives
2. The charity has an effective Board and Management
3. The charity acts responsibly, fairly and with integrity
4. The charity is well-managed and plans for the future
5. The charity is accountable and transparent
6. The charity communicates actively to instil public confidence

These principles are in line with the objectives of the Code, namely, to “enhance the effectiveness of charities”, “provide guidance to Board members to help them carry out their duties as fiduciaries”, and “boost public confidence in the charity sector”.

Charities are strongly encouraged to adhere to these principles.

## **C) Charity Tiers**

The Revised Code has reduced the number of Tiers that charities are grouped into, though the metrics by which they are differentiated remain the same. Previously, charities were grouped into 4 Tiers. Now, charities are grouped into 2 Tiers, Tier 1 and Tier 2.

A charity’s Tier is determined by the size of the charity in each of the 2 financial years before the current financial year. The size of the charity is determined by the higher of its gross annual receipts or total expenditure, which is calculated with reference to each of the 2 financial years before the current financial year.

Generally, charities will be categorised as follows:

- Tier 1: Small and Medium Non-IPCs<sup>2</sup>
- Tier 2: All IPCs and Large Non-IPC Charities<sup>3</sup>

Tier 2 charities will need to comply with additional guidelines, such as documenting the plan for building the capacity and capability of the charity and ensuring that the Board monitors the

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<sup>2</sup> With gross annual receipts or total expenditure (whichever is higher) from \$50,000 to less than \$10 million

<sup>3</sup> With gross annual receipts or total expenditure (whichever is higher) of \$10 million or more

progress of this plan. This is as they have more resources and should therefore adhere to higher standards of accountability.

## **Key Revisions**

In addition to the 6 new principles and tier structure, other key revisions to the Revised Code are highlighted below.

### **A) Partial Compliance Option in the Governance Evaluation Checklist (“GEC”)**

The GEC has updated its scoring matrix to introduce the option to indicate partial compliance. Charities are now to indicate whether they have complied, partially complied, or not complied with the Calls for Action within the GEC. If the charity indicates that it has complied, it is awarded with 2 points; partial compliance is awarded with 1 point, and non-compliance with 0 points. This change allows charities to receive some recognition for their attempts to fulfil the checklist.

In order to be assessed as having good governance, all Tier 2 charities should minimally attain 80% of the GEC score, which represents a minimum of 61 points. While there is no penalty for charities that attain a lower score, IPCs with GEC scores above 80% will be better regarded by the Sector Administrators when submitting applications to extend their IPC status.

Charities with financial years ending on 31 December 2024 constitute the first group of charities that must submit the revised GEC; they should do so by June 2025.

### **B) 10-Year Board Term Limit for Tier 2 Charities**

Under the Revised Code, the term limit for all Board members of Tier 2 charities is now a maximum of 10 consecutive years. Board members may be re-appointed to the Board after a minimum period of 2 years. Previously, charities were allowed to retain Board members who had served for over 10 consecutive years, though they required to provide reasons for doing so. This change is intended to further encourage charities to implement board-level succession planning.

If the charity desires to retain a Board Member for longer than 10 consecutive years, it requires approval at the general meeting where the Board Member is being re-appointed or re-elected to do so.

### **C) Introduction of Environmental, Social and Governance (“ESG”) Concepts**

The Revised Code introduces the concept of ESG to the charity sector. Breaking down the components of ESG, “Environmental” relates to how the charities’ activities impact the

environment, “Social” relates to how charity-stakeholder relationships are managed, and “Governance” relates to charities’ self-governance. Charities are therefore encouraged to be more environmentally conscious, keep good relations with stakeholders, and uphold stringent governance standards.

Therefore, the Revised Code advocates for charities to consider ESG factors when planning and executing their activities, and to let their stakeholders know about their ESG activities.

*Should you have any queries as to how this update may affect you or your organisation or require further information, please do not hesitate to email us.*



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*This article is intended to discuss the Code of Governance for Charities and IPCs (April 2023), and it is not intended to be comprehensive nor should it be construed as legal advice. This article is updated as of 13 March 2024.*

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