

Charities Aid Foundation



Regulatory Update for Charities



Update on charity law and regulation for investors

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Introduction

- A horror story!
- C (P & S I) Act 2016
- Charity Governance Code
- Charities Bill
- CRS
- MiFID II

KI - a horror story!

Kingsway International

- invested via trustee (unregulated)
- speculative, high risk investment
- fixed 55%p.a. return!
- loss of £3.9M out of £5M invested
- conflict of interest
- Trustee Act – wide powers **but** needs: care, suitability, diversify, advice, review
- restitution

C (P & S I) Act 2016

C (P & S I) Act 2016

- fund-raising
- disqualification
- CC powers e.g. to 'warn'
- social investment

Social Investment

- statutory power (subject to constittn.)
- consider need for advice
- consider interests of charity:
 - advancing purposes
 - achieving financial return (care with PE)
- risk to bens if default?
- keep under review
- CC14

Charity Governance Code 2017

Charity Governance Code

- principles and recommendations
- 2 versions – ‘large’ and ‘small’
- no mention of investments, but...
- principle 4: decision-making, risk and control
- values and agreement with supplier
- in interests of charity

Charities Bill?

Charities Bill?

- Law Comm. Report
- 'technical issues'
- 'inefficient and unduly complex'
- not wholesale reform
- draft Charities Bill
- investment reform

Investment reform

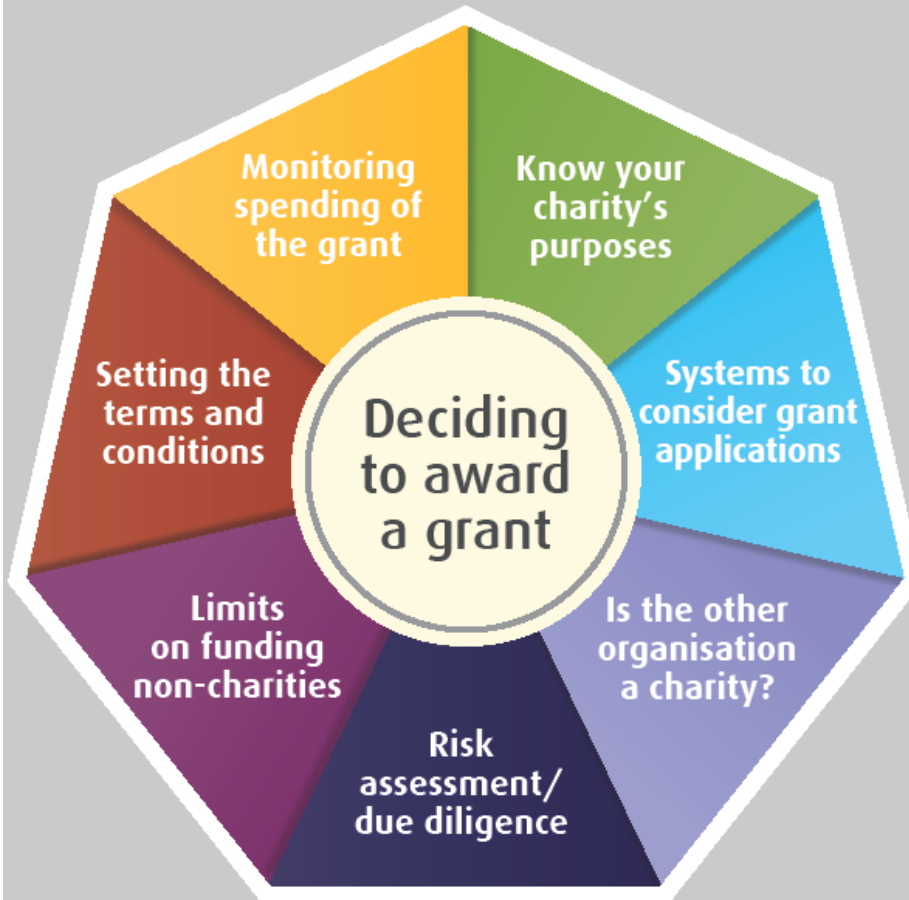
- looser restrictions on PE
- portfolio offsetting
- easier social investments
- statutory power to borrow from PE
- spend up to 25% PE
- must recoup PE within 20 years

Common Reporting Standard

CRS

- NFEs: 'non-financial entities'
- FIs: 'financial institutions'
 - unincorporated
 - discretionary management agreement
 - investment income >50% of gross
 - separate calculation for PE
- donations to overseas beneficiaries
- annual report to HMRC
- grants to non-charities

Charities funding non-charitable organisations: at a glance



CHARITY COMMISSION
FOR ENGLAND AND WALES

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MiFID II

MiFID II (1)

- 3.1.18
- transparency
- no 'inducements' for indep. advice
- ¼ly valuations
- notification if >10% fall in ¼
- detailed info on best execution

MiFID II (2)

- NPIs
- LEIs

Further information

- CC14 [*investments – revised 1.8.16*] - <https://www.gov.uk/government/publications/charities-and-investment-matters-a-guide-for-trustees-cc14>
- C(P&SI)Act 2016 - <https://www.gov.uk/government/publications/charities-and-investment-matters-a-guide-for-trustees-cc14/charities-and-investment-matters-interim-guidance>
- Grants [*to non-charities – revised 11.8.17*] - - <https://www.gov.uk/guidance/draft-guidance-grant-funding-an-organisation-that-isnt-a-charity>
- Charity Governance Code - <https://www.charitygovernancecode.org/en>

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