

	Accepted?	Ref
<u>Transitional provisions</u>		
The existing registrations carry over, but please could the Guidance stipulate when charities will need to establish and notify their Charitable Purpose.	Yes	See Transitional Provisions Regulations and Timeline
It is likely that some charities will either struggle to meet one of the defined Charitable Purposes, or establish that they don't serve the Public, as defined. We need some Guidance on when they will cease to be charities.	Yes	
Some charities will choose to deregister; again, please could there be some Guidance on the process for them to retain their charitable tax exemption?	Yes	
<u>The Ordinance</u>		
The Ordinance provides for the Registrar to refuse an application for anything that would not be in the public interest. One member expressed concern that the charitable purpose that advances a "religion" which is in reality a group set up to promote a hatred of some parts of our community, could be deemed to be an acceptable charitable purpose. It would be helpful for the Guidance to list some of the things that the Registrar might object to, such as this sort of Group, and also what the Appeals process would be.	Yes	FAQ 5
<u>Regulations</u>		
<i>Definitions - The "Public"</i>		
2(1)(a) might conceivably include a Private Charitable Trust set up with assets bequeathed by a Will (because the Settlor would be member of the Public before the Will Trust was established). The Guidance notes make it clear that this is not the case, but perhaps the Definitions of Public should specifically exclude assets bequeathed to a Private Charitable Trust in a Will. There do appear to be several such trusts	No	
<i>Definitions - "connected persons"</i>		
While most might assume what is meant by people being "connected", we think a generic definition in the Guidance would help. It might not be just connection by family or marriage but might include business connection too, or by less formal common law relationships.	Sort of	FAQ 11 says "Not related to each other"
<i>Definitions - Donations</i>		
This should be extended to include non-cash donations, or else, for example, a donation of a valuable work of art might escape the Regulations. If this is included there would need to be Guidance on how to value non-cash donations. Perishables, for example, should be treated as of no cash value.	Yes	8(3)
<i>Definitions - Member</i>		
Given the importance of what a Member is, a more precise definition would seem to be required, and we presume it would be someone who can vote. There will be charities where people might be deemed to be members because of some loose association, but in fact have no control over the charity.	Yes	Definitions
<i>Definitions - UK Parent Organisation/Affiliate</i>		
7(2) refers to "an organisation that comes within the definition of a UK parent organisation/affiliate" but there is no formal definition, which would seem to be required.	Yes	1(3)2D and Definitions

<i>Private Charitable Trusts managed by Regulated FSBs</i>		
The Regulations (and the Guidance) explicitly exclude Private Charitable Trusts that do not take charitable donations and operate within the Bailiwick. We have had representation on behalf of a small number of such charitable trusts, all administered by Regulated Trust businesses, who believe that the rules would lead to some charities being unable to operate in Guernsey. One example sponsors Bailiwick students at University in the UK, and in some EU countries. Given that funds are paid to universities beyond our borders, they would not qualify for the exemption. The particular issue is that some of the Governing Document rules do not sit well with some types of trusts (e.g. Will Trusts). One administrator mentioned that one Will Trust he is administering has a requirement for two specific people (both Danes) to be trustees, which would not be possible with the requirement for board members to be Guernsey residents. The Trust would have to be wound up and repurposed, and that would be to the detriment of the Bailiwick.	Yes	1(2)(b)(iii), FAQ7 and Schedule 13(h)
Given that regulated FSB administrators are governed by much stricter Financial Crime regulations, it does seem to us that we should make an exception from some of the Governing Document rules for charities (in whatever form they are constituted). For charities administered by Regulated FSBs, the requirement to follow the Schedule for Governing Document regulations should be relaxed.	Yes	7(b) and FAQ11
<i>Charities established by Statute</i>		
Some charities are established and incorporated/governed by Statute, the GSPCA, for example. We haven't looked at their governing documents or the incorporating Statutes, but while we don't see why it should not be possible to have an Addendum covering the matters in the Schedule, they could not adopt any clause that contradicts whatever is provided in their Statute. The Regulations should have a carve out for clauses which might affect these charities.	Yes	4(6)
<i>Branches of UK charities</i>		
In 4(5) the proposal that charities which are a branch of a UK Registered Charity will not need a local Governing Document, is not appropriate. This would create a two-tier system and weaken local regulations for these charities. The UK Charity Commission rules are not prescriptive (yet) like ours will be and this could be used to defeat financial crime laws out of sight of both the UK and Guernsey regulation. It is not onerous for local branches to do a gap analysis and produce a local addendum to the UK Governing Document that covers any gaps. We propose that this exemption should be modified at specified above.	Yes	4(5)b
<i>Non-financial record keeping</i>		
5(4)(a) The record retention period for contracts should be 6 years from expiry rather than commencement	Yes	5(4)(a)
<i>Accounts to be made available on request</i>		
6(1)(e) provides for charity accounts to be made available on request. As you know there is no Public Interest argument for this, given that donations are voluntary and there is no Gift Aid that results in public money being paid automatically. The UK has this requirement, but Jersey does not, so we would not be out of step with our peers if we took this requirement out. We don't like this requirement for several reasons:	No, but this aspect will not be brought into force in immediately. The	Transitional Regs and FAQ13

<ul style="list-style-type: none"> - donors can always ask to see account before they donate - there is an admin burden and cost, particularly for those who do not have websites where they can be posted for automatic download - because there are no standards for financial statements yet, and a general reluctance of qualified accountants to assist charities, while we have seen some charity accounts of good quality, we have seen many others of poor quality, some very poor, and this could reflect very badly on the whole sector, disproportionately to the benefit of transparency. We would not want to create inadvertently a wider funding issue for charities by bringing this requirement in before they have a chance to produce accounts of consistent quality to an agreed standard. <p>The general mood of our membership (apart from the two members who made their views known to Richard at our charity forum), is that this is a step too far, for now at least. No other charity at the Forum disagreed during or after the presentation on the subject and our Sector Representatives have straw polled their sectors. If we could be more confident that charity accounts reliably conformed to acceptable standards we are prepared to reconsider, but there would also have to be a reasonable donation in support of any request, to cover costs where these are not available online.</p>	<p>Transitional Regs apply this for accounting periods beginning after 1 March 2023, so for most charities the accounts for the year ended 31 Dec 2023</p>	
<i>Identification measures</i>		
<p>8(5) does not really reflect reality as it stands because, in most cases, a charity simply receives funds into its bank account, there is usually no possibility to carry out identification measures before the funds come in. The rest of the clause caters for this because it provides where this is “not reasonably practicable”, but since that will be pretty much every case, perhaps the wording should reflect this.</p>	<p>No</p>	
<p>There is a separate issue requiring Guidance about what to do with a donation received that is suspicious. AML rules for regulated Financial Service Businesses require notification to the FIS and nothing be done with it until they advise, but do rules these apply to non-regulated people?</p>	<p>Yes</p>	<p>FAQ22</p>
<i>The Schedule</i>		
<p>Item 6, should add “other than funds held in a bank account”</p>	<p>No</p>	
<p>Item 11 and 12, the word “verified” is arguably the same as “audited”. The term “inspected” or “examined” are more acceptable, less ambiguous, and conform to what is used by the UK Charity Commission.</p>	<p>Yes</p>	<p>11, 12</p>
<p>Item 12 refers to the statements being audited or inspected <u>if required</u>. Most charity accounts are not audited or inspected so we would prefer this to be framed towards “NOT audited/independently inspected UNLESS required”.</p>	<p>Yes</p>	<p>12</p>
<p>Item 13(h) requires Board Members to be Guernsey resident. This is changed from the 2018 Guidance which required only one to be Guernsey resident, and a blanket ban on non-resident Board members is likely to cause significant problems. We suggest a suitable compromise is that “a majority” of Board members should be Guernsey resident.</p>	<p>Yes</p>	<p>13(h)</p>
<p>Items 15 to 17, refers to the titles of specific officers whereas the Guidance FAQ 10 simply refers to Managing Officers. We can see some occasions where specific titles may not be appropriate but agree there should always be three. So, the Schedule should provide for a minimum of three Managing Officers or Trustees fulfilling the roles of Chair, Treasurer and Secretary or equivalent.</p>	<p>Yes</p>	<p>15-17</p>
<p>Item 14(f) – making it a “duty” to ensure that the financial position is satisfactory is an almost impossible obligation. It would be more appropriate to put it as an “objective” to ensure a satisfactory financial position, or similar.</p>	<p>Yes</p>	<p>14(f)</p>
<i>Guidance</i>		

We need to put something in the Guidance about “the form and manner” of financial statements. There is one relevant source, namely the CIPFA/UK Charities Commission SORP (FRS 102). We wouldn't want simply to refer to this in the Guidance, as the SORP is 230 pages long, but we think we can distil the bones of this down to 2 or 3 pages, with an underlying reference to the SORP for clarification. We are happy to do some work on this.	Yes	FAQ13
The Financial Crime Risk Assessment and Anti-Financial Crime Policy are both documents that need Guidance. We have had some offers from Compliance people to assist, and happy to share this.	Yes	FAQ40
The part in the Law about unspent criminal convictions needs some Guidance please, so that “minor” criminal infractions (unpaid fines/speeding tickets?) do not preclude people standing on Committees/Boards. Most of our members are not clear about the distinction between civil and criminal offences, so the Guidance should clear this up please. It might help if the Registry created a register of “approved” board members (within their existing register of Directors) so that if a board member receives a conviction, it can be notified to all charities where they are on the Board.	No	
In the same vein, the Ordinance <u>requires</u> the Charity and its officers to police the requirement that no officer should have a criminal record. We hadn't considered the effect of this, but it suggests that charity boards should be routinely required to ask for DBS checks for all officers. Some Guidance is necessary to avoid excessive bureaucracy.	No	
8(3)(c) refers to taking “such steps as are reasonable in all the circumstances to apply the measures in paragraph (1) to the Individuals who own or control the entity”. This needs Guidance in a charity context, for example sending funds to a registered UK charity that is not a parent or affiliate, where it should be sufficient to establish it is Charity Commission registered rather than doing CDD on the individual directors. FAQ 19 should allow for this, because, as written (final paragraph) it suggests that the CDD should be done on the owners/controllers of the charity.	No	
FAQ 6 – please include reference to this including non-cash donations	No	
FAQ 10 – reference our point above about charities administered by Regulated FSBs, if this is accepted, this guidance should be amended	Yes	FAQ11
FAQ 12 – if our point about making accounts available to the public is accepted, the middle paragraph should be deleted.	No	Now FAQ13
FAQ 13 – an issue about cash that is becoming more relevant is that as banks start to charge for cash deposits, some charity officers pay cash receipts into their personal accounts (where there are no charges) and then transfer the funds electronically to the charity. Usually this is done under proper control (one person counts the cash, the other pays into his own account and transfers to the charity, the treasurer confirms). There is no question of this being a “loan”, it is simply convenient to avoid bank charges, and usually occurs after a fundraising event. We would suggest a limit of £1,000 per transaction as a starting point.	Yes	6(4)
FAQ 13 – the final item, accounting policies, will follow from the work we will do on the “form and manner” of the financial statements. Suggest you put a holding statement in this clause that the Guidance will be updated when that work is completed.	Yes	FAQ13
FAQ 21 – In the second paragraph, it might help to suggest that “periodically” will not normally mean more than once every five years, provided there are no changes in circumstances	Yes	FAQ23
International Guidance FAQ 6 – surely the GFSC has a list of “focus countries” which can be shared by the Registry with International Charities? This would be better and more rigorous than leaving it up to the charities to decide.	No	
<u>Thresholds</u>		

5(2) - value above which to retain records of contracts/sales/purchases. Our members' suggestions ranged from £750 to £10,000. We think it should be closer to the latter so we propose £10,000	£5,000	5(2)
6(1)(a)(i) – maximum value of cash transactions in any rolling 12-month period. There was a broad consensus that this should be at least £10,000 to avoid issues on Flag Days. Clearly this could reduce as charities move away from use of cash, but for now we propose the limit should be £10,000 so as not to cause immediate issues.	£1,000	6(1)(a)(i)
8(3)(a) – threshold for a significant donation requiring identification measures. Our members' suggestions ranged from £7,500 to £50,000. We propose £25,000	£15,000	8(3)(a)
8(3)(b) threshold for a significant grant to a beneficiary (single or rolling 12-month period). Again, we propose £25,000.	£15,000	8(3)(a)
12 – threshold for reporting of payments outside the Bailiwick to the Registrar. Our members' suggestions ranged from £20,000 to £250,000. We think the latter number would be too high as a starting point, but with the GOAC grant limit set at c. £50,000 and with two grants per annum per applicant, a limit of £100,000 would not normally lead to any unnecessary reporting requirements yet would still be acceptable in the fight against Financial Crime. We must bear in mind the ability of the Registry to do something with the reports that are lodged and there is no point in clogging them up with unnecessary bureaucracy.	Yes	12
<u>Other</u>		
<p>We mentioned at the Forum that, as regards Annual Validation and notification requirements, it would be preferable, so as to avoid unnecessary bureaucracy, if the Registry would collect and pass on any data needed by any States department, e.g. Revenue Service and Office for Data Protection, and also use data it already holds on other Registers where that is relevant to the NPO register.</p> <p>All notifications and returns should be able to be submitted through an online portal.</p> <p>All references to roles should be gender neutral, so Chair rather than Chairman etc.</p>	No comment on these, for further discussion with Registry	