

COMMISSIONER OF CHARITIES' OFFICE

Guidance on Regulation of International Charitable Organisations (ICOs)

(A) INTRODUCTION

Q1. What is the purpose of this guidance?

In Budget 2007, the Government has announced plans to develop Singapore into a premier hub for nonprofit organisations and philanthropy. To attract and retain qualifying *International Charitable Organisations* (“ICOs”) which can help achieve Singapore’s vision, the office of the Commissioner of Charities (“COC”) has worked with the Economic Development Board (“EDB”) to develop a more conducive charity registration regime for these ICOs. This guidance clarifies how such ICOs would be considered for charity registration.

Note: If you are a grantmaking organisation, please refer to our guidance on *Regulation of Grantmakers* instead.

Q2. What are qualifying International Charitable Organisations?

ICOs are charitable organisations with a regional or global charter. They are involved in delivering some form of charitable aid or charitable services on a regional or global scale. An established ICO typically operates on a large budget and has offices spanning the globe, choosing to locate where conditions are most favourable to its causes. Examples of well-known ICOs would include *World Vision International*, *Habit for Humanity International* and *World Wide Fund for Nature*.

Qualifying ICOs are defined by the COC’s office as those who satisfy **all** the following criteria:

- (a) **A bona fide non-profit entity** – the ICO must prove that it has received tax exempt status in other countries outside Singapore (typically under the respective non-profit legislation in those countries);
- (b) **Non-political affiliation** – the ICO must prove or declare that it is not funded by any political parties and that it does not have a political agenda.
- (c) **Its activities must directly fulfil at least one of the charitable purposes listed below:**
 - (i) relief of poverty;

- (ii) advancement of education;
- (iii) advancement of religion, or
- (iv) other purposes beneficial to the community, such as:
 - a. the advancement of health;
 - b. the advancement of citizenship or community development;
 - c. the advancement of arts, heritage or science;
 - d. the advancement of environmental protection or improvement;
 - e. the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantages;
 - f. the advancement of animal welfare; and
 - g. the advancement of sport, where the sport advances health through physical skill and exertion.

(d) The organisation should have a regional or global charter;

(e) Based on EDB's economic criteria, the organisation must commit to meet at least one of the following targets which will benefit Singapore economically:

- (i) Employ at least 3 staff within three years of setting up office in Singapore, at least one of them being a Singaporean Citizen or Permanent Resident. The office must conduct at least two regional functions from the following list:
 - Strategic Business Planning and Development
 - General Management and Administration
 - Marketing Control, Planning and Brand Management
 - Intellectual Property Management
 - Corporate Training and Personnel Management
 - Research, Development and Testbedding of New Concepts
 - Shared Services
 - Economic or Investment Research and Analysis
 - Technical Support Services
 - Sourcing, Procurement and Distribution
 - Corporate Finance Advisory Services
- (ii) Commit at least S\$1 million in annual business spending
- (iii) Conduct activities in Singapore (such as regional / global conferences) that will generate at least 300 visitor-nights¹ annually.

(B) CHARITY REGISTRATION FOR ICOs

¹ Visitor-nights are defined as the number of foreign attendees multiplied by the event duration in days.

Q3. Do ICOs need to register themselves as a charity in Singapore?

Under Section 5(6)(a) of the Charities Act², any organisation which operates in Singapore for exclusively charitable purposes³ should apply to register itself as a charity with the COC's office within 3 months. While application to register is mandatory, successful registration is conditional on certain criteria which the organisation needs to meet. Hence, an ICO which plans to conduct or is already conducting exclusively charitable purposes in Singapore should apply to the COC's office for charity registration. Application can be done online through the Charity Portal (www.charities.gov.sg).

Q4. What are the key charity registration criteria in Singapore?

The key charity registration criteria are:

- (a) The organisation's purposes must be exclusively charitable;
- (b) The institution to be registered locally must have at least 3 trustees, of whom at least two must be Singapore citizens or permanent residents; and
- (c) The purposes/objects of the organisation must be beneficial wholly or substantially to the community in Singapore.

Q5. What are the benefits of being a registered charity to that of an unregistered charitable organisation?

Registered charities receive an automatic tax exemption on their income regardless of where the income is spent (locally or overseas). In addition, registered charities also receive property tax exemption on premises used for exclusively charitable purposes.

Q6. Our ICO has purposes which are only partially charitable, or whose charitable purpose(s) does/do not fall under any of the categories of charitable purposes listed above. Can we still qualify for charity registration?

The COC's office registers only organisations with exclusively charitable purposes so as to safeguard the public interest that registered charities are truly charitable in nature.

For organisations with partially charitable purposes, we encourage them to separate the exclusively charitable functions from the non-charitable functions, and register the separate entity with the exclusively charitable purposes as a charity instead. Similarly, ICOs with partially charitable purposes could simply set up local chapters or entities with exclusively charitable purposes and register these local chapters / entities as charity.

² Legislation that governs the charity sector in Singapore, available on <http://statutes.agc.gov.sg/>

³ Charitable purposes are listed in part (c) of Q2 in Section (A).

If your organisation is unsure about whether your purpose is exclusively charitable, you could submit your governing instrument(s) to the COC's office for our assessment.

Q7. Can the COC's office be flexible for ICOs on the 3-trustee requirement and the requirement to have at least two of the three trustees for the locally registered charity to be Singapore citizens / permanent residents?

The COC's office has put in place the 3-trustee requirement to ensure greater accountability in our charities and to protect the public against rogue charity trustees. The requirement for at least two of the three trustees to be Singapore citizens / permanent residents enables the COC's office to have proper jurisdiction and regulatory oversight of the charity. For qualifying ICOs which are unable to meet this criterion, the COC's office will consider being more flexible on a case-by-case basis.

Q8. Can the COC's office be flexible for ICOs on the requirement that the purposes of the organisation must be beneficial wholly or substantially to the community in Singapore?

Since registered charities typically receive local donations as well as automatic tax exemption on their income, there is an expectation that they should also benefit the local community to justify the donations received and the tax benefit.

However, the COC's office recognises that ICOs typically conduct regional or global charitable work from a base location. It would therefore be unrealistic to expect a locally registered office of an ICO to have to contribute wholly or substantially to the community in Singapore when its charter is regional or global. Hence, the COC's office will exercise flexibility on the extent of the ICO's local office's contributions to local charitable causes vis-à-vis foreign charitable causes, in processing their registration.

Nevertheless, locally registered chapters of ICOs are still expected to benefit the local community, albeit not wholly or substantially. Some of the ways ICOs could contribute would include the following:

- (a) Contributing a certain percentage of their income to local charitable causes;
- (b) Partnering with local charities to conduct joint charitable programmes / services;
- (c) Building or improving capabilities⁴ in the local charitable sector by way of sharing of best practices through workshops, conferences, consultancy, etc.

⁴ For instance, ICOs could share best practices in governance, strategic planning and fund-raising programme management with the local charities or other stakeholders in the local non-profit sector.

Q9. If I am an ICO who is also a grantmaker, would I need to contribute to local charitable causes?

Grantmakers are charities which are founded with private family/institutional money and which do not raise funds from the public. As such, there is no requirement that they should contribute to local charitable causes although their contributions would be welcomed. Please refer to the COC's guidance on *Regulation of Grantmakers*.

Q10. What is an Institution of a Public Character (IPC) status and can ICOs qualify for such status here?

Institutions of a Public Character (IPCs) are non-profit organisations that are authorised to receive tax-deductible donations. Currently, donors are given double tax-deduction for donations made to IPCs.

Due to the tax benefits, IPCs are required to spend 100% of their income on local charitable causes and the IPC status is conferred by the COC's office based on stringent criteria. ICOs with registered charity status in Singapore are welcome to apply for IPC status if they wish to contribute wholly to local charitable causes. More information on IPCs as well as IPC application can be found online via www.charities.gov.sg

Q11. If an ICO fails to qualify for charity registration, can it still obtain tax incentive given its nature as a non-profit organisation?

Yes, this is possible. The Economic Development Board (EDB) administers an NPO Incentive Scheme. ICOs who do not qualify for charity registration could approach the EDB International Organisation Programme Office to inquire about the scheme. However, ICOs who qualify for charity registration cannot apply for EDB's NPO Incentive Scheme.

(C) FUND-RAISING FOR FOREIGN CHARITABLE CAUSES

Q12. Can ICOs fund-raise in Singapore for foreign charitable causes? If yes, what are the requirements?

Yes. Any organisation that wishes to conduct any fund-raising appeal for any foreign charitable purposes must apply to the COC's office for a fund-raising permit. The application should be submitted not less than 30 days before the date on which the fund-raising appeal commences. The applicant must be an organisation (corporate or unincorporated) in Singapore as the permit will not be granted to an individual person. Applying for a permit is a simple procedure that can be done online via the Charity Portal (www.charities.gov.sg).

If the ICO is not registered (corporate or unincorporated) in Singapore, then it must seek the help of a locally-registered organisation to apply for the permit on its behalf. This is to allow the COC's office to have jurisdiction over a foreign organisation which is unregistered in Singapore but intends to fund-raise in Singapore.

Q13. What documents do I need to submit with the application?

The following attachments are required with the completed application form (which can be downloaded from www.charities.gov.sg):

- (i) Proof that the beneficiary is a bona fide organisation in its country;
- (ii) Letter from beneficiary acknowledging the fund-raising activity held in its name;
- (iii) Constitution of the charity, intended beneficiaries of the relief fund (where applicable); and
- (iv) Information on the estimated expenses (in detailed breakdown) to be deducted from fund raised.

Q14. Are there any restrictions to the use of the funds raised through such appeals?

If the funds are to be raised from the general public, then the applicant has to apply at least 80% of the net proceeds of the funds raised within Singapore. Depending on the nature of the fund-raising appeal such as for disaster relief, the COC has the discretion to allow a lower percentage to be applied within Singapore.

If the funds are to be raised only from private donors such as family, friends and business associates, then the applicant need not apply 80% of the net proceeds in Singapore. However, application for a permit is still required.

In addition, the fund-raising appeal expenses should also not exceed 30% of the total funds raised i.e. "30/70" rule.

Q15. What is the difference between public donations and private donations?

Public Donations

Essentially, the following guidelines will determine whether the donations are considered as from the public:

- (i) House-to-house and street collections: the appeal intends to fund-raise by way of house-to-house or street collections e.g. use of volunteers or paid staff to sell "flags"; or

- (ii) Use of Media Publicity: the appeal, direct or indirect, leverages on any form of traditional or new media publicity e.g. news coverage on the plight of individuals, use of Internet advertising, fund-raising appeal through radio, television, etc; or
- (iii) Use of Outdoor Display: the appeal, direct or indirect, leverages on any form of outdoor display such as billboards, banners and blimps that is accessible to the general public; or
- (iv) Accessibility of Collection Instrument: the collection instrument used for the fund-raising appeal is accessible to the general public e.g. donation boxes used by companies such as MacDonaldis and other charities such as Society for the Prevention of Cruelty to Animals (SPCA).
- (v) Relationship of Donors: the fund-raising appeal, though not publicised in the media, is targeted at members of public who have no relationship with the fund-raising organisation. For instance, the use of telemarketing, flyers, mass mailers, spam email, mass “SMS” text messaging, etc will be in this category.

Private Donations

The following guidelines will help to determine whether the donations can be considered as private:

- (i) Defined Donor Relationship: Private donations should be sourced from donors who share a defined relationship to the organisation conducting the fund-raising appeal, and not from the general public. These defined relationships could include the organisation’s subscribed members, family members, personal friends, business associates or acquaintances⁵. In addition, the *ultimate target group* of the fund-raising appeal should have a defined relationship⁶ with the organisation or belong to a unique or exclusive category of individuals that would not constitute as the general public.

Categories of unique target groups could include

- i. religious congregations;

⁵ This could include acquaintances made through first-degree (or higher) introductions e.g. a fund-raiser knows someone who can introduce the fund-raiser to other persons. A defined relationship is established when the fund-raiser gets to know these other persons.

⁶ This is to prevent a situation whereby a fund-raiser accesses the database of a “member” company to solicit funds from individuals in that database, who are not directly related to the fund-raiser. A fund-raiser using this practice could thus access many databases, effectively targeting its appeal at the general public. However, if the database is a unique or exclusive list of, say, rich persons, then this can be considered as private.

- ii. a university's alumni network;
- iii. members from a particular club, society or association.

Exclusive categories of individuals could include

- i. Chairmen/CEOs in public-listed firms or private companies;
 - ii. High-net-worth-individuals (HNWIs);
- (ii) No Advertisement of Fund-Raising Appeal: The fund-raising appeal should not be advertised or publicised to the general public in any form.
- (iii) Bequest of private assets: Bequeathed assets are private assets that can be donated to a charitable or philanthropic cause. This would not constitute as fund-raising as long as the assets are bequeathed according to the individual's will. Hence, any bequests to an organisation for foreign charitable purposes do not require a fund-raising permit provided the organisation does not solicit such bequests as part of their fund-raising appeal.

Organisations that wish to fund-raise for foreign charitable causes from private donors would have to abide by the guidelines above in order to be exempted from the 80:20 fund-raising rule. If any of the guidelines above is contravened, the fund-raising appeal would be considered as targeting public donations and the 80:20 fund-raising rule will be imposed. COC's office may allow appeal on a case by case basis if there are strong justifications for exceptions to the guideline.

Q16. Is a permit required for privately-owned money that is donated for foreign charitable causes without having been solicited through fund-raising?

A fund-raising permit for foreign charitable causes is only required to solicit funds for foreign charitable causes. If the funds are donated without having been solicited, then a permit is not required.

Q17. What records must be maintained for such fund-raising appeals?

Every permit-holder must maintain proper record and accounts in respect of the fund-raising appeal as follows:

- (i) Names of the authorised persons who participated in the appeal;
- (ii) Dates on which the appeal commenced and concluded;
- (iii) Gross amount received from the appeal;
- (iv) Amount of every item of expenditure disbursed from the funds raised;

- (v) The amount of net proceeds applied to the foreign charitable purpose for which the appeal was conducted and the means by which it was distributed; and
- (vi) The amount transmitted to any person outside Singapore and to whom the money was transmitted.

The permit-holder must also ensure that all payments out of the funds raised are made with due care and the payment properly authorised.

Q18. Must the Statement of Accounts for foreign fund-raising appeals be audited?

Yes. The Statement of Accounts of the fund-raising appeal must be audited by an auditor approved by the COC. The audited Statement of Accounts must be submitted to the COC’s office within 60 days of the last day of the appeal or within such extended period as may be allowed by the COC. Besides submission to COC, no public disclosure of the Statement is necessary.

(D) SUMMARY REFERENCE TABLE FOR QUALIFYING ICOs

S/N	Charities Act / Regulations	Conditions / Treatment for Qualifying ICOs
<u>Qualifying Conditions for ICOs</u>		
1.	Based on regulatory guidance	<ul style="list-style-type: none"> ▪ Bona-fide non-profit entity ▪ Non-political affiliation and no political agenda ▪ At least one charitable purpose ▪ Regional or global charter ▪ Commit to meet at least 1 of the following criteria: <ul style="list-style-type: none"> (i) Employ at least 3 staff within 3 years of setting up in Singapore, at least one of them being a Singapore Citizen or Permanent Resident. This office must conduct at least 2 regional functions from the following list: <ul style="list-style-type: none"> ○ Strategic Business Planning and Development ○ General Management and Administration ○ Marketing Control, Planning and Brand Management ○ Intellectual Property Management ○ Corporate Training and Personnel Management ○ Research, Development and Testbedding of New Concepts ○ Shared Services ○ Economic or Investment Research and Analysis ○ Technical Support Services ○ Sourcing, Procurement and Distribution

		<ul style="list-style-type: none"> ○ Corporate Finance Advisory Services (ii) At least S\$1 million in annual business spending (iii) Generate at least 300 visitor nights annually
<u>Charity Registration Requirements</u>		
2.	Requirement for a minimum of 3 charity trustees; and 10 trustees for large charities	For qualifying ICOs which are unable to meet this criterion, the COC's office will consider being more flexible on a case-by-case basis.
3.	Requirement that grantmakers have to apply their funds wholly or substantially to benefit the Singapore public	Qualifying ICOs are still expected to benefit the local community. However, they will be given flexibility on the extent of their contributions to local causes vis-à-vis foreign causes.
<u>Fund-Raising Permit for Foreign Charitable Causes</u>		
4.	Requirement for fund-raising permit for foreign charitable causes	<p>Qualifying ICOs which intend to solicit funds from public or private donors for foreign charitable causes are required to apply for a fund-raising permit from the COC's office.</p> <p>If the funds are donated without having been solicited, then a permit is not required.</p>
5.	Imposition of 80:20 rule	<p>For funds which are raised from the general public, the qualifying ICO must undertake to apply 80% of the net proceeds of the funds raised in Singapore i.e. "80:20" rule.</p> <p>The 80:20 rule will be waived for funds which are to be raised from private donors. The onus will be on the qualifying ICO to demonstrate that the funds are raised from private donors and not from the general public, based on the COC's guidelines to distinguish between public and private donations.</p>
6.	Imposition of 30/70 rule	Fund-raising appeal expenses should also not exceed 30% of the total funds raised

Contact Us

If you have any queries regarding the guidance above, please contact us at:

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Please state your name, organisation and contact details so that we can follow up with your query. Thank you.