



Officers of the corporation

Directors are responsible for the strategic direction of corporations under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act). Chief Executive Officers (CEO) and other senior executives are responsible for implementing the directors' strategic vision and managing the day-to-day operations of the corporation. They also have to make sure it is managed well and its funds are spent properly.

Members and other stakeholders want more transparency and accountability around directors and senior staff. They are also concerned about the exploitative behaviour and poor track record of a few senior executives who may move from corporation to corporation.

Executive remuneration

Under the *Corporations Act 2001* (Corporations Act) publicly listed companies must disclose the remuneration of senior staff in their annual reporting. A similar requirement does not exist under the CATSI Act. However, many CATSI corporations are publicly funded through grants, or through native title benefits. Therefore, it may be in the interests of members, common law holders and other stakeholders to know the remuneration received by senior executives.

Feedback from previous reviews and a recent survey conducted by the National Indigenous Australian Agency showed a lot of support for more transparency of senior executives' and board members' remuneration and benefits—such as salaries, sitting fees, allowances, loans and contracts. Although, concerns about privacy were also raised.

It is important that there is balance between the interests of the corporation and the rights of the individual.

- Should medium and large corporations report the remuneration details of their CEOs and other senior managers in their annual reports?
- How much detail should be provided? Should all remuneration be itemised for each relevant individual, or should information be reported in broader groupings?
- Should corporations only have to report on individuals who earn over a certain amount, e.g. \$200,000?
- Do you think members should approve their remuneration?
- Should individual directors' fees also be reported in corporations' annual financial reports to the Registrar?

Remuneration should match industry standards and be reasonable. The Registrar could contribute to more informed decision making in relation to remuneration. CATSI corporations could give the Registrar details of all their senior staff and directors' packages. The Registrar would then be able to publish a benchmark report for comparison purposes, without the individuals being identified.

- Do you agree that corporations should give remuneration information to the Registrar for the purposes of providing benchmarking information?

Executive performance

Some CEOs and directors have a poor performance track record. The Australian Government is introducing the Modernising Business Registers Program to track the careers of corporate directors, including those of CATSI corporations. Eventually, it might include the ability to trace the careers of CEOs and other senior staff.

In the meantime, we propose that all corporations include, at least, the names of the CEOs and other senior staff and their qualification in their annual reports. This would apply not just to CEOs in name, but to anyone who undertakes a CEO function, like a General Manager.

- Do you agree that the names of CEOs and other senior staff and their qualifications should be published in annual reports?
- Do you think medium and large corporations should also include the 10 year employment history of their CEOs and senior executives in their annual reports?

Related party provisions

A related party benefit is when a corporation gives a benefit to a person or organisation with which it has a close relationship. Corporations must undertake a rigorous process to get the approval of members before providing a related party benefit.

However, this can be excessively burdensome for some corporations that operate in remote areas where there is limited options for service provision, and significant kinship ties within communities.

Corporations could choose to pass a resolution allowing small related party benefits up to a certain threshold amount without requiring individual approval. In fact, many of the provisions around related party benefits in the CATSI Act are arguably more restrictive than in the Corporations Act.

- Do you agree that provisions around related party benefits should be reviewed to make them more workable for CATSI Corporations?
- Should all related party benefits should be described in corporations' annual reports?



Directors' requirements

The CATSI Act says that most directors must not be employees of the corporation. However, sometimes it's necessary—such as at art centres, where artists may be employed to create or promote art work, or in native title corporations where members may be employed to do cultural heritage work.

- Do you agree that sometimes the Registrar should be able to exempt corporations from this rule?
- Do you think there should be restrictions in relation to board membership, for example around the number of family members on boards?
- If so, how would this be managed in remote communities where restrictions on the number of family members could cause major difficulties?

It is considered good corporate governance to appoint an independent director with specialist skills and knowledge. Currently CATSI corporations can only do so by including a rule in their rule books

- Do you think the CATSI Act should allow corporations to appoint independent directors without an explicit rule in their rule book?
- Do you think independent directors should be mandated for large corporations?

Further ideas

Is the current CATSI Act definitions of 'CEOs (CEO functions)' and 'officers' providing sufficient flexibility when considering who 'senior executives' are?

Do you think culture and tradition could be incorporated into the operation of corporations by changing directors' duties and rule books, such as:

- providing a defence for directors or officers who are complying with traditional Aboriginal customs or practices of their tribal group
- allowing directors and officers to follow their traditional customs and practices without breaching the rules.

These customs would be set out in corporations' rule books.

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