



Australian Government
**Office of the Registrar of
Indigenous Corporations**



ASIC
Australian Securities & Investments Commission

MEMORANDUM OF UNDERSTANDING

**AUSTRALIAN SECURITIES AND INVESTMENTS
COMMISSION**

AND

REGISTRAR OF INDIGENOUS CORPORATIONS

Memorandum of understanding
between
Australian Securities and Investments Commission
and
Registrar of Indigenous Corporations

1. Purpose

This memorandum of understanding (MOU) sets out a framework for cooperation between the Australian Securities and Investments Commission (ASIC) and the Registrar of Indigenous Corporations (Registrar). The MOU facilitates liaison, cooperation, assistance and the exchange of information and materials to improve the outcomes for both organisations.

ASIC and the Registrar (the agencies) do not intend this MOU to create legally binding obligations between them.

2. Australian Securities and Investments Commission

ASIC is the Australian Government agency responsible for monitoring, regulating and enforcing corporations and financial service laws to protect consumers, investors and creditors and for promoting market integrity. ASIC is responsible for the administration and enforcement of the *Corporations Act 2001* (Corporations Act), the *Australian Securities and Investments Commission Act 2001* (Cth) (ASIC Act), and other related legislation. ASIC also has national responsibility for financial literacy, including the financial literacy of Indigenous Australians.

3. Registrar of Indigenous Corporations

The Registrar is a statutory officer appointed by the Minister for Families, Housing, Community Services and Indigenous Affairs under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act). The Registrar is responsible for the administration and enforcement of the CATSI Act, and is empowered to do all things necessary or convenient to be done for, or in connection with, the performance of his or her functions.

The Registrar has a wide range of functions and powers conferred directly by the CATSI Act such as:

- administering the CATSI Act
- maintaining public registers; including the Register of Aboriginal and Torres Strait Islander Corporations and Register of Disqualified Officers
- ensuring compliance with the CATSI Act and other laws
- regulating Aboriginal and Torres Strait Islander corporations and individuals associated with these corporations where necessary
- registering groups and actively supporting corporations, particularly in remote areas of Australia

- advising Aboriginal and Torres Strait Islander people about registration under the CATSI Act, corporate governance and corporate operation
- assisting with the resolution of disputes and complaints concerning Indigenous corporations
- conducting public education programs on the operation and governance of Indigenous corporations.

The Registrar is assisted by staff of the Office of the Registrar of Indigenous Corporations to administer and enforce the CATSI Act.

4. Liaison

The agencies agree that, where appropriate, they will consult each other on matters of mutual interest. This includes exchange of information, referral of matters, statutory activities of each agency, training, information and other services to clients, policy development and implementation, legislative amendments, and research and analysis.

Each agency will appoint a liaison officer to liaise, communicate and exchange information, materials, research and resources between the agencies under this MOU. Each agency may change its liaison officer as necessary, and will advise the other agency in writing accordingly.

5. Exchange of staff

The agencies agree that, where appropriate, they will facilitate the exchange of staff to assist each other's operations and for staff development purposes.

6. Exchange of information

Each agency will use its best endeavours to provide relevant information in a timely manner in response to requests for information from the other agency, subject to any relevant legal and operational considerations and any caveats that the provider of the information might place upon the use or disclosure of the information, such as claims of legal professional privilege. The agencies must be satisfied that compliance with the request will not adversely affect the operation of the complying agency.

Both agencies will provide material to each other without charge or for reasonable actual costs.

7. Referral of matters

The agencies recognise that once a complaint is received or an initial investigation has been conducted by an agency, it may become apparent that the matter more appropriately falls within the jurisdiction of the other agency.

Both agencies therefore agree that in these instances, the enforcement objectives of each agency will be enhanced if, after consultation, the matter is formally referred to and continued by that other agency. The referrals should be made as soon as practicable after the principal contravention is identified.

The agencies acknowledge that there may be circumstances where matters will also be referred to other relevant federal, state and/or territory regulatory agencies. In those circumstances, each agency will endeavour to consult the other before a referral to a third agency.

8. Confidentiality

When an agency receives information or materials from the other agency in accordance with this MOU, it will:

- take all reasonable steps to ensure that such information is only used or disclosed for the purpose for which it was received, or as otherwise authorised by the other agency, unless ordered to do so by a court or tribunal. In such a case the agencies agree to keep each other fully informed
- keep the other agency fully informed of any freedom of information request about the information or materials received
- observe and comply with any express conditions placed upon the use or disclosure of such information or material by the other agency (such as confidentiality)
- without limiting the generality of clause 7 of this agreement, the agencies will comply with the Information Privacy Principles set out in section 14 of the *Privacy Act 1988*.

9. Review of this MOU

Each agency will keep the operation of this MOU under continuous review and will consult with the other to improve its operation and resolve any matters, which may arise.

10. Termination of this MOU

Either agency may give written notice to the other of its intention to terminate this MOU. The MOU will terminate seven days after the date the notice was received.

11. Publication of this MOU

The agencies may make this MOU publicly available.

DATED this 24th day of August 2010



Tony D'Aloisio
Chairman, Australian Securities and
Investments Commission



Anthony Beven
Registrar of Indigenous Corporations