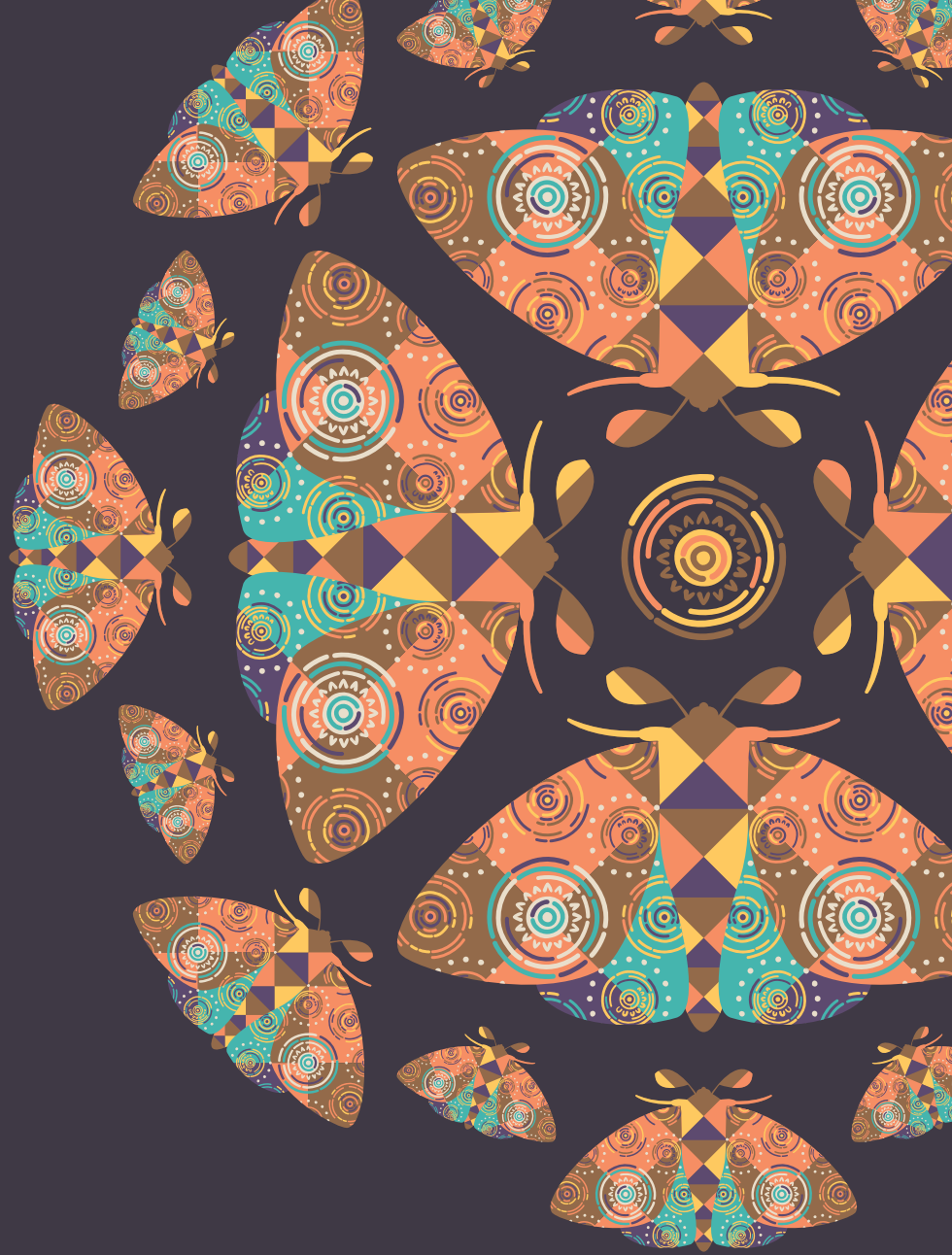




Australian Government
Office of the Registrar of
Indigenous Corporations



Regulatory posture

Regulatory posture of the
Registrar of Aboriginal and Torres Strait Islander Corporations

February 2025

INTRODUCTION

Aboriginal and Torres Strait Islander corporations registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act) are uniquely Indigenous member owned and controlled. They carry an important mandate to deliver social, cultural and economic benefits to their members and communities, and to protect Indigenous rights and interests. A mandate that is granted and entrusted to them by their membership.

The approach taken by the Registrar of Aboriginal and Torres Strait Islander Corporations (the Registrar) to regulating and supporting corporations is informed by this context. The exercise of the Registrar's powers and functions are guided by a commitment to the integrity of a self-determining member controlled Indigenous corporate sector.

Supported by the Office of the Registrar of Indigenous Corporations (ORIC), the Registrar aims to build a culture of self-regulation and commitment to continuous improvement, where low risk corporations are supported to undertake self-assessments and implement remedial action when necessary.

A culture of self-regulation would also see corporations having greater responsibility and autonomy to resolve internal concerns and disputes.

Where regulatory action is required, the Registrar's powers will be used with consistency, reasonableness, and proportionality. ORIC will work with corporations to assist them to overcome challenges, but where the need arises, the Registrar may act swiftly to implement more direct regulatory responses.

PURPOSE

This document sets out the regulatory posture of the Registrar. It outlines the Registrar's posture for key responsibilities of corporations and outlines focus areas for 2025.



Regulatory focus

The Registrar expects CATSI Act corporations to meet all their legislative obligations and will focus on those that underpin accountability and transparency to members. These are fundamental to the governance integrity of self-determining member-controlled Indigenous corporations:

Annual general meetings (AGMs)	<p>Annual general meetings (AGMs) are held before the end of November each year unless an exemption has been granted.</p> <p>AGMs afford members their right to learn about the corporation's health and performance, to ask questions of the board, and to appoint or remove directors.</p>
Director duties	<p>Director duties are carried out in a manner consistent with the CATSI Act.</p> <p>Directors are appointed by the membership to govern their corporation responsibly and with care, diligence, and in good faith.</p>
Rule books	<p>Rule books are modern, transparent, and workable for members.</p> <p>Rule books where members and directors understand their responsibilities and their rights better support effective governance and support corporations to resolve internal issues in a timely manner.</p>
Corporation reports	<p>Corporation reports are complete and accurate, and lodged on time unless an exemption has been granted.</p> <p>Annual reporting is a fundamental form of accountability to members, community, and other stakeholders.</p>
Timely updating of corporation details	<p>Corporations keep their details up to date, including advising ORIC of changes to officers within 28 days.</p> <p>Accurate and timely details on the Register of Aboriginal and Torres Strait Islander Corporations assists members, community, funders and other stakeholders such as banks to have confidence when dealing with duly authorised representatives of the corporation.</p>

ORIC will focus on education and engagement to raise corporations' understanding and awareness of their obligations under the CATSI Act.

Where ORIC receives complaints against a corporation its focus will be on assessing evidence that a corporation is potentially breaching its obligations under the CATSI Act and its rule book. The Registrar does not take regulatory action or investigate all complaints made about a corporation.

The Registrar's preference is that, where it is appropriate, corporations are given opportunity to resolve lower-risk compliance matters themselves. The Registrar in these instances may work with a corporation to take necessary actions to resolve non-compliance without the need for regulatory action. The range of regulatory powers available to the Registrar and ORIC's approach to non-compliance are outlined in the *ORIC Regulatory Compliance Framework*.

Where a corporation does not meet its regulatory obligations the Registrar may take proportionate regulatory action to minimise the risk of harm to the corporation, members or stakeholders. The Registrar will take into account, among other things, whether the corporation has the capacity to resolve the issues, or when other avenues of support, guidance, and direction from ORIC have not been successful.

It is not the role of the Registrar to regulate service delivery or to investigate suspected fraud and non-compliance with Commonwealth and/or state grant funding agreements by Aboriginal and Torres Strait Islander corporations. ORIC's role is to regulate the CATSI Act and to hold officers of corporations to account. Similarly, it is not ORIC's role to resolve internal disputes where a corporation is complying with its obligations under the CATSI Act and is operating in a manner consistent with its rule book.

Focus areas for regulatory action

The Registrar has identified the following areas as a regulatory focus for 2025:

Accurate reporting of assets and income	Sector focus	Officer duties	Fit and proper officers and service providers	Member rights and harmony
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Accurate reporting of assets and income – corporations that have ceased reporting assets and income over time, or are suspected to be misreporting the value of assets in corporation reports.

A decrease in reported assets and income over time may indicate that a corporation is at risk. While corporations that are not reporting the true value of their income and assets are denying their members the right to know about the financial health of their corporation.

Where such risks are identified, ORIC will consider how to support a corporation to correct the reporting. Where corporations are found to be intentionally under reporting and misrepresenting its financial position to members, stakeholders and ORIC, ORIC will consider appropriate regulatory action.

Sector focus – corporations that generate income from non-government sources.

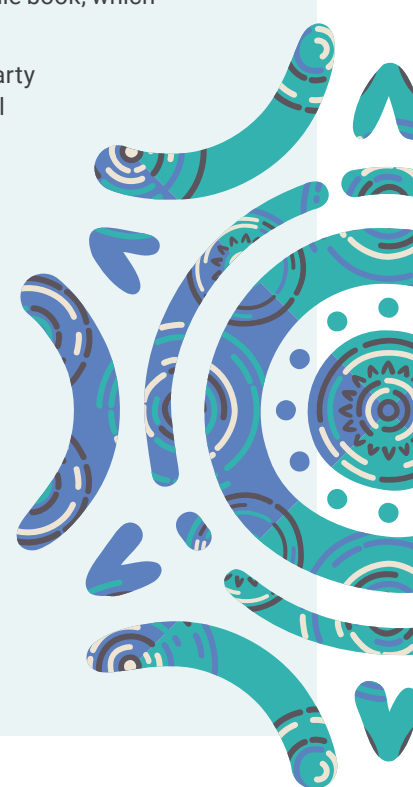
While government funding is tied to grant conditions and monitoring and reporting obligations, income from other sources is often un-tied. The risk of reduced accountability and conflict can be present for funding that is derived from sources such as native title compensation, donations and self-generated income. For this income, there is often no obligation to report to the funding source, as funds are not tied to monitored outcomes and outputs. Regardless of the funding source, corporations must at all times ensure openness, transparency and accountability for all corporation income to its members.

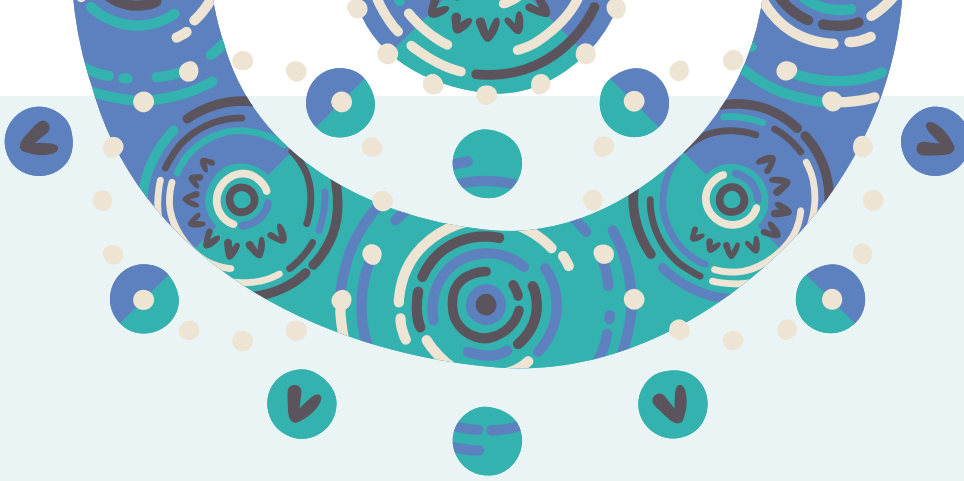
Officer duties – officers of corporations fulfilling their duties consistent with the requirements of the CATSI Act, including directors meeting their duties under the CATSI Act.

Corporation officers are responsible for ensuring that they operate in the best interests of the corporation(s). The Registrar will exercise her powers and functions in relation to officers who have or are suspected to have acted in a manner inconsistent with their duties under the CATSI Act and/or a corporation’s rule book, which may also include consideration of disqualification in the appropriate circumstances.

Directors denying members their rights, failing to manage conflicts of interests and related party benefits, falsifying documents and neglecting their responsibilities in overseeing the financial health of a corporation, are priority matters the Registrar may refer for prosecution or civil penalties.

Corporations who have been the subject of prosecution action for failing to report and then continue to be non-compliant in subsequent years, may be considered for wind-up or civil prosecution action against the directors for failing to meet their duties under the CATSI Act.





Fit and proper officers and service providers – corporations experiencing vulnerability or disadvantage from unsuitable officers and/or service providers.

Corporation members and boards have the right to make informed decisions about those who govern and manage their corporation on their behalf.

Members appointing directors and boards appointing key management personnel can use sources such as the Register of Disqualified Officers to inform their decisions. However, it is not the only indicator of an individual's capability or suitability for a role. For example, the Registrar relies on information from corporation members, the public and key stakeholders to identify individuals who are automatically disqualified through court matters where the Registrar is not a party, for example bankruptcy. The Registrar will assess the information provided and if appropriate, advise a corporation where the person is recorded on the Register of Aboriginal and Torres Strait Islander Corporations as a director.

If a disqualified individual continues to manage a corporation, the Registrar will consider further action including prosecution.

Members of a corporation should also be able to trust that professionals providing services to the corporation are ethical and act in the best interest of the corporation. Where there is evidence of wrongdoing by a professional service provider – for example over servicing, or apparent failure to manage conflict of interest – the Registrar may report these providers to the relevant professional service standards regulatory body.

Member rights and harmony – boards that deny member rights and are not acting in the best interests of the membership as a whole, including through disorganisation or dysfunction in contravention of the CATSI Act and a corporation's rule book.

Conflict or misconduct by directors and/or members can disrupt the effective governance and operations of corporations. A corporation's members have rights, however, they also have a responsibility to try and resolve disagreements directly with their corporation. The Registrar may act where members' rights are at risk of being denied and a corporation is suspected of acting inconsistently with the CATSI Act or its rule book.

The Registrar may also prioritise intervention where conflict and disputes between directors and members are interfering in the personnel, governance and financial safety of a corporation.

Directors are appointed by the corporation's membership and serve for the period that they enjoy the trust and confidence of the members. Members have the right to re-elect directors who are performing to a standard they expect, and to replace directors who are not performing.

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