



Australian Government

Registrar of Aboriginal and Torres Strait Islander Corporations

Corporations (Aboriginal and Torres Strait Islander)

Determination 1 / 2014

made under the

Corporations (Aboriginal and Torres Strait Islander) Act 2006

Enabling legislation

1. I, Anthony Beven, Registrar of Aboriginal and Torres Strait Islander Corporations, make the following determination under section 353-10(1) of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (the CATSI Act).

Title

2. This determination is the *Corporations (Aboriginal and Torres Strait Islander) Determination 1 / 2014*.

Commencement

3. This determination commences on the later of:
 - (a) the date it is registered under the *Legislative Instruments Act 2003*; and
 - (b) the date of its gazettal.

Note: An instrument is registered when it is recorded on the Federal Register of Legislative Instruments (**FRLI**) in electronic form: see *Legislative Instruments Act 2003*, s 4 (definition of **register**). The FRLI may be accessed at <http://www.frli.gov.au/>.

Determination

4. The specified class is exempt from the provisions of Part 7-3 of the CATSI Act and Part 7-3 of the *Corporations (Aboriginal and Torres Strait Islander) Regulations 2007* (the CATSI Regulations) to the extent that:
- (a) apart from this determination, a member of the specified class would not comply with one or more provisions; and
 - (b) the non-compliance would result merely from any or all of the following:
 - (i) a person being an affected auditor rather than a registered company auditor;
 - (ii) an act, matter or thing being done by an affected auditor rather than a registered company auditor;
 - (iii) an audit firm being an affected audit firm rather than an audit firm that has at least 1 member who is a registered company auditor who is ordinarily resident in Australia;
 - (iv) an act, matter or thing being done by an affected audit firm rather than an audit firm that has at least 1 member who is a registered company auditor who is ordinarily resident in Australia;
 - (v) a company being an affected audit company rather than an authorised audit company;
 - (vi) an act, matter or thing being done by an affected audit company rather than an authorised audit company.

Interpretation

5. In this determination:

specified class means each of the following:

- (a) the class of corporations registered under the CATSI Act and reporting under subdivision 333-A of the CATSI Regulations and obtaining an auditor's report under paragraph 333-15.01(2)(a), (b) or (c) of the Regulations from an affected auditor, affected audit firm or affected audit company;

- (b) the class of corporations registered under the CATSI Act and reporting under subregulation 333-16.02(2) of the CATSI Regulations and obtaining an auditor's report under paragraph 333-16.02(3)(a) of the Regulations from an affected auditor, affected audit firm or affected audit company;
 - (c) the class of directors of corporations within the classes referred to in paragraph (a) or (b).
6. A person is an ***affected auditor*** for the purposes of this determination if:
- (a) the person is a person whom the Australian Securities and Investments Commission (ASIC) purported to register as an auditor under subsection 1280(2) of the *Corporations Act 2001* (the Corporations Act); and
 - (b) at the time of the person's purported registration:
 - (i) ASIC was satisfied that the person satisfied all the components of the auditing competency standard:
 - (A) issued by CPA Australia and The Institute of Chartered Accountants in Australia; and
 - (B) approved by ASIC under section 1280A of the Corporations Act in November 2004; and
 - (ii) ASIC was not satisfied that the person had such practical experience in auditing as was prescribed for the purposes of subparagraph 1280(2)(b)(ii) of the Corporations Act; and
 - (c) the purported registration did not have the effect of making the person a registered company auditor merely because the instrument approving the competency standard under subsection 1280A(1) of the Corporations Act ceased to be enforceable or was taken to be repealed by subsection 32(2) of the *Legislative Instruments Act 2003*; and
 - (d) the purported registration is not purportedly suspended or cancelled.

7. An audit firm is an *affected audit firm* for the purposes of this determination if:
- (a) the audit firm has one or more members whom ASIC purported to register as auditors under subsection 1280(2) of the Corporations Act; and
 - (b) the firm is not an audit firm that has at least 1 member who is a registered company auditor who is ordinarily resident in Australia merely because each member of the firm mentioned in paragraph (a) is an affected auditor.
8. A company is an *affected audit company* for the purposes of this determination if:
- (a) the company is a company that ASIC has purported to register as an authorised audit company under section 1299C of the Corporations Act; and
 - (b) the company is not an authorised audit company merely because of either or both of the following at the time of its purported registration:
 - (i) at least 1 of its directors was an affected auditor;
 - (ii) paragraph 1299B(c) of the Corporations Act was not satisfied; and
 - (c) at the time of its purported registration, a majority of the votes that might be cast at a general meeting of the company attached to shares in the company that were held and beneficially owned by individuals who were each a registered company auditor or an affected auditor; and
 - (d) the purported registration is not purportedly suspended or cancelled.

Dated this 25th day of September 2014

A Beven

Signed by Anthony Beven
Registrar of Aboriginal and Torres Strait Islander Corporations