



Australian Government

Office of the Registrar of Indigenous Corporations

Proposed amendments to the CATSI Act

CONSULTATION



Why we want your input

To help us to identify any **issues with implementing** the proposed amendments to the CATSI Act, and to ensure corporations can comply with them.

Your feedback will also be used to assist ORIC **prepare guidance and support** to help corporations understand and implement the changes when they take effect.



Size classifications

Simplify the test for determining size classification to make it easier to determine a corporation's size.

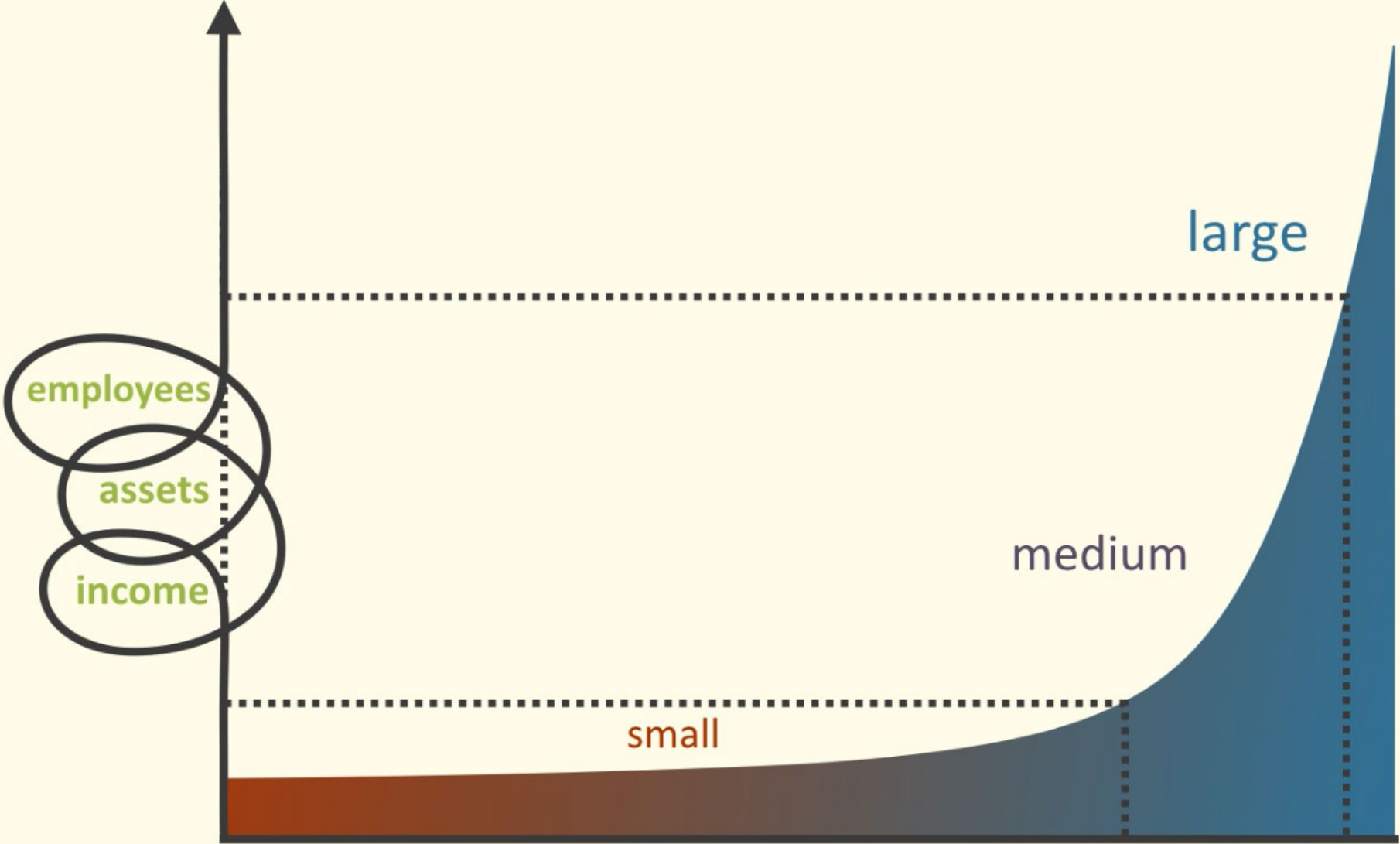
- replace: income, assets and employee numbers
- with: revenue

Revising the thresholds for each size to align the CATSI Act more closely to other legislative frameworks.

- **small** < \$250,000; **medium** \$250,000 < \$1m; **large** \$1m+

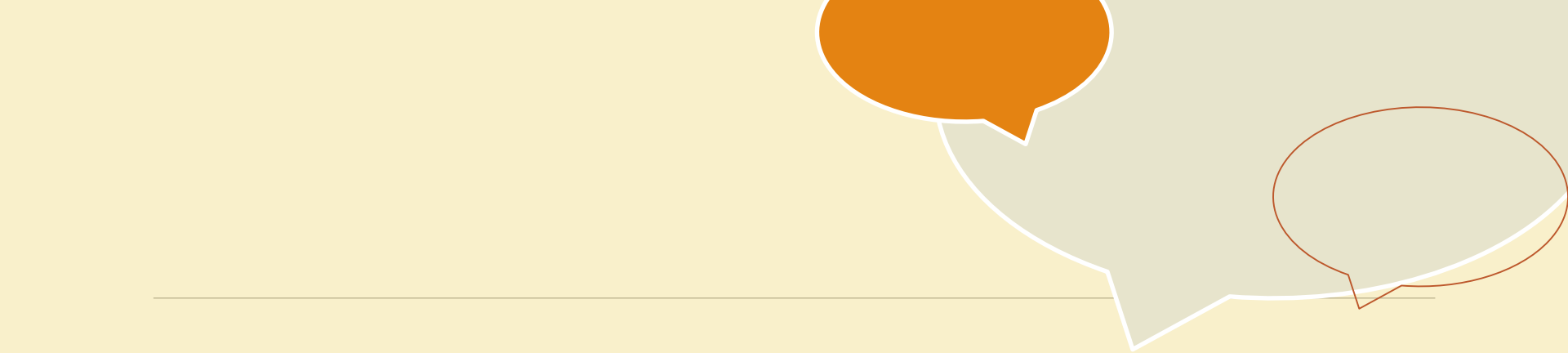


Current size test



Proposed size test





Do you see any problems arising from these changes to size classifications?



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Rule books

Require that a corporation's rule book cover all the matters/topics currently known as 'replaceable rules'.

Allow the Registrar to refuse to register a rule book if it is not 'fit for purpose'.



HOW REPLACEABLE RULES WORK

CATSI Act

Includes:

Replaceable rules

Corporation's rule book

Includes:

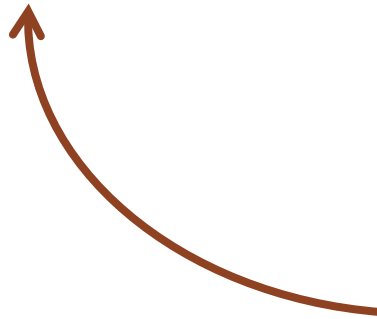
Constitution
(rules specific to the corporation)

For example:

- Name
- Objectives

+ **ADOPT**

Replaceable rules



HOW REPLACEABLE RULES WORK

CATSI Act

Includes:

Replaceable rules

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Includes:

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For example:

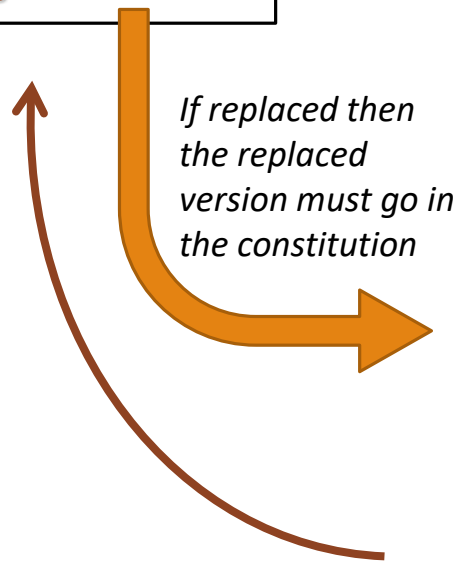
- Name
- Objectives



- Replaced rules

+ **ADOPT**

Replaceable rules
(the ones not replaced)



EXAMPLE REPLACEABLE RULE

At a general meeting, each member of an Aboriginal and Torres Strait Islander corporation has 1 vote, both on a show of hands and a poll.

(Section 201-115)

CATSI Act

Includes:

Replaceable rules

Corporation's rule book

Includes:

Constitution (rules specific to the corporation)

For example:

- Name
- Objectives



- Replaced rules

+ **ADOPT**

Replaceable rules
(the ones not replaced)

*If replaced then
the replaced
version must go in
the constitution*





Other than those suggested already:

standard, subsidiary, sole member and PBC/RNTBC

are there particular corporation types that would benefit from a model rule book?

Are there rules not already provided for in guidance and templates that should be covered in developing new model rule books, or for different corporation types?



Business structures

Make it easier to create subsidiary and joint venture organisations under the CATSI Act.



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Meetings and reporting

Provide greater flexibility in deferring, and the frequency of, meetings and reporting. Also provide relief to small corporations.

Require corporations to table their annual reports at the AGM.



Meetings and reporting:

Less frequent general meetings for small corporations

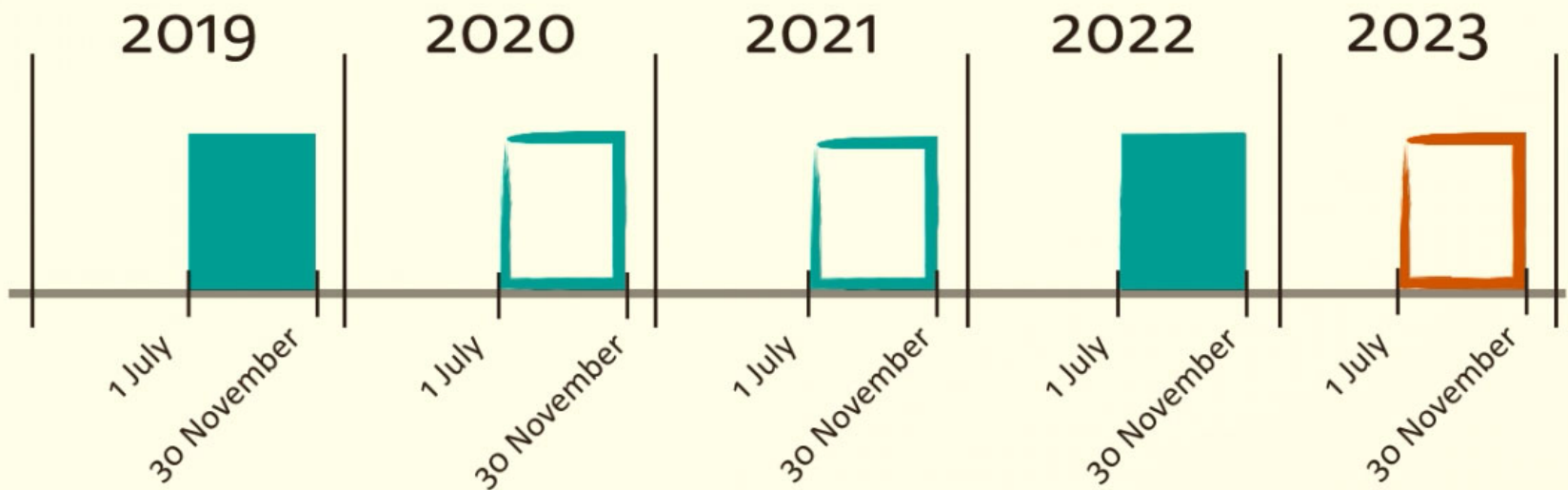
Small corporations to have the power to pass a special resolution to not hold an AGM for up to three years

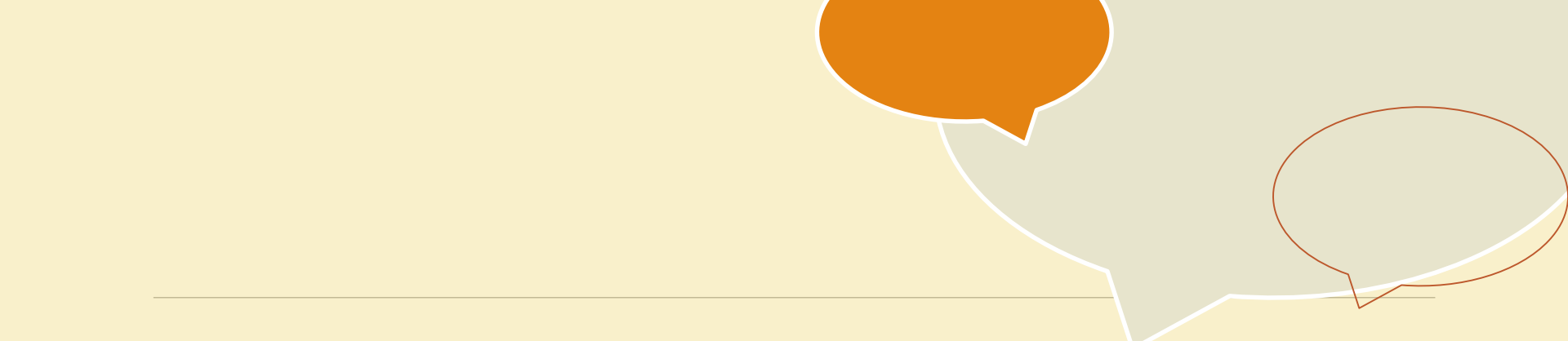


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For **small corporations** we propose
that **members** can **agree** at the meeting
to hold the **next AGM** in **two years—or three.**






In deciding whether to defer an AGM for up to three years, corporations will need to consider a number of things such as:

- aligning directors' terms with the AGM timeframes
- how they will provide the general report to members each non-AGM year
- how to keep track of members
- how to provide sufficient notice of the next AGM.

What other considerations or arrangements will need to be made to implement such a decision?





Examples of situations where the Registrar could decide it is reasonable to require an AGM be held include:

- change in classification from small to medium or large
- members making numerous complaints
- failure to provide annual reporting in a timely manner to members two years in a row
- failure to give members an opportunity to ask questions of the board and for the board to include their responses in the annual reporting, or
- failure to provide notice to the Registrar if there is any material change in circumstances.

What other circumstances or situations might be included?

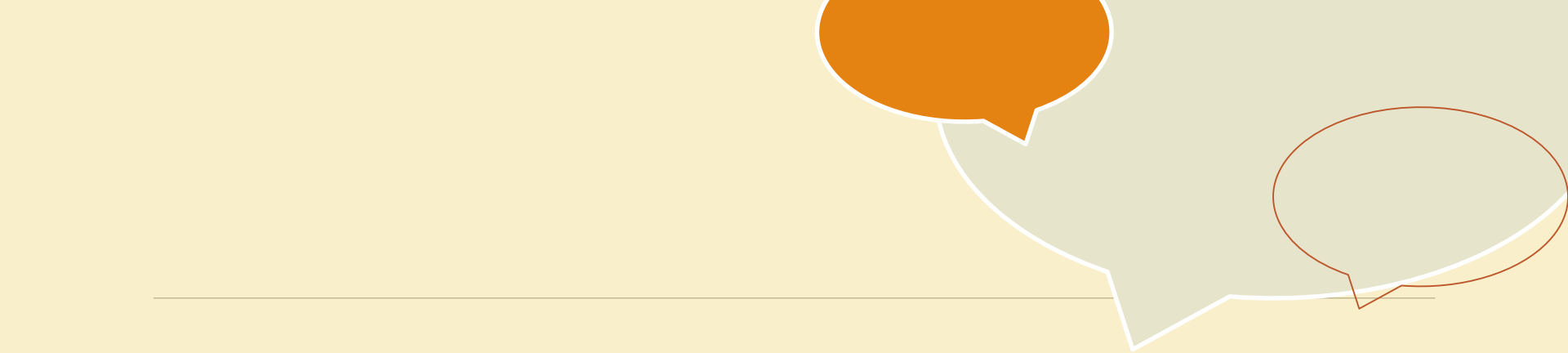


Meetings and reporting:

Member access to reports

Corporations to present at the AGM, their general report and any other reports they are required to prepare for the year.





Should reports that are to be tabled at the AGM be provided to members along with the notice of meeting?



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Meetings and reporting:

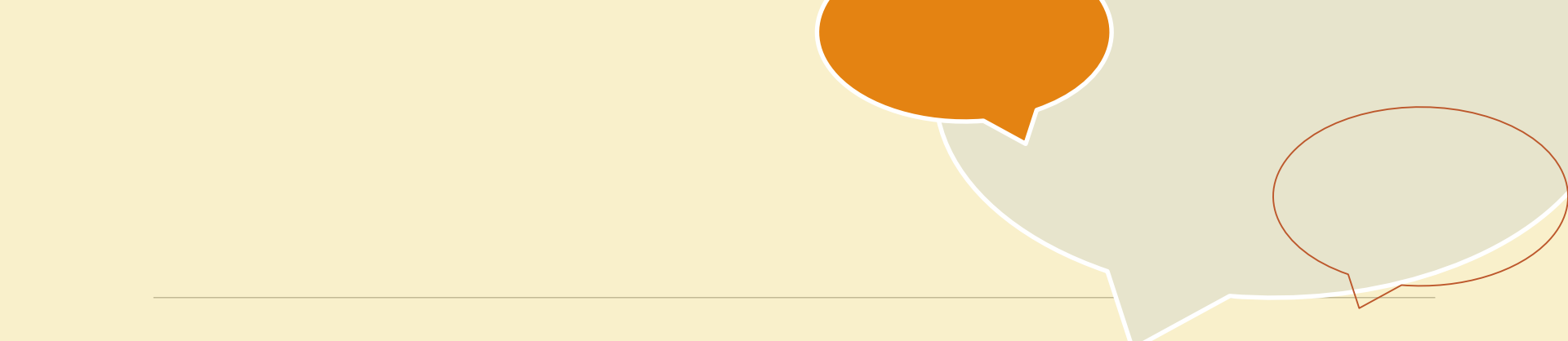
Extensions of time

Allow corporations to activate a once-only extension of time for a period of 30 days **to hold a particular AGM**, where the corporation:

- notifies the Registrar that there is a death in the community, natural disaster, cultural activity or an unavoidable delay in the audit, and
- has not notified an automatic extension of time more than three years in a row.

Similarly, it's proposed to allow for corporations to activate an extension of time for a period of 30 days for **lodging reports**.





The proposed circumstances for activating a 30-day extension of time are:

- death in the community
- natural disaster
- cultural activity or
- an unavoidable delay in the audit

Are these appropriate? Are there other circumstances that should be considered?

Who in the corporation should be authorised to make the notification?

How should notification be made, by online form, phone, email?



Membership

Make better use of alternative member contact details.

- Using alternative contact details for communications
- Cancellation of membership

Enable the suppression of personal information in certain cases.

- Allow a corporation officer to decide to redact certain member information on their register of members to protect a person's safety.





Alternative contact details

How do you manage alternative contact details currently?

How many alternative contact addresses should members be able to nominate?

Cancellation

Is three attempts of contact with 12 months an appropriate number?

If your corporation is small and chooses to not hold an AGM for three years, what processes will you put in place to contact members three times within a 12-month period in order to assess prospects for cancellation?





Privacy

What processes can corporations put in place to ensure regular review of redacted information?

If corporations present a redacted register of members at the AGM, what process will they use to check their address for receiving notifications is up to date?



Transparency of senior executives

Medium and large corporations will report the remuneration and work history of senior managers to members.



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EXAMPLE

Work history, experience and qualifications

IAG Directors report including remuneration report 2015

MANAGING DIRECTOR

MICHAEL (MJ) WILKINS

BCom, MBA, FCA, FAICD, age 58 - Managing Director and Chief Executive Officer

INSURANCE INDUSTRY EXPERIENCE

Michael was appointed Managing Director and Chief Executive Officer of IAG in May 2008. He has more than 30 years experience in the insurance and financial services sector and is a member of the Australian Government's Financial Sector Advisory Council.

Michael was formerly the Managing Director of Promina Group Limited (from 1999 to 2007), and Managing Director of Tyndall Australia Limited (from 1994 to 1999). He is a former Director and President of the Insurance Council of Australia and a former Director of the Investment and Financial Services Association (now the Financial Services Council).

OTHER BUSINESS AND MARKET EXPERIENCE

In May 2014, Michael was appointed as a Director of The Geneva Association, the leading international insurance think tank for strategically important insurance and risk management issues. He is also a Director of Maple-Brown Abbott Limited.

Directorships of other listed companies held in the past three years:

- IAG Finance (New Zealand) Limited (a part of the Group), since 28 May 2008.



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EXAMPLE

AMP Remuneration Report 2017



[Overview](#) [About AMP](#) [Chairman's message](#) [CEO's message](#) [2017 performance](#) [Case studies](#) [Sustainability](#) [Remuneration](#) [AGM details](#)

Executive remuneration

		Fixed remuneration ¹ \$'000	Cash short-term incentive \$'000	Performance rights and share rights ² \$'000	Termination payments \$'000	Total remuneration \$'000
Craig Meller	2017	1,969	1,288	2,028	—	5,285
Chief Executive Officer and Managing Director	2016	1,958	—	996	—	2,954
Gordon Lefevre	2017	1,018	651	775	—	2,444
Chief Financial Officer	2016	1,021	—	474	—	1,495
Craig Ryman	2017	762	492	456	—	1,710
Group Executive, Technology and Operations	2016	650	—	250	—	900
Paul Sainsbury	2017	1,009	651	740	—	2,400
Group Executive, Wealth Solutions and Customer	2016	896	—	370	—	1,266
Brian Salter	2017	871	463	618	—	1,952
Group General Counsel	2016	848	—	274	—	1,122
Adam Tindall	2017	859	1,430	898	—	3,187
Chief Executive Officer, AMP Capital	2016	824	1,271	643	—	2,738

EXAMPLE

First Nations Financial Transparency Act (Canada)

Annex B Schedule of Remuneration and Expenses – (Chiefs and Councillors)

Name of Funding Recipient
For the year ended March 31, 201X

Name of Individual	Position Title	Number of Months (Note 1)	Remuneration (Note 2)	Expenses (Note 3)

Annex B Notes

1. The number of months during the fiscal year that the individual was a Chief or Councillor.
2. As per the *First Nations Financial Transparency Act*:

"remuneration" means any salaries, wages, commissions, bonuses, fees, honoraria and dividends and any other monetary benefits — other than the reimbursement of expenses — and non-monetary benefits.

Examples are provided in the supporting document which accompanies this document on the internet site of the Department of Indigenous Services Canada / INAC entitled: "Supplementary Information".

3. As per the *First Nations Financial Transparency Act*:

"expenses" include the costs of transportation, accommodation, meals, hospitality and incidental expenses.



EXAMPLE

IAG Directors report including Remuneration Report 2015

TABLE 1 - ACTUAL REMUNERATION RECEIVED IN 2015 AND 2014

NAME	FINANCIAL YEAR	FIXED PAY	OTHER BENEFITS AND LEAVE ACCRUALS	TERMINATION PAYMENTS	CASH STI	DEFERRED STI VESTED	LTI VESTED	TOTAL ACTUAL REMUNERATION RECEIVED
		\$000 (1)	\$000 (2)	\$000 (3)	\$000 (4)	\$000 (5)	\$000 (6)	\$000 (7)
EXECUTIVES								
Michael Wilkins	2015	2,112	232	-	1,314	1,232	5,514	10,404
	2014	2,077	253	-	1,796	1,243	6,038	11,407
Ben Bessell ⁽⁸⁾	2015	123	(7)	-	65	-	-	181
	2014	921	263	-	469	210	429	2,292
Duncan Brain ⁽⁹⁾	2015	921	263	-	469	210	429	2,292
	2014	679	378	-	347	-	-	1,404
Andy Cornish ⁽¹⁰⁾	2015	1,052	93	-	602	469	2,290	4,506
	2014	879	(54)	-	487	590	2,457	4,359
Peter Harmer	2015	1,012	(23)	-	473	432	2,152	4,046
	2014	995	(26)	-	704	326	1,672	3,671
Alex Harrison ⁽⁸⁾	2015	849	51	-	611	192	397	2,100
	2014	218	(1)	-	125	-	-	342
Nicholas Hawkins	2015	1,012	56	-	603	463	2,198	4,332
	2014	995	(11)	-	731	489	2,342	4,546
Jacki Johnson ⁽¹¹⁾	2015	1,096	(43)	-	418	398	1,949	3,818
	2014	1,048	37	-	565	409	2,222	4,281
Leona Murphy	2015	910	38	-	505	411	1,981	3,845
	2014	895	13	-	569	431	2,109	4,017
Clayton Whipp	2015	755	64	-	341	211	367	1,738
EXECUTIVES WHO CEASED AS KEY MANAGEMENT PERSONNEL								
Justin Breheny ⁽¹²⁾	2015	702	205	-	546	446	2,024	3,923
	2014	915	193	-	579	490	2,222	4,399

TABLE NOTE

- Represents base salary plus superannuation and included an annual pay increase of 1.5% effective September 2014.
- Includes benefits such as a 30% tax rebate on car allowances and movements in annual leave and long service leave accruals during the relevant financial year. Details are provided in table 9 in Section F.
- No termination payments were made to Executives in the 2015 financial year.
- Represents two thirds of the STI for the relevant financial year. Details are provided in table 6 in Section E.
- Deferred STI that vested in the relevant financial year. Details are provided in table 10 in Section F. The five day weighted average share price used to value the deferred STI at vesting date is \$6.49 for awards vested on 1 September 2014. For the financial year ended 30 June 2014 the prices were \$5.47 for awards vested on



EXAMPLE

Sample table based on PGPA Act review:

Remuneration paid to the CEO and officers during [the reporting period]

Name of individual	Position	Base salary	Other benefits and allowances	Employer-contributed superannuation	Bonus paid	Termination	Long service leave	Total remuneration package
		\$	\$	\$	\$	\$	\$	\$
Name A	CEO	XX	XX	XX	XX	XX	XX	XX
Name B	CFO	XX	XX	XX	XX	XX	XX	XX
Name C	Office manager	XX	XX	XX	XX	XX	XX	XX
Name D	Program manager	XX	XX	XX	XX	XX	XX	XX
Name E	Program manager	XX	XX	XX	XX	XX	XX	XX





How should 'remuneration' be defined?

The *Corporations Act 2001* defines remuneration as:

Remuneration of directors or executives will typically include all or some of cash salary, shares or share options, superannuation, annual and long service leave.

Can this definition be applied to your corporation?

Should the definition cover benefits such as free or subsidised housing, vehicles, flights etc?





Information about directors in a **directors' report** includes:

- name; period of tenure; qualifications, experience and special responsibilities in relation to the corporation
- directors' meetings and any sub-committees.

Members need to approve remuneration to directors by resolution at a general meeting. (s. 252-1)

Members can ask for a report about remuneration and expenses paid to each director (s. 252-5)

How often do members ask for a statement of director remuneration at your corporation?

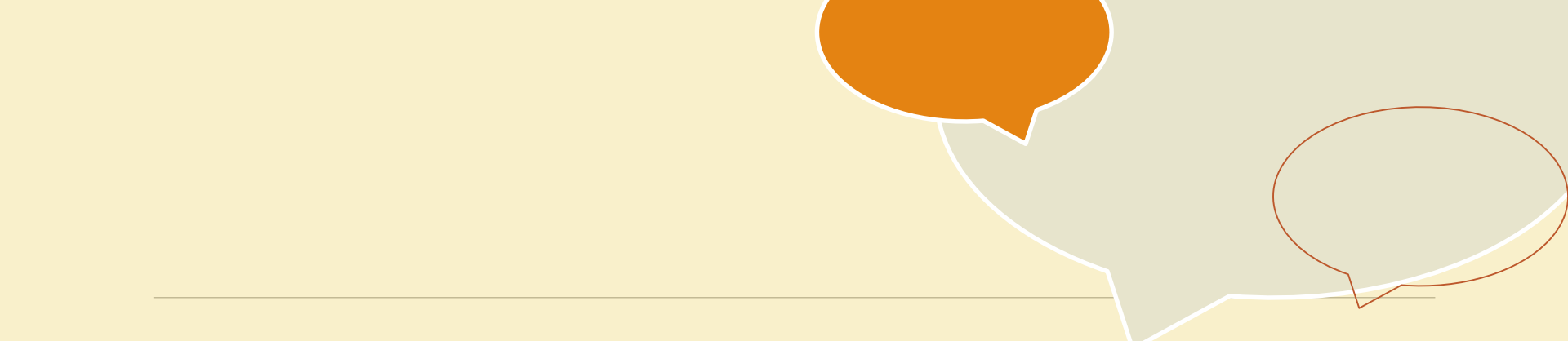


Related third party transactions

Allow small corporations to make some low-value related third party transactions—up to \$5000 per party annually

Allow discretion for the Registrar to allow other transactions.





Is \$5000 a reasonable threshold, or would another method of determining the value be more suitable, such as percentage of the corporation's income?

Should members be able to replace the value of transactions that triggers the requirements to seek member approval by replacing the rule (with a lower value) in their rule book?



Special administration

Broaden and clarify the grounds for putting corporations into special administration.

Revise outdated processes in the appointment process.

Streamline the appointment process if a board unanimously requests it.





The additional proposed grounds for appointment are:

- The corporation has **no directors**.
- The corporation is **insolvent** (or there is a presumption of insolvency).
- There is **doubt** as to whether the **board of directors is validly constituted**.
- Substantial or repeated **breaches of related party transactions rules**.
- An **RNTBC** that is conducting its affairs contrary to the interests of the common law holders.

Are these appropriate?



Voluntary deregistration

Make the criteria for voluntary deregistration more flexible.



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Compliance powers

Broaden investigation and compliance powers to address lower level compliance problems.



Other minor technical changes

Prohibit entities using names like 'Aboriginal Corporation' if they are not registered under the CATSI Act.

Reverse the default position on **independent directors** in model rule book so that the corporation can appoint independent directors if they want to.

Extending provisions to **protect native title bodies** from conflicting statutory duties under the CATSI Act and state/territory native title legislation.



Follow the reforms

oric.gov.au/catsi-review



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Thank you