

TOP TIPS for managing RELATED PARTY BENEFITS

(from the Roundtable Discussion held on 24 February 2016)

- **Obtain information and education:** seek training, ask ORIC, attend Roundtable Discussions! It doesn't make sense to wait until you find out the hard way. There are heavy financial penalties and possible imprisonment if you give a financial benefit to a related party without complying with the CATSI Act. There are plenty of resources available and options for Board training.
- **Create a Register of Related Parties:** A good way of keeping track of potential Related Party Benefits is to create a Register of Related Parties. These include the names of spouses, children, parents of directors and related entities (organisations that have some control over the original corporation and the names of their directors, spouses, children and parents). If the list is kept handy, every time one of the names comes up in a decision to be made, it is clear when the members need to approve a decision. Its also much easier recording this information before any potential related party benefit decision needs to be made.
- **Keep in mind the 6 month rule:** The Related Party Benefit obligations cover a director during the term of their directorship and the six months after they've left an organisation.
- **Seek Standing Approvals from your members:** Members are able to approve a 'class' or 'kind' of Related Party Benefit transaction. This means that the members can give a Standing Approval for a series or type of transaction. This helps to avoid endless meetings, missed opportunities, and unhappy members. A Standing Approval can be agreed on an annual basis at the AGM or at another meeting. When seeking this Standing Approval, all of the CATSI Act rules apply, e.g. regarding the content of your meeting notice and who can/can't vote on the resolution.
- **What about sisters, cousins and uncles?:** For the purposes of the CATSI Act, Related Party Benefit obligations only cover the spouse, parents and children of a director (or related entity). Other family members do not need to be considered under the CATSI Act, but may well need to be considered for good governance under conflict of interest rules, organisation policies or other legislation.
- **Conflicts of Interest are different to Related Party Benefits:** A decision to award a contract to a director's sister may not be a Related Party Benefit, but it could well be a conflict of interest on the part of that director. In that case, it will require action by the director (for instance, not participating in the discussion and decision on that contract) but it does not require a meeting of members to approve the decision.
- **Interaction with auditing standards:** The requirements of dealing with Related Party Benefits under the CATSI Act are different to how they are dealt with under auditing legislation. It is a good idea for a board to sit with its auditor to discuss the accounting/auditing standards that will apply and the parameters of the audit.
- **Don't shy away from related party transactions:** Aboriginal corporations often need to consider Related Party Benefit transactions. Simply being a related party or having a conflict is not itself a problem, its how you manage it that matters.

For further information or advice on Related Party Benefits, please contact Danielle Lee at dlee@jacmac.com.au and Alana Bernstein at abernstein@jacmac.com.au.
