

FSC Standard No. 22

Cultural Capability in Native Title Services

May 2015

FSC Standard No. 20

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May 2015

FSC Membership this Standard is most relevant to: This Standard applies to FSC Members which are licensed trustee companies or public trustees that provide trustee, investment or related services to Aboriginal & Torres Strait Islander communities (for simplicity, referred to as Native Title Services).

Date of this version: This Standard was issued on 28 May 2015, and commences from 1 July 2016.

History (prior versions) of this Standard: No prior versions.

Main Purposes of this Standard: The Financial Services Council is committed to supporting the social and economic inclusion of Aboriginal and Torres Strait Islander communities (Communities).

The purpose of this Standard is to encourage good practice in the provision of tailored, culturally appropriate financial services to assist Communities to achieve their goals and aspirations. In adhering to this Standard, FSC members commit to working in partnership with Communities, recognising their diverse governance structures, cultural practices, and languages. This Standard is also intended to support trustees to build sustainable, respectful relationships with their clients, acknowledging that it makes good business sense to do so.

Nothing in this Standard displaces FSC Members' obligations under law.

This Standard is to be read in conjunction with Standard 7, Standard 13, Standard 20.

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1. Title

- 1.1 This Standard (the **Standard**) may be cited as FSC Standard No. 22 *Cultural Capability in Native Title Services*.

2. Definitions

In this Standard:

- **Communities** means Aboriginal & Torres Strait Islander communities and beneficiaries of trust structures.
- **Trustee Member** means a member of the Financial Services Council Limited which is a licensed trustee company or public trustee.
- **Native Title Services** means trustee, investment or related services solely provided to Aboriginal & Torres Strait Islander communities by a Trustee Member as it relates to its licensed trustee company or public trustee operations (excluding in relation to personal or testamentary trusts).

3. Date of issue

- 3.1 This Standard was first issued on 28 May 2015.

4. Effective Date

- 4.1 This Standard applies in relation to a Trustee Member's operations from 1 July 2016. Earlier application of this Standard is permitted and encouraged. A transition period will exist from 28 May 2015 to 1 July 2016 to allow Trustee Members adequate time to take the steps necessary to comply with the Standard.

5. Development and application of this Standard

- 5.1 This Standard has been developed via a Working Group consisting of: Aboriginal leaders from the First Nations Foundation, Indigenous Business Australia, National Congress of Australia's First Peoples, the Australian Indigenous Governance Institute, and Nyamba Buru Yawuru Ltd; and Trustee Members.
- 5.2 This Standard applies to all Trustee Members which provide Native Title Services.
- 5.3 All FSC Members are encouraged to follow this Standard, even where they are not Trustee Members or do not provide Native Title Services, recognising the need for financial services providers to build sustainable, respectful relationships with Communities.
- 5.4 Where there is a conflict between the requirements of this Standard and any applicable legislation, the requirements of this Standard should, having regard to the purpose of the Standard, be modified appropriately so that, as far as is practicable, the Trustee Member complies with the requirements of this Standard.
- 5.5 This Standard should be read in conjunction with FSC Standard No. 1 *Code of Ethics & Code of Conduct*.

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6. Statement of Purpose

- 6.1 The purpose of this Standard is to encourage good practice in the provision of tailored, culturally-appropriate financial services to assist Communities to achieve their goals and aspirations. In adhering to this Standard, FSC members commit to working in partnership with Communities (primarily through the relevant advisory council(s)), recognising their diverse governance structures, cultural practices, social circumstances and languages.
- 6.2 This Standard is also intended to help Trustee Members build sustainable, respectful relationships with their clients, acknowledging that it makes good business sense to do so.
- 6.3 This Standard is not intended to prescribe a particular training program or provider, recognising that individual Trustee Members should assess which program and provider best meets their needs.
- 6.4 In addition to meeting regulatory requirements, businesses may have other principles and practices that they must follow in order to maintain a high standard of conduct in the operation and management of a Member's business.

7. Plain English Disclosure

- 7.1 In some Communities, Trustee Members may be working with clients with English as a second language and/or limited literacy. This means Trustee Members must be active in providing comprehensible information to properly inform the Community of the financial services being provided (**Disclosures**).
- 7.2 In practice, this means Trustee Members will:
 - Provide such Disclosures using transparent methods tailored to the need of each Community, such as plain English, interpretive services, or face to face group briefings;
 - Ensure Disclosures focus on explaining:
 - how Trustee Members' service operates;
 - their expertise in delivering that service, their fees, and developing a shared understanding of performance; and
 - how the relevant Community's advisory council can work to resolve any disputes with the Trustee Member (including, where necessary, lodging a complaint if unsatisfied with the service, or if a problem remains unresolved following a complaint, replace the Trustee Member);
 - At the beginning of the relationship with a Community, and on an ongoing basis, invest time and resources in working together with the relevant Community's advisory council to encourage understanding of the services being provided.

8. Aboriginal & Torres Strait Islander Capacity Building

- 8.1 When working with Communities, Trustee Members must provide ongoing support to Aboriginal and Torres Strait Islander governance structures and communities in a manner that is agreed between Trustee Members and the Communities.

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8.2 In practice this means Trustee Members will themselves, or through the engagement of third party experts:

- Identify and work to address relevant knowledge gaps that will influence informed decision-making by Communities and their representatives;
- Where needed, facilitate the delivery of appropriate ongoing financial literacy and governance training to Communities to enhance knowledge of rights and obligations, and strengthen decision-making;
- Assist the relevant Community advisory council and representative Aboriginal and Torres Strait Islander corporations (e.g. Prescribed Body Corporate) to support informed decision-making by the Community.

9. Cultural capability

9.1 To work effectively with Communities, Trustee Members require a culturally capable workplace that can provide tailored services to Communities which are responsive to Communities' specific needs.

9.2 In practice this means Trustee Members will themselves, or through the engagement of third party experts:

- Ensure staff who work with Communities (as staff, clients or beneficiaries) undertake relevant cultural awareness training before commencing work or engagement with Communities;
- Partner with each Community with whom they work to gain an understanding of the relevant Communities' cultural values, histories and aspirations, acknowledging their expertise in these areas;
- Work towards establishing a formal strategy to develop cultural capability, such as through a Reconciliation Action Plan.

10. Inclusive decision-making and values

10.1 When working with Communities, Trustee Members commit to recognising, working with and supporting Aboriginal and Torres Strait Islander governance and leadership structures.

10.2 In practice this means Trustee Members will:

- Recognise, and where necessary, engage with other key Aboriginal and Torres Strait Islander forums, policies and guiding material that enhance the work undertaken with Communities;
- Where possible, incorporate non-financial considerations into trustee decision-making, acknowledging the economic and strong cultural relationship that Communities have with their diverse homeland estates, waters, seas ways and cultural practice;
- Note that Communities have the freedom to engage widely outside the Community's advisory council as part of collaborative, consultative decision-making processes.

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11. Compliance with this Standard

- 11.1 Trustee Members compliance with the Standard must be certified annually in accordance with FSC Standard No 1.
- 11.2 The first annual compliance certification with respect to this Standard is required for the FSC Compliance Year commencing 1 July 2016.