



Foreign Influence Transparency Scheme

Factsheet 13

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Commercial or business pursuits

The term 'commercial and business pursuit' applies to genuine and real business and commercial interests relating to trade, commerce, buying, selling, dealing and marketing.

Examples include:

- providing goods and services for sale
- providing or supplying resources or amenities
- delivering or distributing stock or goods
- negotiating a contract to provide a commercial service, and
- designing of building solutions or systems that assist in the delivery of goods or services.

Exemptions for commercial and business pursuits¹

The scheme includes exemptions for foreign government employees and commercial or business pursuits. In particular, exemptions for commercial or business pursuits acknowledge that intermediaries may work in Australia in an official capacity for a foreign government-related entity. Often, the activities of these intermediaries will have very little impact on Australia's government and political processes.

Special note: The commercial and business pursuit exemption does not apply to former Cabinet ministers or recent designated position holders.

Individuals

Exemptions apply to individuals who undertake a registrable activity that is a commercial or business pursuit. Individuals must act:

- in an official capacity working for a foreign government-related entity, and
- under the name of the foreign government-related entity or under a substantially similar name.

These exemptions specifically apply where the foreign principal is a foreign government-related entity. Registration under the scheme will apply if the foreign principal is a foreign government, a foreign political organisation or a foreign government-related individual.

Directors, officials or employees of a foreign government-related entity

A person acting in an official capacity as a director, officer or employee of a foreign government entity does not have to register under the scheme.

This exemption applies where:

- the person is undertaking a registrable activity that is a commercial or business pursuit, and

¹ Section 29 of the *Foreign Influence Transparency Scheme 2018 Act*

- the person is doing that activity in a formal capacity as either a director, officer or employee of a foreign government-related entity, and
- it is clear that the person is undertaking the commercial or business activity in an official capacity as a director, officer or employee of the foreign government-related entity.

Example one

A person works for foreign government-related entity 'X' and arranges a meeting with an Australian Government official to discuss a transaction involving goods and services. It is clear that the person is undertaking the activity in their capacity as an employee of entity 'X'. The person would not need to register under the scheme.

Activities under the same name as a foreign government-related entity

An individual who works for a company that is owned by a foreign government-related entity does not have to register under the scheme if they are operating under the same name (or substantially similar name) to the foreign government-related entity.

This exemption applies where:

- the individual is undertaking a registrable activity that is a commercial or business pursuit, and
- the activity is undertaken by the individual in, or under, the name of the foreign principal or under a substantially similar name to the foreign principal.

Example two

The Australian branch of foreign government-related company 'Z' undertakes activities at the direction of the parent company. The Australian branch of the company will not need to register under the scheme provided they operate under the same or a substantially similar name.