



Foreign Influence Transparency Scheme

Factsheet 14

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Commercially sensitive information

A person who is registered under the scheme is required to provide certain information to the Attorney-General's Department as part of the registration process. This includes information about the activities they undertake on behalf of a foreign principal and the nature of their relationship with the foreign principal. For example:

- contracts or other agreements with the foreign principal
- examples of communications activities undertaken on behalf of the foreign principal (e.g. pamphlets and articles)
- details about disbursement activities undertaken (e.g. invoices or receipts for payments)
- details about the political or government process that the person was intending to influence when undertaking the activity.

Some of this information will be made publicly available on the scheme's website in order to provide the public with transparency about the activities.¹ The *Foreign Influence Transparency Scheme Rule 2018* will specify what information may be made public.

However, in some cases, the information provided by registrants may be commercially sensitive. Commercially sensitive information will not be published on the scheme's website.

Commercially sensitive information

Commercially sensitive information is information of a confidential nature that has commercial value that would be reduced if the information was disclosed. Commercially sensitive information covers information contained in commercial contracts that would cause detriment to the parties or expose sensitive information relating to a company's operations, expenditure or employees if it was revealed.

If a registrant believes that some of the information being provided as part of their registration is commercially sensitive, they must:

- provide advice at the time the information is submitted to the scheme that some of the information is commercially sensitive, and
- clearly indicate or describe the information in the application that is commercially sensitive.

The commercial sensitivity of the information contained in a person's registration will be assessed on a case-by-case basis. This assessment will only occur where a person has specifically indicated that they believe commercially sensitive information is contained in their application for registration.

¹ Section 43(2) of the *Foreign Influence Transparency Scheme 2018*

The factors that the Attorney-General's Department will consider if determining if information is commercially sensitive include:

- whether the information is already in the public domain
- the currency of the information
- whether the information is used in the trade or business of the person or entity (in relation to the types of activities the person usually undertakes)
- whether the information is known outside the scope of the business of the person or entity
- whether the information is known by employees and contractors or other people attached to the business or entity
- the value of the information to the person or entity and any business or corporate competitors
- the measures taken to guard the secrecy of the information, and
- measures taken to protect the sensitivity of the information.

Examples

Commercially sensitive information may relate to:

- capital expenditure and operating expenses
- contractor and supplier information
- employee information
- financial arrangements
- issues concerning solvency
- operational information, including in relation to product manufacture and pricing
- pending or settled litigation
- pending contracts
- pending mergers and acquisitions
- personal information which relates to users of a person or entity's services
- proposed new activities/business dealings that are not related to activities being undertaken on behalf of a foreign principal, or
- trade secrets, patents and other intellectual property.

Safeguarding commercially sensitive information

The commercial sensitivity of information reduces over time. Therefore, while the Attorney-General's Department will not publish certain information on the scheme's website while it is deemed commercially sensitive, this does not mean that similar information will not be published in the future.

It is the responsibility of registrants to ensure that information provided to the scheme is current. The Department recommends that registrants review their information regularly and ensure that up-to-date information is provided to the scheme when circumstances change and when their registration is renewed.