



Foreign Influence Transparency Scheme

Factsheet 5

February 2019

Registrable activities

People undertaking certain activities in Australia on behalf of a foreign principal must register with the Foreign Influence Transparency Scheme. The scheme is not intended to restrict, deter, criminalise or punish lawful activities. What it does is highlight lawful activities being pursued for the benefit of foreign interests.

The scheme covers activities that are political in nature (e.g. lobbying of members of parliament) and activities undertaken for political or government influence (e.g. providing information or material to influence public voting during a federal election).

Whether an activity is registrable depends on a number of factors:

- the identity of the person undertaking the activity
- the identity of the foreign principal
- the nature of the relationship between the foreign principal and the person undertaking the activity, and
- the nature and purpose of the activity.

(Factsheets 3, 4, and 8 provide guidance on the identity of the person undertaking the activity (including former Cabinet Ministers and recent designated position holders), the identity of the foreign principal and the relationship between the two.)

What types of activity are registrable?

The types of activities that are registrable are:

- parliamentary lobbying
- general political lobbying
- communications activity, and
- disbursement activity.

Lobbying for the purpose of political or governmental influence

'Lobbying' includes communicating with the intent to influence processes, decisions or outcomes and representing the interests of another person in any process. Lobbying is deemed to be for the purpose of political or governmental influence if it is undertaken for the primary or substantial purpose of influencing:

- a process related to a federal election or referendum
- a process related to a government decision
- proceedings of a House of the Parliament
- a process related to a registered political party
- a process related to a member of parliament who is not a member of a registered political party, or
- a process related to a candidate in a federal election who is not endorsed by a registered political party.¹

¹ Section 12 of the *Foreign Influence Transparency Scheme Act 2018* (the Act) deals with activity for the purpose of political or governmental influence.

Parliamentary or political lobbying can take many forms. Examples of these, which may be registrable activities, include a lobbyist meeting with a parliamentarian or their staff, or writing to a department, to express a particular view on behalf of a foreign principal. Conversely, activities which are not intended to influence a political or governmental process (for example, calling a Minister's office to arrange a meeting) are unlikely to be registrable.

A 'government decision' includes any formal or informal, final or interim decisions of the Executive Council, Cabinet (or a committee of the Cabinet), a Minister, an Australian Government department, agency or company, or any person performing duties in relation to any of those other entities. Examples of the types of processes related to these decisions include grants, licensing or procurement processes, policy development processes or other decisions.

Parliamentary lobbying²

Lobbying a member of Federal Parliament or their staff is an inherently political activity as it has a significant likelihood of influencing government decisions and processes. It is important to identify when parliamentarians and their staff are being lobbied on behalf of a foreign principal, especially when it is done outside of normal diplomatic channels.

Any parliamentary lobbying undertaken on behalf of a foreign government, for whatever purpose, is a registrable activity unless an exemption applies (see **Factsheet 7** on exemptions). Parliamentary lobbying undertaken on behalf other foreign principals (see **Factsheet 3** on foreign principals), for the purpose of political or governmental influence, is also registrable.

Example One

Rex is a lobbyist engaged by a foreign government-related entity to make representations to the Federal Treasurer to ease restrictions on foreign investment.

Rex calls the Treasurer's Office Manager to arrange a meeting. Their conversation is purely administrative in nature. The phone call is not a 'registrable activity'.

At the meeting, Rex lobbies the Treasurer to ease foreign investment restrictions. The meeting is a 'registrable activity'.

General political lobbying³

General political lobbying covers lobbying activities directed towards:

- Commonwealth public officials
- departments, agencies or authorities of the Commonwealth
- registered political parties, or
- candidates in federal elections.

Where this lobbying activity is undertaken on behalf of a foreign principal for the purpose of political or governmental influence, it must be registered unless an exemption applies.

Communications activity⁴

Communications activity covers all circumstances in which information or material are disseminated, published, disbursed, shared or made available to the public. Information and material can be in any form including interpersonal, visual, graphic, written, electronic, digital and pictorial forms.

A communications activity is registrable if the activity is undertaken for the purpose of political or government influence (see above). Such activities can influence the views and opinions of people involved in political and government processes.

² Sections 10, 20 and 21 of the Act deal with parliamentary lobbying.

³ Sections 10 and 21 of the Act deal with general political lobbying.

⁴ Sections 13 and 21 of the Act deal with communications activity.

People undertaking communications activities for the purpose of political or government influence on behalf of a foreign principal must register their activity, unless an exemption applies. The communication must also include a disclosure about the foreign principal's identity. **Factsheet 9** provides more information about Disclosures in Communications Activity.

Example Two

A prominent Australian is requested by the government of country Y to write an article protesting the impending passage of federal laws tightening restrictions on foreign investment. The article urges members of parliament to vote against the laws. It is published in an Australian newspaper.

This is a registrable communications activity; it is providing and distributing information or material for the purpose of influencing a government process, decision or outcome on behalf of a foreign principal. In addition to registering the activity, when publishing the article, the author must ensure that a disclosure is made which makes clear that the author has written the article on at the request of the foreign government.

If the author does not register this activity, the arrangement between country Y and the author of the article is unknown and therefore, the foreign interests being represented in the article may not be transparent.

While the author of the article is required to register under the scheme, the publishing organisation (newspaper) is considered a 'disseminator' of the material and would not need to register under the scheme.⁵

Disbursement activity⁶

Disbursement activity includes the distribution of money or things of value on behalf of a foreign principal. This activity must be registered under the scheme if the person, or the recipient of the disbursement, is not required to disclose the activity under Part XX of the *Commonwealth Electoral Act 1918* and the activity is undertaken for the purposes of political or governmental influence. The *Commonwealth Electoral Act 1918* disclosure requirements relate to donations made to candidates for federal election and political parties during a relevant disclosure period.

Example Three

Finn is an Australian citizen who has an arrangement with a foreign political organisation. The foreign political organisation has indicated that they want to see the Aussie Party elected in the next Australian federal election.

Finn makes donations on behalf of the foreign political organisation. One donation is to a student union at an Australian university to run on-campus campaigning to influence students to vote for the Aussie Party. This donation does not fall within the reporting requirements in Part XX of the *Commonwealth Electoral Act*.

This is a registrable disbursement activity. The donation is disbursing money for the purpose of influencing a section of the public in relation to a federal election. As neither Finn nor the student union is required to disclose it under the *Commonwealth Electoral Act 1918*, the activity must be registered under the scheme.

⁵ Section 13(3) of the Act provides that the disseminator of information or material does not need to register if the information or material is produced entirely by a person other than the disseminator and the identity of the produced is apparent or disclosed.

⁶ Sections 10, 21 and 35 of the Act deal with disbursement activity.

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Example Four

An Australian lobbying firm, ProLobby, is engaged by a foreign government-related entity to make representations to the Australian Commonwealth Treasury to ease foreign investment restrictions. ProLobby meets with Treasury officials for this purpose. This falls within the definition of general political lobbying and is a registrable activity.

ProLobby also distributes leaflets to people in the Treasurer's electorate calling on them to email the Treasurer asking the Treasurer to ease foreign investment restrictions. This falls within the definition of communications activity and is a registrable activity.

ProLobby must register both activities under the scheme.