


## For Public Release

## FVEY Comparison: Foreign Influence Transparency Registries

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	 Foreign Influence Transparency Registry (FITR), <i>consultation in 2023</i>	 Foreign Influence Transparency Scheme (FITS), 2018	 Foreign Influence Registration Scheme (FIRS) <sup>2</sup> , <i>tabled 2022</i>	 Foreign Agents Registration Act (FARA), 1938 <sup>3</sup>
<b>Registrable Activities</b>	<p>The consultation paper includes several registrable activities, which could be considered for a potential registry:</p> <ul style="list-style-type: none"> <li>• Entering into an <b>arrangement with a foreign principal</b> to undertake registrable activities;</li> <li>• <b>Parliamentary lobbying</b>;</li> <li>• <b>General political lobbying</b> and advocacy;</li> <li>• <b>Disbursement activity</b>; and,</li> <li>• <b>Communications activity</b> – which could cover all circumstances where materials are communicated to the public or office holders with the intent sway opinion.</li> </ul> <p>“Communications activity” is conceptually broader than comparable regimes in Australia, for example, as it includes activities intended to sway public opinion, not just activities intended to sway government.</p>	<p>Registrable activities include the following activities (when they are undertaken on behalf of, or at the direction of, a foreign principal):</p> <ul style="list-style-type: none"> <li>• <b>Parliamentary lobbying</b>;</li> <li>• <b>General political lobbying</b>;</li> <li>• <b>Communications activity</b>; and,</li> <li>• <b>Disbursement activity</b>.</li> </ul> <p>For an activity to be registrable, the primary or sole purpose of the activity is to influence Australian political or government outcomes or decisions. Therefore, usual academic activity would not be regarded as being for the purpose of exerting influence and would not be covered under the registry.</p>	<p>FIRS proposes a two-tiered system which requires registration of:</p> <p><b>Primary Tier</b></p> <ul style="list-style-type: none"> <li>• <b>Arrangements</b> to carry out political influence activities within the UK at the direction of a foreign principal (foreign influence arrangement).</li> <li>• <b>Political influence activity</b> where the activity is being carried out by the foreign principal itself.</li> </ul> <p><b>Enhanced Tier</b></p> <ul style="list-style-type: none"> <li>• The law contains a power for the Secretary of State to <b>specify a foreign power</b>, or an entity subject to foreign power control where it is considered necessary for the safety and interests of the UK – any activities undertaken at the direction of the designated power must be registered (subject to Parliamentary approval).</li> </ul>	<p>FARA requires the registration of, and disclosures by, an “agent of a foreign principal” who, either directly or through another person, within the United States:</p> <ul style="list-style-type: none"> <li>• engages in “<b>political activities</b>” on behalf of a foreign principal;</li> <li>• acts as a foreign principal’s public relations counsel, publicity agent, information-service employee, or political consultant; or,</li> <li>• solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of a foreign principal.</li> </ul> <p>FARA’s definition of ‘political activities’ includes ‘<b>almost any advocacy efforts that engage with the public</b>’ has the potential to reduce government accountability by civil society.</p>
<b>Exemptions</b>	<p>The consultation paper <b>does not propose specific exemptions</b>. Instead, it sets out the understanding that any new law would require limited exemptions.</p> <p>Examples of exemptions included in the consultation, only for example purposes for discussion, include <b>legal advice and representation, diplomatic and consular activities, and activities undertaken by employees of a foreign government</b> (where their links are already transparent).</p>	<p>Exemptions to FITS includes:</p> <ul style="list-style-type: none"> <li>• <b>Humanitarian aid</b> or assistance;</li> <li>• <b>Legal advice</b> or representation;</li> <li>• Members of Parliament and statutory office holders;</li> <li>• <b>Diplomatic, consular or similar activities</b>;</li> <li>• Religious activities;</li> <li>• Foreign government employees <b>and commercial or business pursuits</b>; and,</li> <li>• Other exemptions set out in the Act.</li> </ul>	<p>Proposed exemptions under FIRS include:</p> <ul style="list-style-type: none"> <li>• Persons with <b>diplomatic privileges</b> or immunity;</li> <li>• <b>Family members</b> for consular or diplomatic staff;</li> <li>• <b>Legal services</b>; and,</li> <li>• <b>Domestic and international news publishers</b> (recognized news publishers, which carries a specific definition in the context of UK law).</li> </ul>	<p>Exemptions to registration under FARA include:</p> <ul style="list-style-type: none"> <li>• diplomats, consular officers, officials of foreign governments and staff members of diplomatic or consular officers,</li> <li>• <b>bona fide</b> religious, scholastic, academic, artistic, scientific activities, as well as legal representation;</li> <li>• <b>bona fide trade or commerce</b> even where a foreign principal is implicated; and,</li> <li>• persons engaged in lobbying activities and who have registered under the <b>Lobbying Disclosure Act 1995</b>.</li> </ul>
<b>Information Disclosure</b>	<p>The consultation paper <b>does not set out a definitive list</b> for information that may need to be disclosed to comply with a registry, in an effort to foster discussion.</p> <p>However, several examples for types of information to be disclosed are included: <b>personal details</b> for the individual or entity undertaking registrable activities; <b>dates</b>; the <b>purpose of the activity</b>; the nature of the <b>arrangement with the foreign principal</b>.</p>	<p>A registrant has various responsibilities under the scheme in terms of information disclosure:</p> <ul style="list-style-type: none"> <li>• the <b>name of the registrant</b> and foreign principal;</li> <li>• a <b>description of the activities</b>; and,</li> <li>• any other information prescribed under the schemes rules.</li> </ul> <p>FITS includes protections for <b>commercially sensitive information</b>, which may not need to be disclosed.</p>	<p>Proposed online process to register is <b>free</b>, and requires:</p> <ul style="list-style-type: none"> <li>• information about those <b>party to an arrangement</b>;</li> <li>• a <b>description of the arrangement</b>; and,</li> <li>• description of the types of <b>activities to be undertaken</b>.</li> </ul> <p>Information disclosure must be completed within 10 days of an arrangement, or otherwise <b>before activities are carried out</b>.</p>	<p>Information disclosed under FARA when registering includes:</p> <ul style="list-style-type: none"> <li>• <b>name</b> of registrant;</li> <li>• business address (where applicable);</li> <li>• nationality, year of birth, <b>citizenship of individual</b>;</li> <li>• the nature of the <b>registrants business/activity</b>;</li> <li>• the name of the <b>foreign principal</b>;</li> <li>• description of <b>activities</b>; and,</li> <li>• financial information (where disbursements are involved).</li> </ul>
<b>Compliance</b>	<p>The consultation paper proposes several different compliance mechanisms:</p> <ul style="list-style-type: none"> <li>• Administrative enforcements mechanisms (notices) could compel information disclosure (<b>compliance notices</b>) and provide clarity for certain individuals or entities that may be considered foreign principals for the purposes of the registry (<b>transparency notices</b>);</li> <li>• <b>Administrative Monetary Penalties (AMPs)</b>;</li> <li>• <b>Criminal offences</b> designed in the regime could include (1) failure to register when an obligation exists; (2) providing false or misleading information; (3) inducing others to undertake registrable activities; and (4) destroying records.</li> </ul>	<p>FITS allows for <b>transparency notices</b> to be issued, declaring an individual or entity as a foreign principal.</p> <p>FITS also contains <b>criminal offences for non-compliance</b>:</p> <ul style="list-style-type: none"> <li>• undertaking registrable activities while not being registered under the scheme;</li> <li>• providing false or misleading information or documents in relation to an individual’s registration; and,</li> <li>• destroying records in connection with the scheme</li> </ul> <p>The <b>maximum penalties</b> for these offences range from six months to five years imprisonment, depending on the seriousness of the conduct.</p>	<p>Proposed measures include:</p> <ul style="list-style-type: none"> <li>• <b>Information notices</b> can be given by the secretary of State to request more information about registered arrangements or activities, on reasonable grounds; and,</li> <li>• <b>Criminal offences</b> for failing to comply with obligations under the scheme may result in imprisonment (2 to 5 years).</li> </ul>	<p>Limited enforcement powers are available. The administering unit primarily seeks to ensure compliance with FARA requirements on a voluntary basis and <b>send letters of inquiry</b> advising a person of the existence of FARA and their possible obligations.</p> <p><b>Criminal offences</b> include:</p> <ul style="list-style-type: none"> <li>• Willful violation of any provision in the Act;</li> <li>• False or misleading statements when registering; and,</li> <li>• Willful omission of information when registering.</li> </ul> <p>The penalty for willful violation of FARA is maximum of <b>five years in prison and/or a fine of up to \$250,000</b>, depending on the violation.</p>

<sup>1</sup> New Zealand does not have a foreign influence registry law, therefore is not included in the FVEY comparison.

<sup>2</sup> The U.K. Foreign Influence Registration Scheme has been tabled in Parliament, and has yet to become law. Components of the law may therefore change as exemplified in amendments introduced on 23 February.

<sup>3</sup> FARA has been subject to several revisions, and is currently undergoing a review.