



23 January 2018

Inquiry Secretary  
Parliamentary Joint Committee on Intelligence and Security  
PO Box 6021  
Parliament House  
Canberra ACT 2600  
By email only: [pjcis@aph.gov.au](mailto:pjcis@aph.gov.au)

## Review of the Foreign Influence Transparency Scheme Bill 2017

We, the undersigned industry bodies strongly support the Government's efforts to ensure greater transparency about the forms and sources of foreign influence in Australia, especially where influence is being exerted via intermediaries.

The *Foreign Influence Transparency Scheme Bill 2017* (**the Bill**) and associated legislation introducing the Foreign Influence Transparency Scheme (**Scheme**) is drafted broadly. We believe that a technical and strictly legal interpretation of the Bill would mean that industry bodies that count **foreign principals** (as defined) among our membership may be required to register under the Bill and comply with the corresponding disclosure and conduct requirements. This is because an industry body could be treated as undertaking action "on behalf" of a foreign principal, for example, when representations are made to the Government on specific public policy matters.

If this interpretation is correct, we are concerned, based on its current drafting, that the Bill may have been cast too widely, and beyond the policy intention of the Government.

Industry bodies, such as ours, do not act on behalf of any individual member, but rather on behalf of the entire membership. Our representations are made in the best interests of the industry, in accordance with internal governance procedures, including board, working group and committee structures. Given our focus on industry representation, Government decision-makers and regulators routinely seek the views of industry bodies, and their members, on policy issues to formulate well-considered policy that does not have unintended consequences for industry.

According to the Explanatory Memorandum, a central policy objective of the draft legislation is to ensure that decision-makers and the public are aware of what interests are being advanced in respect of a decision or process, particularly where concealed intermediaries are used. In the case of industry bodies, there is no question of concealment or lack of transparency. Our membership base is generally publicly disclosed on our websites and other materials, and our submissions to Government and regulatory consultations are generally publicly available. We also clearly explain how and why our membership cohorts may be affected by a possible policy decision.

Given this transparency, it does not appear necessary nor appropriate for an industry body to register under the proposed legislation. Indeed, to require them to register would, in the words of the Explanatory Memorandum, "impose disproportionate and unjustifiable regulatory requirements and is unlikely to add to the transparency objective of the scheme".

The Explanatory Memorandum does not specifically consider the position of industry advocacy bodies under the Scheme. We propose to the Committee that the Bill is clarified to specifically exclude industry bodies from the operation of the Scheme.

Without examining all the technical issues, the proposed exemptions from the Scheme do not appear to be appropriate or relevant to industry bodies such as ours. Accordingly, for the avoidance of any doubt, and given non-compliance carries with it criminal penalties, (as well as a range of administrative burdens and obligations) we would urge the Government to specifically provide an exemption in the legislation for industry bodies which carry out otherwise registrable activities, including advocacy on behalf of their membership base.

We note that our colleagues at the Australian Financial Markets Association (**AFMA**) have made a detailed submission on these matters. We would like to advise our support for AFMA's submission and our support for the drafting changes proposed by AFMA.

If you would like any further information in relation to this letter, please contact Christine Cupitt [REDACTED]  
[REDACTED]

Yours sincerely,

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**Australian Bankers' Association**

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