



Inquiry Secretary
Parliamentary Joint Committee on Intelligence and Security
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2 February 2018

Dear

**REVIEW OF THE FOREIGN INFLUENCE TRANSPARENCY BILL 2017
PARLIAMENTARY JOINT COMMITTEE REQUEST**

The Insurance Council of Australia¹ (the Insurance Council) is writing in relation to the joint submission of 23 January 2018², made by the Australian Bankers' Association, Australian Private Equity & Venture Capital Association, Financial Services Council and Insurance Council, to the Review of the Foreign Influence Transparency Bill 2017 (the Bill) by the Parliamentary Joint Committee on Intelligence and Security (the Committee).

The Insurance Council understands from the Australian Private Equity & Venture Capital Association, which appeared before the Committee on 30 January 2018, that the signatories to the joint submission have been asked to provide the percentage of their respective memberships which would qualify as a "*foreign principal*" under the Bill or are foreign owned. The purpose of this letter is to respond the Committee's request.

The relevant provisions of the Bill are:

Section 10 "*foreign principal* means:

- (a) a foreign government;
- (b) a foreign public enterprise;
- (c) a foreign political organisation;

¹ The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. September 2017 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$45.07 billion per annum and has total assets of \$118.1 billion. The industry employs approximately 60,000 people and on average pays out about \$132.8 million in claims each working day.

Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

² Joint [submission](#) of 23 January 2018 (submission 18) made by the Australian Bankers' Association, Australian Private Equity & Venture Capital Association, Financial Services Council and Insurance Council of Australia.



(d) **a foreign business;**

(e) *an individual who is neither an Australian citizen nor a permanent Australian resident.*"

Section 10 "**foreign business** means a person (other than an individual) that:

(a) either:

(i) *is constituted or organised under a law of a foreign country or of part of a foreign country; or*

(ii) *has its principal place of business in a foreign country; and*

(b) *is not a foreign government, foreign public enterprise or foreign political organisation.*"

With respect to the definition of "*foreign principal*" under the Bill, the Insurance Council is unable to determine with certainty which of its members would fall within the definition. For example, it is not clear that a corporate entity under Australian law with a parent entity legally incorporated in a foreign country is intended to be treated as a **foreign business**. It could also be that an Australian corporate which does more business in a foreign country than in Australia would be regarded as a **foreign business**.

With respect to foreign owned companies, the Insurance Council estimates that around 50 per cent of its members operate in Australia as an Australian branch office or Australian subsidiary of a foreign-incorporated general insurer. We would note that this percentage is calculated on the number of Insurance Council members and bears no relationship to the market share held by those insurers. The largest three general insurers in Australia by far are all Australian-based corporates.

The Insurance Council would also like to draw to the Committee's attention the stringent regulation to which all general insurers doing business in Australia are subject. All of the Insurance Council's members, are required to be authorised by the Australian Prudential Regulation Authority (APRA), under the *Insurance Act 1973* (the Insurance Act), to conduct new or renewal insurance business in Australia. They are required to comply fully with APRA's prudential regulation requirements from the commencement of insurance business in Australia and continuously thereafter³.

Additionally, all of the Insurance Council's members are subject to close scrutiny by the Australian Securities and Investments Commission (ASIC). Of particular note, the *Corporations Act 2001*, administered by ASIC, requires all providers of financial services (this captures all of the Insurance Council's members) to obtain an Australian Financial Services License (AFSL).

In conclusion, the Insurance Council would like to emphasise that it does not undertake any activity on behalf of a single member. All the positions taken in its advocacy reflect the consensus of its membership as determined through its member committees and working groups. Members with foreign connections may benefit from successful advocacy but so will other Insurance Council members. Consequently, the Insurance Council strongly submits

³ Please see the Australian Prudential Regulation Authority's [Guidelines on Authorisation of General Insurers](#).



that there is no valid policy rationale for it and similar industry associations to be subject to the proposed Scheme.

If you have any questions or comments in relation to our submission, please contact John Anning, the Insurance Council's General Manager Policy, Regulation Directorate, [REDACTED]

Yours sincerely

Robert Whelan
Executive Director & CEO