



9 December 2024

Senate Foreign Affairs, Defence and Trade References Committee

PO Box 6100, Parliament House Canberra ACT 2600

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## Responses to questions on notice from Inquiry into Australia's sanctions regime at Public Hearing 2024

Dear Committee Members,

As per the requests outlined by the committee at the public hearing on 15 November 2024, please find the following responses below.

### In relation to an independent advisory panel to advise government on designations

It is our understanding that other Global Magnitsky regimes do not currently have independent advisory bodies or panels in place to advise government on designations. We also understand that the importance of the role of Australia's Foreign Minister, in consultation the Attorney General, as the final decision maker on designations though firmly believe that the inclusion of an advisory body would help promote transparency, improved reporting and a more effective process for designations. This would build public trust and overall confidence in the system.

As outlined in the 2020 Joint Standing Committee on Foreign Affairs, Defence and Trade's *Criminality, corruption and impunity: Should Australia join the Global Magnitsky movement? An inquiry into targeted sanctions to address human rights abuses*:

"5.58 The Sub-committee recommends that an independent advisory body be created to receive nominations, consider them and make recommendations to the Minister for a decision. This would provide a degree of public confidence in the process of nomination, and allow representations from those people and organisations directly affected.

5.59 The structure and composition of this body would be the subject of further consultation, however the Sub-committee considers it should include the ability to conduct its inquiry in public and to publish reasons for its decision."<sup>1</sup>

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<sup>1</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade (2020), *Criminality, corruption and impunity: Should Australia join the Global Magnitsky movement? An inquiry into targeted sanctions to address human rights abuses*, p.77



In relation to automatic referrals to law enforcement once a corruption designation is made.

Currently it our understanding there is no formal legislative link between the imposition of sanctions and the opening of investigations into possible corruption or other wrongdoing on the part of those sanctioned. This means that the imposition of sanctions is seen as a legally separate act and does not trigger any action by law enforcement into the origin of frozen funds. We note that the Swiss government takes a different approach with the Swiss Foreign Illicit Assets Act, which mandates authorities to begin efforts to cooperate with the country where the corruption occurred.

Generally, we recommend a “whole of government” approach which would also mean that where law enforcement bodies were unable to make a case for confiscation that they could also easily make referrals to ASO.

Should you wish to discuss these matters further please contact [anna.griffin@transparency.org.au](mailto:anna.griffin@transparency.org.au).

Yours sincerely,

Clancy Moore

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