

**Parliamentary Joint Committee on Intelligence and Security**

**Report by Statement**

**Review of the Foreign Influence Transparency Scheme Amendment Rules 2023**

**September 2023**

**Mr Speaker**, I rise today to present a report by statement from the Parliamentary Joint Committee on Intelligence and Security, on the Committee's review of the Foreign Influence Transparency Scheme Amendment Rules 2023.

These Rules were made under subsection 53(2) of the *Foreign Influence Transparency Scheme Act 2018* (the FITS Act), and commenced on 1 July 2023. Subsection 53(3) of the FITS Act provides that the Committee must review the Rules as soon as possible after they are made, and report its comments and recommendations to each House of the Parliament before the end of the 15-day disallowance period for them.

The FITS Act establishes the Foreign Influence Transparency Scheme, known as the FITS, which seeks to ensure the transparency of activities undertaken in Australia on behalf of foreign principals, particularly where those activities are intended to influence Australian politics or governance on behalf of a foreign government. The FITS does this by requiring registration of relevant foreign influence activities with the Attorney-General's Department, and that Department's maintenance of a public register of these activities.

At this juncture, I note that the Committee is separately examining the operation and effectiveness of the Foreign Influence Transparency Scheme as a whole, through a review required by a separate provision in the FITS Act, and commenced by the Committee in August 2021. That review is close to completion and the Committee looks forward to presenting its views and recommendations to Parliament on how the Scheme is working, and how it can be strengthened.

For now, back to the Rules. The Committee opened its review of these Rules on 26 July 2023. The Committee invited public submissions to the review but did not receive any. The Committee held a private briefing on 10 August 2023 to discuss the Rules with representatives of the Attorney-General's Department and the Department of Foreign Affairs and Trade.

The original Foreign Influence Transparency Scheme Rules, made in 2018, set out purposes for which, and persons to whom, information obtained by the Attorney-General's Department under the FITS—and not otherwise published—may be communicated outside the Department.

The 2023 amendment Rules authorise a new purpose and entity for the sharing of FITS information. The Rules allow the Secretary of the Attorney-General's Department to communicate Scheme information to the Minister and Department responsible for the *Australia's Foreign Relations (State and Territory Arrangements) Act 2020* (the Foreign Relations Act) for the purposes of administering that Act.

The Foreign Relations Act establishes the Foreign Arrangements Scheme, which requires State and Territory entities to notify the Minister for Foreign Affairs of pre-existing and prospective arrangements with foreign entities; and provides that the Minister may cancel, vary or prevent an arrangement from proceeding if it is inconsistent with Australia's foreign policy or adversely affects Australia's foreign relations.

The Government advised the Committee that a small number of entities may be within the scope of both the FITS and the Foreign Arrangements Scheme. For instance, an entity may be a foreign principal or conducting registrable activities under the FITS, while also party to an arrangement covered by the Foreign Relations Act. Sharing information under the Rules would assist the Department of Foreign Affairs and Trade to administer the Foreign Arrangements Scheme, and would improve the interoperability of the two schemes.

The Committee agrees that streamlining interoperability between the FITS and the Foreign Arrangements Scheme is a legitimate and reasonable purpose for sharing FITS information with the Minister and Department of Foreign Affairs. At the same time, in discussing the Rules with the relevant government departments, the Committee noted that there is no provision under the Foreign Relations Act to allow information sharing in the other direction—that is, for FAS information to be shared with the administrators of the FITS.

Departmental officials advised that they work in practice to share information in both directions and to minimise duplication between the schemes as much as possible. However, a lack of

legislative authority for DFAT to share Foreign Arrangements Scheme information is inevitably limiting in that regard.

The Committee is aware that a review of the Foreign Arrangements Scheme is required to be commissioned by the Minister for Foreign Affairs in 2024. The Committee believes that such a review should consider the case for amending the Foreign Relations Act to authorise information-sharing with the Attorney-General and his Department for the purposes of administering the FITS.

The Committee has also heard, in its broader review of the FITS, concern from some stakeholders about the compliance burdens created by these schemes, particularly for entities that have, or believe they may have, obligations under more than one scheme.

To this end, the Committee discussed whether amendments or corrections made to information provided to the FITS may be passed on to DFAT, or to other entities with which the Attorney-General's Department has already shared the original information under the FITS Rules, rather than making the provider of the information request amendments to multiple schemes. The Committee sought assurances from the Department that it would seek to make this process as painless as possible for the stakeholders involved, while ensuring compliance with the Australian Privacy Principles.

Overall, Mr Speaker, the Committee is satisfied that the 2023 FITS Amendment Rules are reasonable and justified. Sharing Foreign Influence Transparency Scheme information with the Foreign Arrangements Scheme, where it supports the administration of the latter, makes good sense. The Committee therefore makes no recommendation for amendment or disallowance of the Foreign Influence Transparency Scheme Amendment Rules 2023.

In approving the Amendment Rules, the Committee encourages the Attorney-General, the Minister for Foreign Affairs, and their respective departments, to make every effort to ensure that both schemes operate as seamlessly as possible, including removing duplication and minimising the compliance burden on those who may interact with both Schemes.

I commend this report to the Parliament.

**Mr Peter Khalil MP**

**Chair**