



Public Inquiry Into Foreign Interference
in Federal Electoral Processes and
Democratic Institutions

Enquête publique sur l'ingérence étrangère
dans les processus électoraux et les
institutions démocratiques fédéraux

Overview Report:

Foreign Agent Registries

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Summary of Report

This overview report briefly summarizes the *Foreign Influence Transparency and Accountability Act (FITAA)* and foreign agent registration schemes for Australia, the United Kingdom and the United States. The report also highlights similarities and differences between *FITAA* and the three other registries.

Note to Reader

Pursuant to Rules 42-44 of the Commission's *Rules of Practice and Procedure*, the following Overview Report contains a summary of background facts and documents relating to the Commission's mandate.

Overview Reports allow facts to be placed in evidence without requiring the facts and related documents to be presented orally by a witness during the public hearings.

Overview Reports may be used to assist in identifying issues relevant to the Commission, make findings of fact and enable recommendations to be made by the Commission.

Parties have been provided an opportunity to comment on the accuracy of this Overview Report. Commission Counsel and the Parties may call evidence from witnesses at the Inquiry that casts doubt on the accuracy of the content of the documents underlying this Report. The Parties may also make submissions regarding what, if any, weight should be given to this Report and the cited documents.

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1. Overview

- [1] This overview report summarizes the Canadian foreign agent registration legislation and foreign agent registry schemes from the other Five Eyes countries with registries: Australia, the United Kingdom (UK) and the United States (US). The report also highlights the main points of similarity and divergence between the Canadian scheme and those in Australia, the UK and the US.

2. Canada: The *Foreign Influence Transparency and Accountability Act (FITAA)*

- [2] This section describes the main elements of the *Foreign Influence Transparency and Accountability Act (FITAA)*. The Commission's *Overview Report: Bill C-70* describes *FITAA* in more detail.
- [3] The purpose of *FITAA* is to:
- a. Ensure that persons who, under an arrangement, carry out activities in relation to a political or governmental process in Canada do so in a transparent manner.
 - b. Deter foreign principals from making efforts to influence political or governmental processes in Canada in a non-transparent manner.
 - c. Raise public awareness of efforts by foreign principals to influence political or governmental processes in Canada.
 - d. Strengthen national security.
- [4] *FITAA* requires any “person” entering an “arrangement” with a “foreign principal” relating to a Canadian “political or governmental process” to provide within 14 days, and keep updated, information to the Foreign Influence and Transparency Commissioner (FITC).¹

¹ *FITAA*, s. 5. See Part 4 of *An Act respecting countering foreign interference*, S.C. 2024, c. 16, **COM0000381**.



Once this information is provided, the FITC maintains it in a public registry.² The required information will be specified by regulation.

Person

- [5] A “person” includes a corporation, trust, joint venture, partnership, fund, unincorporated association or organization or any other legal entity.³

Arrangement

- [6] An “arrangement” is something whereby a person undertakes to carry out, under the direction of or in association with a foreign principal, any of the following activities in relation to a political or governmental process in Canada:
- a. Communicating with a public office holder.
 - b. Communicating or disseminating or causing to be communicated or disseminated by any means, including social media, information related to the political or governmental process.
 - c. Distributing money or items of value or providing a service or the use of a facility.⁴

Foreign principal

- [7] A “foreign principal” means a foreign economic entity, a foreign entity, a foreign power or a foreign state, as defined in the *Security of Information Act* (R.S.C. 1985, c.O-5, s. 2(1)).⁵

² FITAA, s. 8. See Part 4 of *An Act respecting countering foreign interference*, S.C. 2024, c. 16, **COM0000381**.

³ FITAA, s. 2. See Part 4 of *An Act respecting countering foreign interference*, S.C. 2024, c. 16, **COM0000381**.

⁴ FITAA, s. 2. See Part 4 of *An Act respecting countering foreign interference*, S.C. 2024, c. 16, **COM0000381**.

⁵ FITAA, s. 2. See Part 4 of *An Act respecting countering foreign interference*, S.C. 2024, c. 16, **COM0000381**.



Political or governmental processes

- [8] “Political or governmental processes” include:
- a. Any proceeding of a legislative body.
 - b. The development of a legislative proposal.
 - c. The development or amendment of any policy or program.
 - d. The making of a decision by a public office holder or government body, including the awarding of a contract.
 - e. The holding of an election or referendum.
 - f. The nomination of a candidate or the development of an electoral platform by a political party.⁶

Registration exemptions

- [9] Exempt from registration are foreign nationals with diplomatic, consular or other official or special representative acceptance issued by the Department of Foreign Affairs, Trade and Development; employees of a foreign principal acting openly in their official capacity; and persons prescribed by regulation.⁷

FITC (Commissioner)

- [10] The FITC may investigate to ensure that those required to register are in compliance with their obligations to provide and update information and to not knowingly provide any false or misleading information to the FITC. To do this, the FITC can:
- a. Summon and enforce the attendance of witnesses.
 - b. Compel evidence on oath or affirmation.

⁶ FITAA, s. 2. See Part 4 of *An Act respecting countering foreign interference*, S.C. 2024, c. 16, **COM0000381**.

⁷ FITAA, s. 6. See Part 4 of *An Act respecting countering foreign interference*, S.C. 2024, c. 16, **COM0000381**.



- c. Compel production and receive and accept information even if not admissible in court.⁸

[11] The FITC can impose administrative monetary penalties for violations of *FITAA*. The FITC must also make public the nature of the violation, the name of the person who committed it and the amount of the penalty imposed.⁹

[12] In the alternative, breaches of the duties mentioned above can be prosecuted as criminal offences.¹⁰

[13] The Governor in Council appoints the FITC after consultation with the Leaders of the Government and Opposition in the Senate, the Leader of Facilitator of every other recognized party or parliamentary group in the Senate, and with the leaders of all official parties in the House of Commons and upon approval of the appointment by resolutions of the Senate and House of Commons. The FITC serves a term of 7 years but may be removed for cause by the Governor in Council at any time.¹¹

Review of *FITAA*

[14] After each general election, *FITAA* and its operation must be reviewed by a parliamentary committee.¹²

⁸ *FITAA*, s. 16. See Part 4 of *An Act respecting countering foreign interference*, S.C. 2024, c. 16, **COM0000381**.

⁹ *FITAA*, s. 18-22. See Part 4 of *An Act respecting countering foreign interference*, S.C. 2024, c. 16, **COM0000381**.

¹⁰ *FITAA*, s. 23-25. See Part 4 of *An Act respecting countering foreign interference*, S.C. 2024, c. 16, **COM0000381**.

¹¹ *FITAA*, s. 9. See Part 4 of *An Act respecting countering foreign interference*, S.C. 2024, c. 16, **COM0000381**.

¹² *FITAA*, s. 31. See Part 4 of *An Act respecting countering foreign interference*, S.C. 2024, c. 16, **COM0000381**.

3. Australia

3.1 Summary of the Australian foreign registry scheme (*FITSA*)

- [15] The object of *FITSA* is to provide a scheme for the registration of persons who undertake certain activities on behalf of foreign governments and other foreign principals, in order to improve the transparency of these activities.
- [16] Australia's *Foreign Influence Transparency Scheme Act 2018*, No. 63, 2018 ("*FITSA*"),¹³ requires any "person" undertaking parliamentary lobbying on behalf of a foreign government or undertaking "registrable activities" on behalf of a "foreign principal," for the purpose of "political or governmental influence" to submit information to a public registry kept by the Department of the Attorney General.¹⁴
- [17] In certain circumstances, former cabinet ministers and "recent designated position holders" must register if they undertake activities on behalf of a foreign principal even though the activities are not registrable under the general registration requirements.¹⁵
- [18] The *FITSA* scheme is overseen by a Secretary of the Attorney-General's Department ("Secretary").

Person

- [19] A "person" is defined as an individual, body corporate, body politic, a partnership, an unincorporated or incorporated association, an incorporated or unincorporated organization, any combination of individuals who together constitute a body or any prescribed kind of body.¹⁶

¹³ COM0000495.

¹⁴ *FITSA*, ss. 20-23, COM0000495.

¹⁵ *FITSA*, ss. 22-23, COM0000495.

¹⁶ *FITSA*, s. 10, COM0000495.

Registrable activities

- [20] A “registrable activity” is an activity relating to a foreign principal, which relates to:
- a. Parliamentary lobbying (whether or not the purpose is political or governmental influence).
 - b. Activities in Australia for the purpose of political or governmental influence (general political lobbying).
 - c. Communications activity.
 - d. Disbursement activity.
 - e. Certain activities by former Cabinet ministers.
 - f. Certain activities by recent designated position holders (see below).¹⁷

Foreign principal

- [21] A “foreign principal” includes a foreign government, a foreign political organization, a foreign government-related entity and a foreign government-related individual. There are detailed definitions for each of these categories.¹⁸ If the Secretary is satisfied a person is a foreign principal, they may issue a notice to that effect (a “transparency notice”).¹⁹

On behalf of a foreign principal

- [22] A person undertakes an activity “on behalf of a foreign principal” if:
- a. They undertake the activity under an arrangement with a foreign principal, in the service of the foreign principal, on the order or at the request of the foreign principal or under the direction of the foreign principal; and

¹⁷ FITSA, ss. 20-23, **COM0000495**.

¹⁸ FITSA, s. 10, **COM0000495**.

¹⁹ FITSA, ss. 14A-14J, **COM0000495**.



- b. At the time the arrangement or service is entered into, the person and the foreign principal knew or expected the person would or might undertake registrable activities.²⁰

Political or governmental influence

[23] An activity is for the purpose of political or governmental influence if the sole, primary or substantial purpose of the activity is to influence one or more of the following:

- a. A process in relation to a federal election or designated vote.
- b. A process in relation to a federal government decision.
- c. Proceedings of a House of Parliament.
- d. A process in relation to a registered political party.
- e. A process in relation to a member of Parliament who is not a member of a registered political party,
- f. A process in relation to federal election candidates not endorsed by registered political parties.
- g. Processes in relation to a registered political campaigner.²¹

[24] An activity may also be for the purpose of political or governmental influence if it aims to influence the public, or a portion of it, in relation to the processes mentioned above.²²

Communications activity

[25] A person undertakes “communications activity” if they communicate or distribute information or material to the public, or a section of it or if they produce information or material for the purpose of it being communicated or distributed to the public or a section of it.²³

²⁰ *FITSA*, s. 11, **COM0000495**.

²¹ *FITSA*, s. 12, **COM0000495**.

²² *FITSA*, s. 12, **COM0000495**.

²³ *FITSA*, s. 13, **COM0000495**.



Disbursement activity

- [26] A Person undertakes “disbursement activity” if they disburse money or things of value and they and the recipient are not required to disclose it under the *Commonwealth Electoral Act 1918*.²⁴
- [27] If a person undertakes disbursement activity on behalf of a foreign principal for the purpose of political or governmental influence (defined in section 21) and the total value of the money or things of value reaches the electoral donations threshold or reaches a multiple of that threshold, the person must give the Secretary notice of the total value reached.²⁵

Recent designated position holders

- [28] Section 10 defines a “recent” designated position holder as a person who held a designated position within the previous 15 years. A “designated position holder” includes a minister, member of Parliament, a personal ministerial employee at or above the Senior Advisor level, an agency head or deputy agency head, holder of an equivalent office to agency head or deputy agency head and established by federal law and ambassadors and high commissioners.²⁶

Registration

- [29] The information required for registration includes:
- a. the registrant’s name, contact details and occupation, and
 - b. details about the registrable activity.²⁷
- [30] The Secretary must make available to the public on a website the name of the registrant and the foreign principal and a description of the registrable activities.²⁸

²⁴ FITSA, s. 10, **COM0000495**.

²⁵ FITSA, s. 35, **COM0000495**.

²⁶ FITSA, s. 2, **COM0000495**.

²⁷ FITSA, s. 16(2), **COM0000495**.

²⁸ FITSA, s. 43, **COM0000495**.



[31] Registrants must keep their information up to date on the register, submitting updates within 14 days of any material change.²⁹

Registration exemptions

[32] There are exemptions to the registration obligation for:

- a. humanitarian aid or assistance
- b. legal advice or representation
- c. members of Parliament
- d. statutory office holders
- e. diplomatic activities
- f. religious activities
- g. foreign government employees and commercial or business pursuits
- h. industry representatives
- i. personal representation in relation to government administrative processes,
- j. registered charities
- k. artistic purposes
- l. certain registered organizations and
- m. activities by tax agents, customs brokers and liquidators or receivers.³⁰

[33] Government can also prescribe more exemptions by regulation.³¹

Powers to obtain information

[34] The Secretary can obtain information in certain circumstances. If the Secretary reasonably suspects a person might be liable to register and the person is not registered, they can issue a notice requiring the person to provide any information that

²⁹ FITSA, s. 34, **COM0000495**.

³⁰ FITSA, ss. 24-29F, **COM0000495**.

³¹ FITSA, s. 30, **COM0000495**.



may satisfy the Secretary about whether the person must register.³² Further, if the Secretary reasonably suspects a person has information relevant to the operation of the FITSA scheme, they can issue a notice requiring information or documents from the person.³³

Offences

- [35] If a person is reckless in failing to apply for or renew their registration, they may be liable for the following offences:
- a. Intentional or reckless omission to apply or renew whether or not registrable activity undertaken (punishable by 12 months in prison).³⁴
 - b. Reckless omission to apply or renew when reckless about whether required to do so and registrable activity undertaken (punishable by two years in prison).³⁵
 - c. Reckless omission to apply or renew knowing you were required to do so and registrable activity undertaken (punishable by three years in prison).³⁶
 - d. Intentional omission to apply or renew when reckless about whether required to do so and registrable activity undertaken (punishable by three years in prison).³⁷
 - e. Intentional omission to apply or renew knowing you were required to do so and registrable activity undertaken (punishable by five years in prison).³⁸

³² FITSA, s. 45, **COM0000495**.

³³ FITSA, s. 46, **COM0000495**.

³⁴ FITSA, s. 57(4), **COM0000495**.

³⁵ FITSA, s. 57(3), **COM0000495**.

³⁶ FITSA, s. 57(3A), **COM0000495**.

³⁷ FITSA, s. 57(2), **COM0000495**.

³⁸ FITSA, s. 57(1), **COM0000495**.

[36] A person who fails to fulfil their reporting responsibility commits an offence.³⁹ It is also an offence to provide false or misleading information⁴⁰ and to fail to comply with a notice or give false or misleading information in response.⁴¹

Review of FITSA

[37] Section 70 of FITSA requires a joint parliamentary committee review of the operation, effectiveness and implications of the scheme every three years. In March 2024, the Australian Parliamentary Joint Committee on Intelligence and Security issued its report on the statutory review of FITSA.⁴²

3.2 Comparison with FITAA

Similarities

- [38] Both regimes:
- a. Capture overt and covert activities in a public registry.
 - b. Require registration for political or governmental processes.
 - c. Have exemptions, although the Australian scheme's exemptions are largely in FITSA and the Canadian exemptions will mostly be in regulations.
 - d. Allow designations of person (e.g. a proxy) as a foreign principal.
 - e. Include investigatory powers.
 - f. Create criminal offences for those who breach registry requirements.
 - g. Require periodic review of the scheme.
- [39] Neither regime has a list of prescribed foreign state-related entities of special concern (see description of UK regime below).

³⁹ FITSA, s. 58, **COM0000495**.

⁴⁰ FITSA, s. 60, **COM0000495**.

⁴¹ FITSA, s. 59, **COM0000495**.

⁴² Parliamentary Joint Committee on Intelligence and Security, *Review of the Foreign Influence Transparency Scheme Act 2018* (Canberra, March 2024), **COM0000497**.



Differences

[40] Major differences between *FITSA* and *FITAA* include:

- a. *FITSA* requires registration of arrangements and activities, while *FITAA* imposes a duty on persons to make the FITC aware of registrable arrangements.
- b. *FITSA* expressly requires registration by former cabinet ministers and former designated office holders even when their activities or arrangements do not meet the general registration requirements.
- c. *FITSA* has no administrative penalty process.
- d. *FITSA* has a variety of criminal offences covering different situations of reckless and intentional acts and omissions while *FITAA*'s criminal offences only cover four situations: not providing information to the FITC about arrangements; not updating that information; providing false or misleading information; and obstructing the FITC.
- e. *FITAA* gives the FITC more investigatory powers than the Secretary under *FITSA*. In particular, the FITC can summon witnesses, compel evidence and receive and accept information even if not admissible in court.
- f. *FITSA* is the responsibility of an official in the Department of the Attorney-General, while the FITC is appointed by the Governor in Council with parliamentary approval.

4. United Kingdom

4.1 Summary of the UK foreign registry scheme (*FAFIRS*)

[41] In 2023, the *National Security Act 2023*, 2023, c. 32, received Royal Assent in the UK. Part 4 is the *Foreign Activities and Foreign Influence Registration Scheme* (“*FAFIRS*”).⁴³ As of 13 September 2024, it was not in force.

⁴³ COM0000496.



- [42] The FAFIRS is a **two-tier scheme** requiring registration of:
- a. Political influence tier: Arrangements with foreign states under which a foreign power gives a direction to individual and entities to carry out, or arrange for others to carry out, political influence activities in the UK.
 - b. Enhanced tier: A broader range of activities when specified foreign powers or entities who have been assessed as posing a potential risk to UK safety or interests give directions to a person to act.⁴⁴

Political influence tier

[43] Under the political influence tier, persons must register “foreign influence arrangements” between themselves and a “foreign power” where the foreign power directs the person to carry out “political influence activities.”⁴⁵

[44] A “person” includes corporate or unincorporated entities.⁴⁶

[45] A “foreign influence arrangement” is an agreement or arrangement between a person and a foreign power under which the latter directs the person to carry out political influence activities in the UK or arrange for such activities to be carried out in the UK.⁴⁷

[46] A “foreign power” is:

- a. a head of state
- b. a foreign government or part of a foreign government
- c. an agency or authority of a foreign government or part of a foreign government
- d. an authority administering a region of a foreign country, or
- e. a governing political party of a foreign government.⁴⁸

⁴⁴ *National Security Act 2023*, ss. 65-72, **COM0000496**.

⁴⁵ *National Security Act 2023*, ss. 69-72, **COM0000496**.

⁴⁶ *Interpretation Act, 1978*, 1978, c. 30, Schedule 1, **COM0000496**.

⁴⁷ *National Security Act 2023*, s. 69(1), **COM0000496**.

⁴⁸ *National Security Act 2023*, s. 32, **COM0000496**.

[47] “Political influence activities” include communications to a person, public communications or distributing money, goods or services where those activities are for the purpose of influencing an election, referendum, decisions of government ministers, proceedings of a UK registered political party or members of Parliament.⁴⁹

Enhanced tier

[48] Under the enhanced tier, individuals or entities must register “foreign activity arrangements” with a “specified” foreign power or entity when the arrangements involve a direction to carry out, or arrange for another person to carry out, “relevant activities” within the UK.⁵⁰

[49] “Foreign activity arrangements” are agreements or arrangements between a person and a specified person.⁵¹

[50] A “specified person” is a foreign power specified by the Secretary of State by regulation.⁵² A person may be specified in the regulations only if they are not an individual and the Secretary of State reasonably believes they are “controlled” by a foreign power.⁵³ The definition of “control” is broad and includes:

- a. Holding, directly or indirectly, more than 25% of the shares in the company.
- b. Holding, directly or indirectly, more than 25% of the voting rights in the company.
- c. The right to direct or control or actually directing or controlling the company's activities (in whole or part).
- d. Holding the right, directly or indirectly, to appoint or remove an officer of the company.

⁴⁹ *National Security Act 2023*, s. 70, **COM0000496**.

⁵⁰ *National Security Act 2023*, ss. 65-66, 68, **COM0000496**.

⁵¹ *National Security Act 2023*, s. 65, **COM0000496**.

⁵² *National Security Act 2023*, ss. 66, 68, **COM0000496**.

⁵³ *National Security Act 2023*, s. 66(2), **COM0000496**.



[51] “Relevant activities” are activities set out in regulation (not yet enacted) or otherwise all activities of any nature.⁵⁴

Registration exemptions

[52] Exemptions are as follows:

- a. arrangements where the UK is a party or any person acting on behalf of the Crown
- b. foreign powers themselves
- c. diplomatic missions (including family members of diplomats and those providing essential services to the diplomatic mission)
- d. recognized news publishers
- e. lawyers carrying out legal activities and
- f. employees of exempted persons.⁵⁵

Registration information

[53] The Secretary of State will by regulation prescribe the information required from registrants.⁵⁶

[54] The Secretary of State can require a person provide specified information by issuing information notices to:

- a. Parties to a registered foreign activity arrangement.
- b. A person the Secretary of State reasonably believes is carrying out relevant activities or arranging for these to be carried out in the UK.
- c. A person who registered relevant activities.
- d. A person the Secretary of State reasonably believes is carrying out relevant registered activities.

⁵⁴ *National Security Act 2023*, s. 68(4), **COM0000496**.

⁵⁵ *National Security Act 2023*, Schedule 15, ss. 1-7, **COM0000496**.

⁵⁶ *National Security Act 2023*, s. 74, **COM0000496**.

- e. A person who is a party to a registered foreign influence arrangement.
- f. A person the Secretary of State reasonably believes is a party to a foreign influence arrangement.
- g. A person the Secretary of State reasonably believes is carrying out political influence activities or arranging these.
- h. A person who has registered political influence activities.
- i. A person the Secretary of State reasonably believes is carrying out political influence activities.⁵⁷

[55] The Secretary of State can make regulations about publication of information received from registrants.⁵⁸

Offences

[56] Compliance breaches can result in criminal liability for:

- a. Intentionally or recklessly failing to register when required to do so.⁵⁹
- b. Providing false information.⁶⁰
- c. Carrying out activities under arrangements tainted by false information.⁶¹
- d. Failing to update a material change to a registered arrangement.⁶²

[57] Offences are punishable by up to two years in prison for the political influence tier⁶³ and up to five years under the enhanced tier or a fine (no limit on the amount) or both.⁶⁴

⁵⁷ *National Security Act 2023*, s. 75, **COM0000496**.

⁵⁸ *National Security Act 2023*, s. 79, **COM0000496**.

⁵⁹ *National Security Act 2023*, ss. 65(5), 67, 69(5), 71, **COM0000496**.

⁶⁰ *National Security Act 2023*, s. 77, **COM0000496**.

⁶¹ *National Security Act 2023*, s. 78, **COM0000496**.

⁶² *National Security Act 2023*, s. 74(5), (8), **COM0000496**.

⁶³ *National Security Act 2023*, s. 80(3), (4), **COM0000496**.

⁶⁴ *National Security Act 2023*, s. 80(1), (2), **COM0000496**.



4.2 Comparison to FITAA

Similarities

[58] Both regimes:

- a. Capture overt and covert activities in a registry.
- b. Require registration for political or governmental processes.
- c. Have exemptions set out in regulations.
- d. Include investigatory powers.
- e. Have similar kinds of criminal offences for those who breach registry requirements.

Differences

[59] Major substantive differences between *FAFIRS* and *FITAA* are as follows:

- a. *FAFIRS* is private by default, although the Secretary of State can make information provided to it public by regulation.
- b. *FAFIRS* requires registration of arrangements and activities, while *FITAA* imposes a duty on persons to make the FITC aware of registrable arrangements.
- c. *FAFIRS* has a two-tier scheme, which allows the Home Office to designate foreign states that will be subject to enhanced oversight and registration requirements.
- d. *FAFIRS* has no administrative penalty process.
- e. *FITAA* gives the FITC more investigatory powers than the Secretary of State under the *FAFIRS*, which can only issue information notice requiring information. In contrast, the FITC can summon witnesses, compel evidence, and receive and accept information even if not admissible in court.
- f. *FAFIRS* is the responsibility of an official in the Home Office, while the FITC is appointed by the Governor in Council with parliamentary approval.



- g. *FAFIRS* has is no statutory review process.

5. United States

5.1 Summary of the US foreign registry scheme (*FARA*)

[60] The *US Foreign Agents Registration Act 1938* (“*FARA*”), 22 U.S.C. § 611 to § 621, came into force in 1938.⁶⁵ *FARA* requires certain agents of foreign principals who are engaged in political activities or other activities specified under *FARA* to make periodic public disclosure of their relationship with the foreign principal, their activities, and receipts and disbursements in support of those activities. The foreign agent registry is overseen by the US Department of Justice.

[61] There is legislation in the US, Title 18, § 951, which makes it an offence for anyone (who is not a diplomatic or consular officer or attaché) who acts in the US as an agent of a foreign government, without notifying the US Attorney General. This is separate from the registration requirements under *FARA*.

Activities

[62] *FARA* requires registration and disclosure by an “agent of a foreign principal” who, directly or through another person, undertakes any of the following activities within the US:

- a. Engages in “political activities” on behalf of a “foreign principal”.

⁶⁵ COM0000494.



- b. Acts as a foreign principal's public relations counsel,⁶⁶ publicity agent,⁶⁷ information service employee⁶⁸ or political consultant.⁶⁹
- c. Solicits, collects, disburses or dispenses contributions, loans, money or other things of value for, or in the interest of, a foreign principal.
- d. Represents the interests of a foreign principal before any agency or official of the US government.⁷⁰

Agent of a foreign principal

[63] An "agent of a foreign principal" is any person⁷¹ who either:

- a. Acts as an agent, representative, employee or servant, or any person who acts in any other capacity at the order, request or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed or subsidized in whole or in major part by a foreign principal, and who directly or through any other person:

⁶⁶ A public relations counsel includes any person who engages directly or indirectly in informing, advising or in any way representing a principal in any public relations matter pertaining to political or public interests, policies or relations of the principal: *FARA*, § 611(g), **COM0000494**.

⁶⁷ A publicity agent includes any person who engages directly or indirectly in the publication or dissemination of oral, visual, graphic, written or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures or otherwise: *FARA*, § 611(h), **COM0000494**.

⁶⁸ An information service employee includes any person engaged in furnishing, disseminating or publishing accounts, descriptions, information or data with respect to the political, industrial, employment, economic, social, cultural or other benefits, advantages, facts or conditions of any country other than the US or of any government of a foreign country or of a foreign political party or of a partnership, association, corporation, organization or other combination of individuals organized under the laws of, or having its principal place of business in, a foreign country: *FARA*, § 611(i), **COM0000494**.

⁶⁹ A political consultant is any person who engages in informing or advising any other person with reference to US domestic or US foreign policies or the political or public interest, policies or relations of a foreign country or of a foreign political party: *FARA*, § 611(p), **COM0000494**.

⁷⁰ *FARA*, § 611(b), (d), 612, **COM0000494**.

⁷¹ A person includes an individual, partnership, association, corporation, organization or any other combination of individuals: § 611(a), **COM0000494**.

- i. Engages within the US in political activities for or in the interests of the foreign principal.
 - ii. Acts within the US as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of the foreign principal within the US.
 - iii. Within the US, solicits, collects, disburses or dispenses contributions, loans, money or other things of value for or in the interest of the foreign principal.
 - iv. Within the US represents the interests of the foreign principal before any agency or official of the US Government.
- b. Agrees, consents, assumes or purports to act as, or who is or holds themselves out to be, whether or not under a contractual relationship, an agent of a foreign principal as defined in a. above.⁷²

Foreign principal

[64] A “foreign principal” includes:

- a. A government of a foreign country⁷³ and a foreign political party.⁷⁴
- b. A person outside of the US, unless they are an individual, a citizen of the US and domiciled within the US or are not an individual and are organized

⁷² *FARA*, § 611(c), (d), **COM0000494**.

⁷³ A government of a foreign country includes any person or group of persons exercising sovereign *de facto* or *de jure* political jurisdiction over any country, other than the US, or over any part of such country, and includes any subdivision of any such group and any group or agency to which such sovereign *de facto* or *de jure* authority or functions are directly or indirectly delegated. Such term shall include any faction or body of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been recognized by the US: *FARA*, § 611(e), **COM0000494**.

⁷⁴ A foreign political party includes any organization or any other combination of individuals in a country other than the US, or any unit or branch thereof, having for an aim or purpose, or which is engaged in any activity devoted in whole or in part to, the establishment, administration, control, or acquisition of administration or control, of a government of a foreign country or a subdivision thereof, or the furtherance or influencing of the political or public interests, policies, or relations of a government of a foreign country or a subdivision thereof: *FARA*, § 611(f), **COM0000494**.

under or created by laws of the US or of any State or other place subject to the jurisdiction of the US and have their principal place of business within the US.

- c. A partnership, association, corporation, organization or other combination of persons organized under the laws of or having its principal place of business in a foreign country.⁷⁵

Political activities

- [65] “Political activities” are any activities the person engaging in them believes will, or that the person intends to, in any way influence any agency or official of the US Government or any section of the public within the US with reference to formulating, adopting or changing the domestic or foreign policies of the US or with reference to the political or public interests, policies or relations of a government of a foreign country or a foreign political party.⁷⁶

Registration statement

- [66] A registration statement must include:
- a. The registrant’s name, principal business address and all other business addresses and all residence addresses (if any).
 - b. The registrant’s nationality if an individual and if not, then the nationality of partners, directors or officers and the corporate charter, articles of incorporation, association, constitution and bylaws; and statement of a corporations’ ownership and control.
 - c. A comprehensive statement about the nature of the registrant’s business.
 - d. Copies of written agreements, terms and conditions of oral agreements or a statement of all the circumstances by which the registrant is an agent of a foreign principal or is performing or assuming or purporting or has

⁷⁵ FARA, § 611(b), **COM0000494**.

⁷⁶ FARA, § 611(o), **COM0000494**.

agreed to perform for themselves or for a foreign principal or for any person that require registration.

- e. The nature and amount of contributions, income, money or thing of value received by the registrant.
- f. A detailed statement of every activity the registrant did or has agreed to do within the preceding 60 days.
- g. The name, business and residence addresses, and if an individual, the nationality, of any person other than a foreign principal for whom the registrant is acting, assuming or purporting to act or has agreed to act under circumstances that require registration.
- h. A detailed statement of the money and other things of value spent or disposed of by the registrant during the preceding 60 days in furtherance of or in connection with activities which require registration.⁷⁷

[67] Registered agents must update their registration information every six months and within 10 days of any changes.⁷⁸

Registration exemptions

[68] The following are exempted from registration:

- a. Any news or press service or association organized under US law or any State or other place under the jurisdiction of the US; any newspaper, magazine, periodical or other publication 80% owned by US citizens; non-foreign state-related news or press service or association, newspaper, magazine, periodical or other publication.⁷⁹
- b. Diplomatic or consular officials while engaged exclusively in activities recognized by State Department as within the scope of their functions and their staff.

⁷⁷ FARA, § 612(a), **COM0000494**.

⁷⁸ FARA, § 612(b), **COM0000494**

⁷⁹ FARA, § 611(d), **COM0000494**.



- c. Any official of a foreign government who is not a public relations counsel, publicity agent, information-service employee or a US citizen whose duties are of public record in the State Department.
- d. Any person engaging or agreeing to engage only in private and nonpolitical activities to further trade or commerce of a foreign principal; activities not serving predominantly a foreign interest; and the soliciting or collecting of funds and contributions within the US for medical aid and assistance or for food and clothing to relieve human suffering.
- e. Any person engaging or agreeing to engage only in activities in furtherance of religious, scholastic, academic or scientific pursuits or of the fine arts.
- f. Any person, or employee of such person, whose foreign principal is a government of a foreign country the defense of which the President deems vital to the defense of the US.
- g. Any person qualified to practice law representing a disclosed foreign principal.
- h. Any agent of a person if registered under the *Lobbying Disclosure Act of 1995*, 2 U.S.C.A. s. 1601 *et seq.*

[69] Registration statements are available for public inspection.⁸⁰

[70] Agents of foreign principals required to register must also label “informational materials” disseminated or published within the US for, or in the interest of, a foreign principal.⁸¹ Copies of registered information materials are available for public inspection by regulation.⁸²

⁸⁰ FARA, § 616(a), **COM0000494**.

⁸¹ FARA, § 614(a), **COM0000494**.

⁸² FARA, § 614(c), **COM0000494**.

Offences

- [71] It is a criminal offence to willfully violate *FARA* or its regulations.⁸³ With respect to registration statements, it is an offence to willfully make a false statement of material fact required, willfully omit any material fact required or willfully omit a material fact or a copy of a material document necessary to make the contents of the registration statement not misleading.⁸⁴ Offences are punishable by a fine of up to \$10,000, imprisonment of up to five years or both.
- [72] With respect to some aspects of filing requirements for informational materials, a violation is punishable by a fine of not more than \$5,000 or imprisonment of up to six months or both.⁸⁵
- [73] Any non-US citizen convicted of a violation, or a conspiracy to violate, *FARA* will be removed from the US.⁸⁶

Recommendations for amending FARA

- [74] In 2021, the American Bar Association Task Force on the Foreign Agents Registration Act released a report, *FARA: Issues and Recommendations for Reform*, with recommendations for legislative amendments to the Act.⁸⁷

5.2 Comparison to FITAA

Similarities

- [75] Both regimes:
- a. Capture overt and covert activities in a public registry.
 - b. Require registration for political or governmental processes.

⁸³ *FARA*, § 618(a)(1), **COM0000494**.

⁸⁴ *FARA*, § 618(a)(2), **COM0000494**.

⁸⁵ *FARA*, § 618(a)(2), **COM0000494**.

⁸⁶ *FARA*, § 618(c), **COM0000494**.

⁸⁷ Task Force on the Foreign Agents Registration Act, *FARA: Issues and Recommendations for Reform* (American Bar Association, July 16, 2021), **COM0000493**.



- c. Have exemptions, although the US scheme's exemptions are set out in the Act and the Canadian exemptions are expected to mostly be in regulations.
- d. Include criminal offences for those who breach registry requirements.

[76] Neither regime has a list of prescribed foreign state-related entities of special concern (see description of UK regime above).

Differences

[77] Major substantive differences between *FARA* and *FITAA* are as follows:

- a. *FARA* requires registration of arrangements and activities, while *FITAA* imposes a duty on persons to make the FITC aware of registrable arrangements.
- b. *FARA* requires registration even when the foreign principal is not connected to a foreign government.
- c. *FARA* has no investigatory powers.
- d. *FARA* has no administrative penalty process (although violations may be pursued through civil or criminal proceedings).
- e. *FARA* requires deportation of aliens who violate the Act.
- f. *FARA* is the responsibility of an official in the Department of Justice, while the FITC is appointed by the Governor in Council with parliamentary approval.
- g. *FARA* has no statutory review process.