

## BAB response to the National Security Bill/FIRS - January 25<sup>th</sup>, 2022

### Overview

The amendment to the UK 2023 National Security and Investment Act (by the Home Office), which establishes a Foreign Agent Registration Scheme, was added for two main purposes: to strengthen the resilience of the UK political system against covert foreign influence and provide greater assurance around the activities of specified foreign powers or entities. It is designed to protect the UK public and our democratic systems and is a key recommendation of the Intelligence and Security Committee's 2020 Russia Report.

FIRS established a two-tiered approach, including a 'primary tier' and an 'enhanced tier'. These are explained well in [Allen & Overy's publication](#). In practice, a foreign principal must register each time they carry out "political influence activities". This encompasses communications with political figures, with the public when it is not reasonably clear the communications are being directed by a foreign principal, and the disbursement of goods, money, and services to UK persons.

FIRS is based on legislation that is in both the US (FARA) and Australia (FITS). The aim of FIRS was to create a similar registration scheme to those in the US and Australia but to improve on them and close a few loopholes. Whilst there are some exemptions to FIRS including lawyers, diplomats, senior police and military, and journalists, it will be applicable to the vast majority, with suggested figures of 105,000 – 307,000 individuals needing to learn how to use the register. In contrast, FARA exempts all commercial activity, significantly reducing the number of those conducting cross-border business from having to register.

To learn more information, read our member HSF's summary [here](#).

### BAB concerns

- BAB are concerned that close states to the UK are included in this bill. Countries like the US enjoy a strong relationship with the UK and provide high levels of investment each year. Yet, this scheme puts allied states into the same box of scepticism as a handful of hostile states. Without amendments, FIRS is a policy of anti-growth at a time of economic turbulence.
- BAB are concerned that the scheme is too broad. BAB have suggested an exemption of 'friendly' states, or the specific mentioning of certain hostile states. We have also suggested that commercial activities be made exempt. Much of the work BAB and our members do must be registered unless amended. Transatlantic business will lead to a high volume of registrations, even on matters such as potential investment into Government Net Zero projects.
- BAB are concerned with the lack of consultation that went into FIRS. There was only a very limited consultation process last year on an earlier version of the scheme. We are pleased with the industry feedback that is currently underway but urge the Government to hold off pushing this scheme through in its present form. We support improved transparency but urge further consideration into amendments before the scheme is put into effect.
- BAB are concerned with the volume of registrations that the Home Office will receive as a result of the scheme in its current form. There are concerns over the cost of this scheme to administer, and of genuine threats being missed even if they are registered due to burdensome capacity issues. To improve the transparency of foreign government lobbying,

an amendment could be made to the 2014 Lobbying Act that the UK already has, reducing the volume of information the Home Office will receive.

### How BABs concerns have been addressed

- BAB sent a letter to the Lord Johnson, the Minister for Investment, outlining our concerns. We suggested that the earlier clauses of “activities of specified person” as defined in clauses 62 to 65 and especially in clause 63 could provide a solution. These clauses limit their effect to persons “specified by the Secretary of State”. We suggested this to be a small number of hostile foreign powers and certainly not to include the US. The letter also advocated for a large exemption of commercial activities. Lord Johnson responded to the letter, who accepted our letter and has since been in discussions with the Home Office.
- BAB have given regular briefs to the US Embassy in London, and the UK Embassy in DC. The Minister Counselor for Economic Affairs, Virginia Murray, has since met with Baroness Hayter to discuss FIRS. The Baroness, who has been a vocal critic of FIRS in its current form in the Lords sittings, gathered examples of how the bill would affect the operations of US/transatlantic companies.
- BAB were invited to attend a briefing with the Home Office regarding the scheme to provide a better understanding of how it will affect both our organisation and our members. We provided suggestions on amendments (*outlined in internal alert*) and looked for clarification on issues including provisions for online/remote meetings. Please contact [srahemanji@bab.inc](mailto:srahemanji@bab.inc) for further details of briefing.

### Where we are now

- The Government now has an industry feedback consultation process for FIRS. The Government line remained the same in the last Lords sitting whereby the scheme will improve transparency and not affect any business that has good intent. There is concern that FIRS will not stop malign and covert actions as it is unlikely that hostile threats will register. Therefore, as it is presently written, it will serve only as an additional bureaucratic exercise to conducting business internationally.
- The current Government plan is to enact the scheme and then amend it over time. They also plan to put a guidance team in place to help individuals and businesses understand what must be registered. Given the expanded consultation and industry feedback, we are optimistic that amendments will be made by the next sitting.