

Australian Sanctions Legislation Amendments: Consultation Submission

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Introduction

This submission is made in response to the exposure draft of the *Autonomous Sanctions Bill* 2026 ('the Bill') published by the Department of Foreign Affairs and Trade (DFAT) in September 2026⁶ as part of the proposed Australian sanctions legislation amendments.⁷

Contributors to this submission are financial crime and sanctions academics and experts from across Australian and UK research institutions. All of us are currently taking part in a three-year, Australian Research Council-funded project on the effective implementation of targeted financial sanctions in Australia, the UK, the EU and Canada. We have, individually and collectively, produced multiple publications on Australian and global sanctions regimes and testified on sanctions reform in Australia and globally.

Executive Summary

We welcome the government's effort to 'streamline and modernise'⁸ Australia's autonomous sanctions regime. In several respects, the Bill proposes welcome clarifications to Australian sanctions laws.

In our view, however, Australia should embrace this opportunity to not only streamline and modernise but also *strengthen* Australia's sanctions laws. Since 2022, Australia and other like-minded nations have undergone a substantial expansion in the number of autonomous sanctions regimes and designations. In the current geopolitical context, this trend is set to continue.

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⁶ Department of Foreign Affairs and Trade (DFAT), *Exposure Draft: Autonomous Sanctions Bill 2026* (Exposure Draft), <<https://www.dfat.gov.au/sites/default/files/exposure-draft-autonomous-sanctions-bill-2026.pdf>>, accessed on 30 September 2026.

⁷ Department of Foreign Affairs and Trade (DFAT), *Guide to the Australian Sanctions Legislation Amendment Reforms* (Guide), <<https://www.dfat.gov.au/sites/default/files/guide-to-the-alsa-reforms.pdf>>, accessed on 30 September 2026, paras. 4–7.

⁸ DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, para. 3.

The sunset of the *Autonomous Sanctions Regulations 2011* on 1 October 2027 creates an opening for the development of a legally robust and effectively enforced autonomous sanctions regime fit to support the government's objectives in the years ahead.⁹ The current Bill falls short of this ambition and, once it is enacted into law, it will take a long time before another such opportunity for reform arises.

Powers of the Australian Sanctions Office

The most salient limitation of the current Bill is the lack of provision for civil enforcement powers to be vested in the Australian Sanctions Office (ASO).¹⁰ The unavailability of civil penalties renders the ASO powerless to address sanctions violations itself. Instead, it must refer cases to the Australian Federal Police (AFP) and Commonwealth Director of Public Prosecutions (CDPP), whose broad remit means that sanctions investigations must compete for resources with other matters. The ASO's lack of civil enforcement powers makes it an outlier compared to US and UK sanctions agencies, and we recommend that it be granted such powers.

Substantive Legal Changes

Australia's sanctions law is fundamentally sound, but the past few years' experience has demonstrated the need for improvements and clarifications. We welcome the broad policy intention to provide for such changes, but note that some of the proposed amendments may lead to unintended consequences:

- **The new 'effective control' test.** The Bill introduces the concept of 'effective control' over companies and other entities to clarify the circumstances in which Australian businesses and residents are prohibited from making assets available to companies controlled by sanctioned persons.¹¹ Existing case law effectively requires foregoing business dealings with companies minority-owned by sanctioned persons, without specifying any de minimis threshold but acknowledging that one might exist.¹²

The proposed definition of 'effective control' will overrule that case law and put forward a multi-pronged test. In broad terms, sanctions prohibitions will only apply to companies that are either more than half-owned by one or more sanctioned persons or otherwise exhibit indicia of de facto control by such persons.¹³ This change will simplify the law in this area but may require some Australian businesses to resume honouring contracts vis-à-vis companies minority-owned by sanctioned persons.

- **The undefined 'control' test.** Separate provisions of the Bill require Australian businesses to freeze assets 'owned' or 'controlled' by sanctioned persons.¹⁴ Such assets must be notified to the AFP, and it is believed that there is currently \$100 million of

⁹ DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, para. 5.

¹⁰ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, Part 3, especially ss. 43–44; DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, paras. 54–56.

¹¹ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, ss. 10, 30(2); DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, paras. 45–46.

¹² *Alumina and Bauxite Company Ltd v Queensland Alumina Ltd* [2024] FCA 43, [282] (O'Bryan J); *Alumina and Bauxite Company Ltd v Queensland Alumina Ltd* [2024] FCAFC 142.

¹³ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, s. 10(1).

¹⁴ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, ss. 29, 31; DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, para. 47.

sanctioned Russian assets frozen in Australia. The Bill does *not* define ‘control’ in this context.¹⁵ For instance, how does one determine if a bank account held in Australia by a sanctioned oligarch’s family member is ‘controlled’ by the oligarch?

The Bill does not explain how, if at all, this concept of ‘control’ is related to that of ‘effective control’ discussed above. On the face of it, ‘effective control’ as defined in the Bill can only apply in relation to companies and other entities, rather than assets.¹⁶ This level of uncertainty and complexity undermines the Bill’s stated intention of streamlining Australian sanctions laws.¹⁷ It also creates the risk of disputes, including litigation, over whether any of the currently frozen Russian \$100 million must be released.

- **The undefined ‘humanitarian exemption’.** Australian sanctions law currently provides for a standing humanitarian exemption to all UN-imposed sanctions programs. The exemption is highly limited in scope and only applies to activities of UN-affiliated agencies and their implementing partners. A separate, broader exemption applies to Taliban-related UN sanctions in Afghanistan. The Bill proposes to incorporate a humanitarian exemption across all Australian sanctions programs, including autonomous sanctions, but does not specify the precise parameters of the exemption, which are to be prescribed by the rules issued once the Bill becomes law.¹⁸ The broader the exemption is, the greater the risk of unintended consequences stemming from assets being made available, wittingly or unwittingly, for the benefit of sanctioned persons.
- **Making sanctions unavailable against Australian citizens and permanent residents.** We support clarifying that sanctions cannot deny Australian citizens entry to Australia, which would be incompatible with international law.¹⁹ We also agree that financial sanctions should not normally be used against Australian citizens.²⁰ However, we note that, in international practice, states sometimes do apply sanctions against their own citizens in exceptional circumstances: for example, against foreign terrorist fighters that cannot be brought to trial in their country of nationality. We therefore recommend that consideration be given to granting the Minister the discretion to impose sanctions against Australian citizens in exceptional, narrowly defined circumstances where a conventional law enforcement response is unfeasible. We do not see why sanctions should not, in appropriate circumstances, be used against Australian permanent residents.
- **Sanctions against family members of primary targets.** Sections 28(3)(b) and 32(4)(b) allow for the imposition of financial and travel sanctions respectively against ‘immediate

¹⁵ There is some suggestion of this concept being in development: DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, p. 17.

¹⁶ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, ss. 10, 30(2).

¹⁷ DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, paras. 3, 15–16.

¹⁸ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, s. 40; DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, paras. 12, 66–67, 73.

¹⁹ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, s. 32(3); DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, para. 25.

²⁰ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, s. 28(2); DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, para. 22.

family members’ of those engaged in sanctionable conduct. We support these provisions but recommend that the definition of ‘immediate family members’ in section 9 include de facto partners. This change will also affect the scope of the ‘personal use’ exemption under sections 24(4)(b) in relation to import-sanctioned goods and 25(4)(b)(ii) in relation to export-sanctioned goods.

In the analysis that follows, we focus in greater detail on (a) the powers of the ASO; and (b) ‘effective control’ and ‘control’ in the Bill.

Powers of the Australian Sanctions Office

The ASO’s Role

The ASO is Australia’s only agency whose remit is exclusively focused on sanctions matters. Under existing law, the ASO cannot bring sanctions enforcement actions itself. Instead, it can refer an alleged violation to the AFP for criminal investigation. Criminal charges may then be brought by the CDPP. The Bill does not propose to alter these institutional arrangements.²¹

This leaves the Australian government with no options for addressing sanctions violations short of criminal prosecution. This runs contrary to established Australian practice, as reflected in *A Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers* published by the Attorney-General’s Department, of imposing civil penalties in cases where the culpability of the person’s conduct, the consequences of the conviction or a variety of other factors point towards civil rather than criminal enforcement.²² In particular, proposed reliance on criminal penalties alone hampers the use of a graduated approach to enforcement, such as that applied by AUSTRAC, which relies on enforceable undertakings; civil penalties; and referral for criminal investigation and prosecution in the most serious cases.

Reliance on criminal enforcement alone also impedes the development of a dedicated, sanctions-specific enforcement capability within the Australian government, housed within the ASO. This is bound to limit the effectiveness of future Australian sanctions enforcement.

International Experience

International experience demonstrates that a substantial proportion of sanctions enforcement actions in peer jurisdictions take the form of civil rather than criminal actions, especially by the US Office of Foreign Assets Control (OFAC):

US Civil Sanctions Enforcement²³

Year	OFAC penalties / settlements / findings	Total penalties / settlements
2023	17	US\$1.541bn
2024	12	US\$48.79m
2025	14	US\$265.75m
2023–25 total	43	US\$1.856bn

²¹ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, Part 3, especially ss. 43–44; DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, paras. 54–56.

²² Attorney-General’s Department (AGD), *A Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers* (Guide, 2024), <<https://www.ag.gov.au/legal-system/publications/guide-framing-commonwealth-offences-infringement-notices-and-enforcement-powers>>, accessed on 30 September 2026, p. 17.

²³ US Office of Foreign Assets Control (OFAC), *Civil Penalties and Enforcement Information* (Web Page), <<https://ofac.treasury.gov/civil-penalties-and-enforcement-information>>, accessed on 30 September 2026.

In the UK, substantially fewer civil cases have been brought and a lesser amount in fines levied. However, both UK sanctions agencies – the Office of Financial Sanctions Implementation (OFSI) and the newly created Office of Trade Sanctions Implementation (OTSI) – do have civil enforcement powers:

UK Civil Sanctions Enforcement²⁴

Agency	Reports/cases in latest FY	Penalties in latest FY	Value
OFSI	394 suspected breaches (2024/25)	2	£480,000
OTSI	178 reports/referrals (2025/26)	0	£0

The availability of these powers should also be viewed in the broader context of sanctions enforcement policy. For instance, the UK’s establishment of two distinct sanctions agencies – with a focus on financial and trade sanctions respectively, both wielding civil enforcement powers – signals the ambition to develop a credible, specialist enforcement capability. The absence of civil enforcement powers in Australia would send the opposite signal and prevent the ASO from maturing into a sanctions agency with comprehensive policy, outreach and enforcement expertise.

We therefore recommend that the broadest range of enforcement options, including enforceable undertakings and civil penalties, be made available to the ASO; and that comprehensive enforcement statistics be published on an annual basis.

‘Effective Control’ and ‘Control’

Legislative Context

Under existing law, the concept of ‘control’ over companies or persons by sanctioned persons is relevant to two prohibitions:

- Regulation 14 of the current *Autonomous Sanctions Regulations* 2011 prohibits making assets available, directly or indirectly, for the benefit of a designated person or entity. The text of Regulation 14 does not speak of ‘control’ at all, but it begs the question of when making an asset available to a company entails making that asset available for the benefit of the company’s shareholder or other controller. The Federal Court’s judgement in *ABC v QAL* indicates that making assets available to a company with any minority shareholding by a sanctioned person, no matter how small, violates Regulation 14.²⁵
- Regulation 15 prohibits dealing with ‘controlled’ assets, defined under Regulation 3 as assets ‘owned or controlled by a designated person or entity’. Such assets are therefore frozen.

²⁴ UK Office of Financial Sanctions Implementation (OFSI), *OFSI Annual Review 2024 to 2025: Effective Sanctions* (Corporate Report, updated 2 April 2026), <<https://www.gov.uk/government/publications/ofsi-annual-review-2024-25-effective-sanctions>>, accessed on 30 September 2026; UK Office of Trade Sanctions Implementation (OTSI), *OTSI Annual Review 2025-2026* (Corporate Report, 27 August 2026), <<https://www.gov.uk/government/publications/office-of-trade-sanctions-implementation-annual-review-2025-2026>>, accessed on 30 September 2026.

²⁵ *Alumina and Bauxite Company Ltd v Queensland Alumina Ltd* [2024] FCA 43; *Alumina and Bauxite Company Ltd v Queensland Alumina Ltd* [2024] FCAFC 142.

In substance, the Bill restates both these existing prohibitions in the proposed section 30 and section 31 respectively:²⁶

- Section 30 prohibits making assets available, directly or indirectly, for the benefit of a sanctioned person or entity.²⁷
- Section 31 prohibits dealing with financially restricted assets, defined as assets ‘owned or controlled by a financially sanctioned person or entity’.²⁸

‘Effective Control’

The Bill then introduces the concept of ‘effective control’ in the following context:²⁹

[A] person is taken to indirectly make an asset available to, or for the benefit of, a financially sanctioned person or entity if the person makes the asset available to, or for the benefit of:

- (a) an entity effectively controlled by the financially sanctioned person or entity; or
- (b) an entity effectively controlled, in aggregate, by the financially sanctioned person or entity and one or more other financially sanctioned persons or entities.

The Bill defines ‘effective control’ as follows:³⁰

Entity that is a body corporate

(1) *Effective control*, of an entity that is a body corporate, is:

- (a) having the capacity to cast, or control the casting of, more than one half of the maximum number of votes that might be cast at a general meeting of the body corporate; or
- (b) directly or indirectly holding more than one half of the issued share capital of the body corporate (not including any part of the issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital, and not including MCIs); or
- (c) having the capacity to control the composition of a majority or the whole of the body corporate’s board or governing body; or
- (d) having the capacity to determine the outcome of decisions about the body corporate’s financial and operating policies, taking into account:
 - (i) the practical influence that can be exerted (rather than the rights that can be enforced); and
 - (ii) any practice or pattern of behaviour affecting the body corporate’s financial or operating policies (whether or not it involves a breach of an agreement or a breach of trust).

²⁶ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, ss. 30–31; DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, para. 43.

²⁷ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, s. 30(1).

²⁸ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, ss. 29, 31(1).

²⁹ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, s. 30(2).

³⁰ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, s. 10.

(2) For the purposes of paragraph (1)(b), **MCI** has the same meaning as in the *Corporations Act 2001*, and **issued** has the same meaning as in Chapter 7 of that Act.

Entity other than a body corporate

(3) *Effective control*, of an entity other than a body corporate, is:

(a) having the capacity to control the composition of a majority or the whole of the entity's board or governing body (if any); or

(b) having the capacity to determine the outcome of decisions about the entity's financial and operating policies, taking into account:

(i) the practical influence that can be exerted (rather than the rights that can be enforced); and

(ii) any practice or pattern of behaviour affecting the entity's financial or operating policies (whether or not it involves a breach of an agreement or a breach of trust).

Problems with the Proposed Approach

In our view, several aspects of the proposed reform require careful consideration:

- **The lack of definition of 'control'**. The Bill defines 'effective control' in the context of section 30 (prohibition on making assets available) but does not define 'control' in the context of section 31 (prohibition on dealing with financially restricted assets). DFAT's *Guide to the Australian Sanctions Legislation Amendment Reforms* neither explains the relationship between those two concepts nor clearly distinguishes between them.³¹

In particular, while the new concept of 'effective control' will in practice overrule *ABC v QAL*, it is unclear whether 'control' under the proposed Bill is meant to be understood differently from the way it is understood under current law. Existing law does not define 'control' of assets, but ASO Guidance explains it as follows:

Control of an asset can be indicated by a designated person or entity's command or direction over the asset. This may be established by circumstances such as possession of the asset, or the ability to dictate how it may be dealt with in comparison to other persons or entities.³²

The Bill is bound to cause confusion and uncertainty by introducing two distinct but similar concepts, one of them defined and the other (control of assets) undefined, with the relationship between them unexplained:

- As currently drafted, 'effective control' only applies to companies and other entities, whereas 'control' applies to assets.³³
- It is unclear whether an asset that belongs to a company that is not 'effectively controlled' by a sanctioned person might nonetheless be 'controlled' by a sanctioned person within the meaning of section 31.

³¹ DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, para. 47.

³² <https://www.dfat.gov.au/international-relations/security/sanctions/guidance/financial-transactions-involving-designated-persons-and-entities>.

³³ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, ss. 10, 29.

- The lack of clarity about what ‘control’ means is likely to cause difficulties for companies that currently hold frozen ‘controlled assets’ because they may struggle to ascertain whether those assets are ‘financially restricted assets’ under the Bill. **If the Bill passes, this may lead to litigation and/or the release of currently frozen assets.**
- **Changes in sanctions compliance landscape.** As indicated previously, overruling the judgment in *ABC v QAL* appears to be the policy intent behind the proposed amendments.³⁴ In principle, this is a legitimate and defensible policy choice. However, the current proposal will introduce this *after* Australian businesses have had several years to adjust to the current, more restrictive position. In some cases, this includes Australian businesses suspending or terminating contracts with counterparties minority-owned by sanctioned persons, as was the case in *ABC v QAL*. This raises the following questions:
 - Whether there is actual evidence of Australian businesses requesting the relaxation of current rules on making assets available to sanctioned persons;
 - What impact these proposed reforms will have on Australian businesses that have already taken measures to comply with the current restrictions, including in some cases by suspending or terminating their preexisting contractual arrangements; and
 - What message about Australia’s sanctions regime this proposal sends internationally to both partner nations and sanctioned persons.
- **Preventing sanctions evasion.** One of the main reasons why the concepts of ‘effective control’ and ‘control’ are important is their centrality to the government’s ability to counteract increasingly sophisticated sanctions evasion schemes. This is a matter of shared international concern. Australia’s traditional partners have recently intensified their focus on mechanisms used by sanctioned individuals to dilute ownership but keep control over their assets. Notably, OFSI launched ‘*Ownership and Control Test in UK Financial Sanctions Regulations: Call for Evidence*’ in February 2026.³⁵ Meanwhile, OFAC released a *Guidance on Sham Transactions and Sanctions Evasion* in March 2026.³⁶

In our view, Australia’s definitions of ‘effective control’ and ‘control’ should draw on lessons learned from international experience and case law. In particular, and without limitation to these factors, we propose that the following factors that featured in recent foreign case law be incorporated:

- Purported divestment of shareholding not showing actual relinquishment of shareholder prerogatives;³⁷

³⁴ DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, paras. 43, 45–46.

³⁵ UK Office of Financial Sanctions Implementation (OFSI), *Ownership and Control Test in UK Financial Sanctions Regulations: Call for Evidence* (Web Page), <<https://www.gov.uk/government/calls-for-evidence/ownership-and-control-test-in-uk-financial-sanctions-regulations>>, accessed on 22 September 2026.

³⁶ US Office of Foreign Assets Control (OFAC), *Guidance on Sham Transactions and Sanctions Evasion* (Web Page), <<https://ofac.treasury.gov/media/935441/download?inline>>, accessed on 30 September 2026.

³⁷ Cf. *Trotsenko v Council* (Court of Justice of the European Union, Fourth Chamber, 16 September 2026) ECLI:EU:T:2026:569, para. 259.

- For a bare trust, the sanctioned person or entity having beneficiary rights in relation to the trust assets;³⁸
 - For a discretionary trust, the sanctioned person being the settlor and/or the deed allowing the sanctioned person to dispose of the assets.³⁹
- **The conflation of ownership and control within a single notion of ‘effective control’.**
Under the proposed Bill, more than 50% of shareholding and various indicia of control, as set out in section 10 of the Bill, provide alternative pathways to establishing ‘effective control’. By contrast, UK, EU and US sanctions laws distinguish between ownership and control as two separate concepts that trigger different consequences. While the fusion of ownership and control within a single notion of ‘effective control’ could work within the Australian legislative scheme, it risks causing confusion in the context of cross-border, multi-jurisdictional transactions.
 - **50% or more than 50%?** Section 10(1)(b) defines ‘effective control’ by reference to, among other things, ‘holding *more than one half* of the issued share capital of the body corporate’.⁴⁰ By contrast, the DFAT Guide speaks of owning ‘50 per cent or more of a company’.⁴¹ This inconsistency requires remedying. Either approach is legitimate: for example, UK sanctions law uses ‘more than 50%’ as the ownership test, whereas the EU’s test is ‘50% or more’.⁴² Notably, the UK government is currently considering aligning its approach to the EU.⁴³ Section 10 of the proposed Bill is largely modelled on section 910B of *Corporations Act 2001* (Cth), which contains the ‘more than half’ wording.⁴⁴

For the reasons discussed above, we recommend that a definition of ‘control’ of ‘financially restricted assets’ be introduced. For this purpose, a broad range of criteria should be taken into consideration, such as:

- Exercise of control over an asset through formal or informal agreements, joint arrangements or transactions; leases, bailment, agency, direct access to or ability to influence the asset’s use, disposal, management or investment;
- Disposal or financial leverage over the asset through personal loans or security agreements, loan guarantees, agreements containing restrictive debt covenants;
- Personal property security or deemed security interests pursuant to the *Personal Property Securities Act 2009*;
- Otherwise benefitting, directly or indirectly, from the asset, receiving economic value from the asset or holding an equitable interest in the asset.

³⁸ Cf. *LLC EuroChem North-West-2 v Société Générale SA* [2025] EWHC 1938 (Comm), para. 266.

³⁹ Cf. *LLC EuroChem North-West-2 v Société Générale SA* [2025] EWHC 1938 (Comm), para. 278.

⁴⁰ DFAT, *Exposure Draft: Autonomous Sanctions Bill 2026*, s. 10(1)(b).

⁴¹ DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, para. 45.

⁴² UK Office of Financial Sanctions Implementation (OFSI), *Ownership and Control Test in UK Financial Sanctions Regulations: Call for Evidence* (Web Page), <<https://www.gov.uk/government/calls-for-evidence/ownership-and-control-test-in-uk-financial-sanctions-regulations>>, accessed on 30 September 2026, paras. 1.5, 1.13.

⁴³ UK Office of Financial Sanctions Implementation (OFSI), *Ownership and Control Test in UK Financial Sanctions Regulations: Call for Evidence* (Web Page), <<https://www.gov.uk/government/calls-for-evidence/ownership-and-control-test-in-uk-financial-sanctions-regulations>>, accessed on 30 September 2026, para. 1.13.

⁴⁴ DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, para. 46.

Conclusion

Our submission has focused on two important elements of the proposed Bill, namely (a) its failure to grant the ASO civil enforcement powers and (b) the limitations and risks stemming from the proposed provisions dealing with ‘effective control’ and ‘control’.

The theme uniting both those issues is Australia’s ability to effectively prevent, detect and combat sanctions evasion. In doing so, it is important that open-ended, flexible concepts such as ‘control’ are appropriately balanced against the requirements of clarity and practicability. We agree with the premise, implicit in the proposed reforms, that the current legal position is lacking in clarity. However, we are concerned that the Bill and its accompanying Guide signal a relaxation of the existing approach without itself introducing sufficient legal clarity; adequately explaining the likely implications of these changes for sanctions compliance; or empowering the ASO to effectively go after potential violations.⁴⁵

We are grateful for the opportunity to comment on the Bill and stand ready to provide any further input that may be of help.

⁴⁵ DFAT, *Guide to the Australian Sanctions Legislation Amendment Reforms*, paras. 43, 45–47.