



Law Council  
OF AUSTRALIA

Office of the President

22 June 2020

Senator the Hon David Fawcett  
Chair  
Joint Standing Committee on Foreign Affairs, Defence and Trade  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600

By email: [jscfadt@aph.gov.au](mailto:jscfadt@aph.gov.au)

Dear Chair

**Inquiry into whether Australia should examine the use of targeted sanctions to address human rights abuses**

Thank you for the opportunity to appear before the Human Rights Sub-committee (**Sub-committee**) on 15 June 2020 regarding the inquiry into the use of targeted sanctions to address human rights abuses (**Inquiry**).

A question which arose at the hearing concerned the detailed legislative criteria to which the Minister, as decision-maker, should have regard when making such sanctions. As discussed at the hearing, the Law Council considers that there should be:

- an ‘evidentiary’ criterion – an appropriate threshold would be ‘satisfaction on reasonable grounds’;
  - this would prompt careful regard to the reliability and sufficiency of the available evidence, including any views of reputable international experts on human rights and corruption and/or civil society representatives;
- ‘conduct’ criteria concerning relevant thresholds, such as ‘serious human rights violation (or abuse)’ and ‘significant corruption’, and the degree of responsibility or culpability required for sanctions to be made against an individual or entity; and
- ‘proportionality’ criteria – an overarching criterion would be whether the sanction is necessary, reasonable and proportionate in the circumstances, having regard to other, less intrusive means of achieving the objectives sought. Underneath this overarching question, separate criteria could prompt attention to, eg:
  - the likely effects of the designation on the person and any dependents, having regard to any factors which make them particularly vulnerable; and
  - the best interests of the child as a primary consideration.<sup>1</sup>

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<sup>1</sup> *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 3(1). Other human rights which would be likely engaged include the right to

Specific legislative measures should be adopted to avoid harm to vulnerable persons, for example, through requirements to refrain from decisions which render individuals stateless, at risk of *refoulement*, or without basic living expenses or (for family members) access to social security payments.

With respect to the discussion of 'conduct' thresholds for the imposition of sanctions, eg, 'serious' human rights violations, the Law Council submits that the relevant chosen terms should be carefully defined, including by reference to Australia's international human rights law obligations. It is concerned that some international examples, such as the United States (US) Executive Order 13818,<sup>2</sup> refer to 'serious human rights abuse'<sup>3</sup> without definition. Definitions in any proposed Australian legislation will constitute a key safeguard and aid decision makers by providing clarity on these thresholds. The Law Council would welcome the release of an exposure draft of the proposed legislation for comment.

As requested by the Sub-committee, the Law Council encloses a table outlining the features of the US, Canadian and United Kingdom legislation, as well as a reference to relevant findings by the International Bar Association's Human Rights Institute's Independent High Level Panel of Legal Experts on Media Freedom<sup>4</sup> with respect to each regime.

Please contact Ms Leonie Campbell, Deputy Director of Policy, on (02) 6246 3711 or at [leonie.campbell@lawcouncil.asn.au](mailto:leonie.campbell@lawcouncil.asn.au) in the first instance, if you require further information.

Yours sincerely



**Pauline Wright**  
**President**

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freedom from interference with the family and to protection of the family: *International Covenant on Civil and Political Rights*, opened for signature 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976), arts 17 and 23.

<sup>2</sup> President Donald Trump, Executive Order 13818 'Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption' (20 December 2017).

<sup>3</sup> *Ibid*, s 1(a)(ii)(A).

<sup>4</sup> International Bar Association Human Rights Institute, Independent High Level Panel of Legal Experts on Media Freedom, *Report on Targeted Sanctions to Protect Journalists*, 13 February 2020.

Table of comparison – High-level summary of human rights sanctions regimes in other jurisdictions

	United States (US)  <a href="#"><i>Global Magnitsky Human Rights Accountability Act</i></a> (2016) <sup>i</sup> ( <b>Global Magnitsky Act</b> ) as amended by <a href="#"><i>Executive Order 13818</i></a> (20 December 2017) <sup>ii</sup>	Canada  <a href="#"><i>Justice for Victims of Corrupt Foreign Officials Act</i></a> (2017) <sup>iii</sup>	United Kingdom (UK)  <a href="#"><i>Sanctions and Anti-Money Laundering Act 2018</i></a> (SAMLA) <sup>iv</sup>	International Bar Association Human Rights Institute <a href="#"><i>Report by the Independent High Level Panel of Legal Experts on Media Freedom</i></a> <sup>v</sup> (IBAHRI Panel Report)	Law Council of Australia (LCA) Comments
<b>Summary</b>	<p>Allows for sanctions against foreign persons (including entities) determined (among other criteria):</p> <ul style="list-style-type: none"> <li>to be responsible for or complicit in, or to have directly or indirectly engaged in, serious human rights abuse; or</li> <li>to be a current or former government official, or a person acting for or on behalf of such a official, who is responsible for or complicit in, or has directly or indirectly engaged in, corruption.<sup>vi</sup></li> </ul> <p>In addition to foreign persons, sanctions can be extended to ‘any person’ (including an entity) who eg, materially assist, sponsor, provide support etc.<sup>vii</sup></p>	<p>Allows for sanctions against foreign nationals (not including entities) responsible for, or complicit in, extrajudicial killings, torture, or other gross violations of internationally recognized human rights against:</p> <ul style="list-style-type: none"> <li>whistleblowers; and</li> <li>human rights defenders.<sup>viii</sup></li> </ul> <p>It also targets foreign nationals responsible for or complicit in acts of significant corruption.<sup>ix</sup> Sanctions can be extended to a foreign national who eg, materially assist, sponsor, provide support for such corrupt activity.<sup>x</sup></p> <p>Nb, the <i>Special Economic Measures Act</i> (1992) allows for the imposition of sanctions against a</p>	<p>Enables the making of regulations imposing sanctions to:</p> <ul style="list-style-type: none"> <li>‘provide for accountability for or be a deterrent to gross violations of human rights’; or</li> <li>otherwise promote (i) compliance with international human rights law; or (ii) respect for human rights.<sup>xii</sup></li> </ul> <p>It also enables the making of regulations imposing sanctions to:</p> <ul style="list-style-type: none"> <li>promote compliance with international humanitarian law;<sup>xiii</sup> and</li> <li>promote respect for democracy, the rule of law and good governance.<sup>xiv</sup></li> </ul> <p>Nb, the <i>Proceeds of Crime Act 2002</i> (UK) -</p>	-	-

Table of comparison – High-level summary of human rights sanctions regimes in other jurisdictions

		foreign state or national of that foreign state in circumstances where, amongst others, (i) gross and systematic human rights violations have been committed and (ii) a foreign national is responsible for or complicit in acts of significant corruption. <sup>xi</sup>	enables the civil recovery of property if it represents the proceeds of or (in some cases) is intended for use in unlawful conduct, including a 'gross human rights abuse or violation'. <sup>xv</sup>		
<b>Kinds of sanctions</b>	Denying alien entry. <sup>xvi</sup>  Blocking a sanctioned person's property in the US or within possession/control of US person. <sup>xvii</sup>  Blocking US persons from transacting with sanctioned person. <sup>xviii</sup>	Permits visa bans <sup>xix</sup> and financial sanctions including seizure and freezing of assets of sanctioned person's property in Canada <sup>xx</sup> and restricting transactions with any Canadian person. <sup>xxi</sup>	5 types of sanctions can be imposed: financial, freezing funds; immigration sanctions, imposing entry and visa bans; trade sanctions, imposing import and export controls; aircraft sanctions; and shipping sanctions. <sup>xxii</sup>	-	-
<b>Relevant conduct (eg serious vs gross human rights violations; corruption)</b>	'Serious human rights abuse' <sup>xxiii</sup> or 'corruption' <sup>xxiv</sup> or the 'transfer or the facilitation of the transfer of the proceeds of corruption'. <sup>xxv</sup>  'Serious human rights abuse' not defined.  (nb: the Executive Order <b>expands</b> the Global Magnitsky Act which refers to 'gross violations of internationally recognised human rights' <sup>xxvi</sup> and 'acts of significant corruption'). <sup>xxvii</sup>	Extrajudicial killings, torture or other gross violations of internationally recognized human rights*, <sup>xxviii</sup> and significant corruption. <sup>xxix</sup>  *Other gross violations of internationally recognized human rights' is not defined.	Sanctions may be imposed to 'provide accountability for or be a deterrent to gross violations of human rights'. <sup>xxx</sup>  They can also (inter alia) <sup>xxxii</sup> be imposed to promote: (i) compliance with international human rights law, or (ii) respect for human rights. <sup>xxxii</sup>  While there is no explicit reference to corruption,	The IBAHRI Panel Report recommends that sanctions legislation should provide governments with the ability to respond to 'serious abuses' of international humanitarian law and international human rights law. <sup>xxxvii</sup> It considers that 'serious human rights abuse' has created a more flexible basis for action than the more restrictive 'gross violations of human rights' which may	An important safeguard will be the careful legislative drafting to define the meaning of key terms to aid decision makers and provide clarity on these thresholds. These terms should not be left to policy. Any framework must be defined with a view to ensuring consistency with international human rights standards.  The LCA notes that Magnitsky laws are generally directed to targeted sanctions against foreign individuals who engage in significant corruption, in addition to serious human rights violations. It is difficult to completely separate corruption

			<p>this could be captured under the ‘promote respect for democracy, the rule of law and good governance’ limb.<sup>xxxiii</sup></p> <p>The reference to ‘gross violations of human rights’ in the first limb is to conduct which constitutes or is connected with the commission of a gross human rights abuse or violation.<sup>xxxiv</sup> ‘Gross human rights abuse or violation’ is defined.<sup>xxxv</sup> It requires three conditions to be met. These are:</p> <ul style="list-style-type: none"> <li>• the conduct must constitute the ‘torture’ or ‘cruel, inhuman or degrading treatment or punishment’ of a protected person, defined as someone who is either (i) a whistle-blower or (ii) a human rights defender;</li> <li>• the conduct must be ‘carried out in consequence of that person seeking to carry out the protected activity’;</li> <li>• the conduct must be carried out ‘by</li> </ul>	<p>preclude certain abuses, including systemic restrictions on the media and abuses by non-state actors.<sup>xxxviii</sup></p> <p>The IBAHRI Panel Report recommends that the human rights abuses covered should include, ‘at a minimum: arbitrary killings, torture, cruel, inhuman and degrading treatment, physical violence, abductions, prolonged detention without trial, and arbitrary detention’.</p> <p>Note that the UK definition with respect to ‘gross violations’ limb is relatively narrow (torture/ cruel, inhuman and degrading treatment, conduct must be by public official or person acting in official capacity). However, there is scope to cover other conduct under the other limbs (eg, promoting compliance with international human rights law) – depending on how the UK Act is operationalised through regulations.</p>	<p>from human rights violations – there is a strong correlation between countries that have a poor human rights record and those that rank poorly on Transparency International’s Corruption Perception Index.<sup>xxxix</sup></p> <p><i>Gross violations</i> Under international law, the concept of ‘gross human rights violations’ has been explored in the <a href="#">Interpretive Guide on Corporate Responsibility</a>, published by the Office of the United Nations High Commissioner for Human Rights. It states that, although ‘[t]here is no uniform definition of gross human rights violations in international law’, the following practices ‘would generally be included: genocide, slavery and slavery-like practices, summary or arbitrary executions, torture, enforced disappearances, arbitrary and prolonged detention, and systematic discrimination’. It also specifies that ‘[o]ther kinds of human rights violations, including of economic, social and cultural rights, can also count as gross violations if they are grave and systematic, for example, violations taking place on a large scale or targeted at particular population groups.’<sup>xl</sup></p> <p><i>Serious violations of human rights</i> The term ‘a serious violation of international human rights law’ sets a lower threshold. It has no authoritative definition; nor has its content been formally</p>
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			<p>a public official, or a person acting in an official capacity, in the performance of official duties', or with their acquiescence of such a person.<sup>xxxvi</sup></p>		<p>determined (such as in a catalogue of rights).<sup>xli</sup> However, the United Nations Human Rights Committee has highlighted the following violations, inter alia, as 'serious':</p> <ul style="list-style-type: none"> <li>• extrajudicial executions;<sup>xlii</sup></li> <li>• torture and ill-treatment;<sup>xliii</sup></li> <li>• detention in degrading conditions;<sup>xliv</sup></li> <li>• sexual violence;<sup>xlv</sup></li> <li>• rapes;<sup>xlvi</sup></li> <li>• arbitrary detention;<sup>xlvii</sup></li> <li>• recruitment of children for use as fighters in armed conflict;<sup>xlviii</sup></li> <li>• excessive use of force (inter alia by the security forces, including the police);<sup>xlix</sup></li> <li>• forced displacement;<sup>i</sup></li> <li>• arrest of journalists;<sup>ii</sup> and</li> <li>• direct targeting of civilians and civilian infrastructure (waste water, plants and sewage facilities).<sup>iii</sup></li> </ul> <p>Human rights treaty bodies link the 'severity' of a violation to its 'scale'. The Human Rights Committee has stated that violation of basic human rights, in particular, the right to life is particularly serious.<sup>liii</sup> In this regard, 'seriousness' could be measured in terms of the importance of the obligation violated.</p>
<p><b>International humanitarian law captured?</b></p>	No	No	Yes <sup>liv</sup>	<p>The IBAHRI Panel Report recommends that sanctions legislation should provide governments with the ability to respond to</p>	<p>The LCA has not adopted a specific position on this issue. However, its established policies recognise that Australia is a party to important multilateral treaties including in the area of international</p>

				serious abuses of international humanitarian law and international human rights law. <sup>lv</sup>	humanitarian law. <sup>lvi</sup> The LCA recognises these and other key treaties as imposing a continuum of obligations upon Australia which contribute to the protection and promotion of human rights. As such, it suggests that careful consideration be given to adopting this additional criterion.
<b>Limited to violations against whistle-blowers and human rights defenders?</b>	No: Any type of victim.  (nb: the Executive Order expands the Global Magnitsky Act which refers to whistle-blowers and human rights defenders).	Yes: The Act defines the class of victims of human rights violations as whistle-blowers and those who seek to defend ‘internationally recognised human rights and freedoms’. <sup>lvii</sup>	The definition of ‘gross’ human rights violations is limited to conduct against someone who is either (i) a whistle-blower who sought to ‘expose illegal activity carried out by a public official’ or (ii) a person who sought to ‘obtain, exercise, defend or promote human rights and fundamental freedoms’. <sup>lviii</sup> The definition has been criticised for being too limited. <sup>lix</sup>  However, the Act does provide for broader bases for sanctions that are not limited by victim i.e. to promote— (i) compliance with international human rights law; or (ii) respect for human rights. <sup>lx</sup>	The IBAHRI Panel Report recommends that states should not limit sanctions to abuses involving a particular class of victims. <sup>lxi</sup>	The LCA considers that a human rights-based regime should allow for the imposition of sanctions against those responsible for human rights abuses or violations directed against any person or group, reflecting the approach taken under the US and UK legislative regimes.
<b>Target: who may sanctions be imposed on? (individuals/</b>	<i>Human rights</i> 1. Any foreign <u>person</u> * <sup>lxii</sup> • ‘foreign persons’ meaning a person,	‘Individuals’ only (not legal ‘persons’) who are a foreign national. <sup>lxviii</sup>	Permits sanctions against any designated person, including individuals and legal entities, like	The IBAHRI Panel Report recommends that sanctions be imposed on	The LCA notes that the existing Autonomous Sanctions Regulations 2011 (Cth) ( <b>AS Regulations</b> ) refers to both ‘persons’ and ‘entities’ for

Table of comparison – High-level summary of human rights sanctions regimes in other jurisdictions

<p><b>entities)</b></p>	<p>both individuals and entities, that is not a US person.<sup>lxxiii</sup></p> <p><i>Corruption</i></p> <p>2. Any foreign <u>person</u>* determined to be a current or former government official, or a person acting for or on behalf of such an official.<sup>lxxiv</sup></p> <p>*In addition to foreign persons, ‘any person’ determined to have ‘materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of’ otherwise sanctionable persons and conduct may be sanctioned.<sup>lxxv</sup></p> <p>Extends to secondary entities owned or controlled by a sanctioned party, or acting on behalf of a sanctioned person.<sup>lxxvi</sup></p> <p>US sanctions have been applied against corporations as well as individuals.<sup>lxxvii</sup></p>	<p>The law draws a clear distinction between ‘individuals’ who are foreign nationals that can be targeted by sanctions, compared to ‘persons’ – individuals or entities – who are required to comply with any sanctions.<sup>lxxix</sup></p>	<p>companies.<sup>lxx</sup> ‘Person’ includes any organisation and any association or combination of persons.<sup>lxxi</sup></p>	<p>both natural persons and entities.<sup>lxxii</sup></p>	<p>the purposes of designation,<sup>lxxiii</sup> but ‘persons’ for the purposes of declarations.<sup>lxxiv</sup></p>
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<p><b>Target: who may sanctions be imposed on? (foreign nationals, nationals)</b></p>	<p>Foreign nationals – but can be extended to US nationals who are secondary participants<sup>lxxv</sup> (see above).</p> <p>Nb, the suspension of immigration only applies to ‘aliens’.<sup>lxxvi</sup></p>	<p>Foreign nationals – defined as individuals who do not have Canadian citizenship or permanent residency.<sup>lxxvii</sup></p> <p>Restrictions may extend to dealings etc by any person in Canada or Canadian outside Canada with a foreign national.<sup>lxxviii</sup></p>	<p>There are no provisions that prevent imposing sanctions based on the nationality of the target.<sup>lxxix</sup></p>	<p>The IBAHRI Panel Report recommends that states should ensure that sanctions can be applied to their nationals.<sup>lxxx</sup></p>	<p>The LCA notes that Australian citizens have an automatic right of entry to Australia.<sup>lxxxi</sup> This bars visa bans as a sanction on this group.</p>
<p><b>Target: who may sanctions be imposed on? (state actors/non-state actors)</b></p>	<p>The US targeted sanctions regime covers non-state actors as well as government officials.<sup>lxxxii</sup> The IBAHRI Panel Report also states that the reference to ‘abuse’ under the Executive Order rather than violations indicates that it covers acts of non-government actors as well as officials.<sup>lxxxiii</sup></p>	<p>The Canadian regime appears to capture non-state actors for gross violations,<sup>lxxxiv</sup> as well as individuals acting ‘as an agent of or on behalf of a foreign state’.<sup>lxxxv</sup> In relation to acts of corruption, the regime captures individuals who are themselves a ‘public official or an associate of such an official’.<sup>lxxxvi</sup> Secondary participant provisions for corruption appear to extend to non-state actors.<sup>lxxxvii</sup></p>	<p>SAMLA covers non-state actors as well as government officials. However, the definition of ‘gross’ human rights violations, which is one of the bases for the imposition of human rights related sanctions under the Act, is currently limited to cases where there has been torture or other cruel inhuman or degrading treatment by a perpetrator who is a public official, or a person acting in an official capacity, or someone acting with their consent or acquiescence.<sup>lxxxviii</sup></p>	<p>The IBAHRI Panel Report recommends that states ensure that sanctions can be applied to both state and non-state actors.<sup>lxxxix</sup></p>	<p>The LCA recommends that the legislation capture both state and non-state actors.</p>
<p><b>Threshold of responsibility including for secondary participant liability?</b></p>	<p>Sanctions can be imposed against a foreign person who is ‘complicit in’ or has directly or indirectly engaged in, serious human rights abuse.<sup>xc</sup></p>	<p>Sanctions can be imposed against foreign nationals who are responsible for ‘or complicit in’ gross human rights</p>	<p>Sanctions can be imposed on an ‘involved person’ which means amongst things, being involved in an activity specified in the</p>	<p>The IBAHRI Panel Report recommends that states should ensure that sanctions can be applied to secondary participants.<sup>ci</sup> However,</p>	<p>The LCA has reservations supporting such a wide net for secondary liability as contained in the UK legislation (eg, sanctions can be permitted on the basis that the target is a ‘member of an</p>

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	<p>Also extends to any person who has materially assisted, sponsored or provided 'financial, material, or technological support' to those targeted by the sanction.<sup>xcv</sup> Also extends to subsidiary entities or organisations owned/controlled by sanctioned party (see above).</p>	<p>violations, as well as those who act 'as an agent of or on behalf of a foreign state in a matter relating to' gross human rights violations.<sup>xcvii</sup> Secondary participation is limited for such violations.  The Act is more detailed/extensive on secondary participation for corruption eg, foreign public officials, their associates or persons who are 'responsible for or complicit in ordering, controlling or otherwise directing' acts of corruption.<sup>xcviii</sup> Also extends to those who materially assist, sponsor, provide financial, material, technological support or, goods or services in support of' the corruption.<sup>xcix</sup></p>	<p>regulations.<sup>xci</sup> SAMLA does not limit the scope of involvement but makes provision for the meaning of 'a person's being involved' to be specified in the regulations yet to be adopted.<sup>xcii</sup> In addition, sanctions can be imposed on entities 'owned or controlled directly or indirectly'<sup>xcviii</sup> by those involved sanctioned conduct and those acting 'on behalf or at the direction of a person who has been so involved',<sup>xcviii</sup> or 'is a member of, or associated with, a person who has been so involved'.<sup>xcix</sup>  There is no requirement for a 'material assistance' qualification and sanctions can be permitted on the basis that the target is a 'member of an organisation that is involved in an activity specified in the regulations'.<sup>c</sup></p>	<p>it is supportive of the UK approach which goes further than others, eg no 'material assistance' requirement and includes 'members of organisations'.<sup>cii</sup></p>	<p>organisation that is involved in the commission of human rights violations'). The LCA would be more likely to support some level of personal culpability by the secondary participant.</p>
<p><b>Are family members captured?</b></p>	<p>Neither the Executive Order nor the Global Magnitsky Act itself explicitly extend sanctions measures to immediate family members.</p>	<p>No</p>	<p>Unclear. This issue may be resolved in the regulations yet to be adopted.</p>	<p>-</p>	<p>The LCA is aware that this issue raises particular issues of fairness and non-discrimination, given that immediate family members would not themselves be culpable. At the same time, it recognises that immediate family members may often be beneficiaries of ill-gotten</p>

	<p>However, it complements existing legislation which denies visa permits to immediate family members for human rights violations or financial corruption.<sup>ciii</sup></p> <p>Family members may also be caught under the broader secondary participants definition above.</p>				<p>gains, such as through Australian health or education services. It has not adopted a final view on this issue.</p> <p>It notes that the current AS Regulations provide for immediate family members of a designated person to be captured in some circumstances, for example, in relation to Libya<sup>civ</sup> and Myanmar.<sup>cv</sup> Immediate family member is defined as - spouses, adult children, spouses of adult children, parents, brothers, sisters and spouses of a brother or sister.<sup>cvi</sup></p> <p>If immediate family members are to be potentially subject to sanctions, this increases the need for:</p> <ul style="list-style-type: none"> <li>• specific criteria which require regard to whether the sanction is necessary, reasonable and proportionate in the circumstances having regard to other, less intrusive means of achieving the objectives sought; and</li> <li>• specific safeguards, such as those designed to ensure that basic living funds and social security are available to family members.</li> </ul>
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<b>Who makes the order?</b>	The decision to impose sanctions against a particular target is ultimately made by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney-General to determine individuals to be sanctioned. <sup>cxvii</sup>	The decision to impose sanctions is made at the discretion of the Governor in Council, <sup>cxviii</sup> although, in practice, this decision will be made on the 'recommendation' of the Minister of Foreign Affairs. <sup>cxix</sup>	Decisions will be made by the Secretary of State or the Treasury ('an appropriate Minister'). <sup>cx</sup>	The IBAHRI Panel Report suggests that the decision to impose sanctions be made by the executive after an evaluation of all credible evidence and recommendations made by an independent committee designated by the legislation. <sup>cxvi</sup>	The LCA suggests that decisions to make sanctions could be confirmed by a court, which must be satisfied that legal criteria are met. This could occur through a process similar to that applied to the issuance of control orders (interim and final) under Division 104 of the <i>Criminal Code Act 1995</i> (Cth).
<b>Threshold for evidence</b>	The Global Magnitsky Act does not specify an evidentiary standard (although it requires consideration of whether there is 'credible' information). <sup>cxii</sup>	The Act does not specify an evidentiary standard.  It has been criticised for the level of discretion it confers on the Foreign Minister to list individuals. <sup>cxiii</sup>	The decision-maker must have reasonable grounds to suspect that a person is an 'involved person' <sup>cxiv</sup> and must consider that the designation is appropriate having regard to the purpose of the Act and the likely effects of the designation on the person. <sup>cxv</sup>	The IBAHRI Panel Report suggests that the decision maker should have an obligation to evaluate all credible information received from the independent committee to determine if a claim has merit and if further investigations should be undertaken. <sup>cxvi</sup>	Currently, the Autonomous Sanctions regime allows the Minister to impose sanctions against certain individuals based on a level of 'satisfaction' by the Minister of certain factors. <sup>cxvii</sup>  The LCA submits that this is a relatively low and subjective threshold to meet, as opposed to the higher, and more objective threshold of 'satisfied on reasonable grounds'. It recommends that this latter threshold should apply.  The LCA is also concerned by the broad discretion that is currently provided to the Executive under the autonomous sanctions regime. There is little guidance available under the <i>Autonomous Sanctions Act 2011</i> (Cth) ( <b>AS Act</b> ) or AS Regulations or any other publicly available document setting out the basis on which the Minister decides to designate or declare a person.

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<p><b>Civil society involvement</b></p>	<p>In determining whether to impose sanctions, the President shall consider, 'credible information obtained by other countries and nongovernmental organisations that monitor violations of human rights'.<sup>cxviii</sup></p> <p>President is not required to make a determination about appropriateness of sanctions from these channels (cf. congressional Committees –below).</p>	<p>There is no role for external actors in triggering consideration of specific sanctions or in reporting on them.</p>	<p>Although civil society organisations cannot currently make submissions to the decision-maker directly, and there is no obligation on the Executive to consider information they provide, submissions could be made indirectly through a parliamentary committee (see below - Independent eg legislative involvement).</p>	<p>The IBAHRI Panel Report recommends providing a role for an expert committee outside the Executive branch with the power to receive and evaluate information, including from civil society, and to recommend the imposition of sanctions in specific cases.<sup>cxix</sup></p>	<p>The LCA suggests that it is desirable to ensure that civil society is able to make applications to the Minister to have particular cases considered for the purposes of making possible sanctions. One possibility is to include in the legislative decision-making criteria consideration of the views of reputable civil society representatives, where available. Consideration could also be given to providing in legislation (or in guidelines) for a clear process for contribution and submission of information by civil society. This could alternatively be provided to an independent body or a Parliamentary Committee, which could make recommendations to the Minister regarding proposed sanctions.</p> <p>This may be a particularly appropriate feature in a separate Magnitsky Act, compared to an amended autonomous sanctions regime, as foreign policy interests would be less of an explicit consideration or underlying objective. Civil society organisations with global links on human rights matters may be particularly well placed to raise specific individuals and situations for the Minister's consideration.</p>
<p><b>Independent eg legislative involvement/ oversight</b></p>	<p>In determining whether to impose sanctions, the President shall consider information provided by the appropriate congressional</p>	<p>There is no designated role for parliament under the Act in designations.<sup>cxxii</sup> Unlike the US and UK</p>	<p>Any sanctions regime that is created by exercising delegated powers under the Act must be laid before Parliament. The</p>	<p>The IBAHRI Panel Report recommends providing a role for an expert committee outside the Executive</p>	<p>The LCA submits that there should be regular independent oversight and review of designations and declarations made. Consideration should be given to the body which is</p>

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<p><b>(including to request sanctions)</b></p>	<p>committees (including the House Foreign Affairs and Senate Foreign Relations Committees).<sup>cxx</sup></p> <p>These committees have the power to request a report by the President with respect to whether sanctions should be applied against a specific foreign person. The President must report back within 120 days, including whether sanctions will be imposed.<sup>cxxi</sup></p>	<p>systems, the legislation does not require the government to publicly respond to any evidence/proposals submitted.</p>	<p>appropriate Minister making the regulations must publish a report that explains the justification for it, including the purpose or purposes for which sanctions regulations are being made under the Act.<sup>cxxiii</sup></p> <p>Periodic reports made by the Secretary of State to Parliament (see below) must specify any parliamentary committee recommendations relating to whether the power to make sanctions regulations ‘should be exercised in connection with gross violations of human rights’. Any government response to those recommendations must also be included.<sup>cxxiv</sup></p>	<p>branch with the power to receive and evaluate information, including from civil society, and to recommend the imposition of sanctions in specific cases. This group should be independent of the Executive. It could, for instance, be a quasi-judicial body, a panel of independent experts, or a committee within the legislature of a particular state.<sup>cxxv</sup></p>	<p>best placed to fulfil this role, eg an independent body or parliamentary committee.</p>
<p><b>Publication of sanctions list</b></p>	<p>Yes – Federal Register.<sup>cxxvi</sup></p>	<p>Yes – International Relations website, as well as short press statements announcing new sanctions.<sup>cxxvii</sup></p>	<p>To be determined in the secondary legislation.</p>	<p>-</p>	
<p><b>Right to seek review</b></p>	<p>Persons who have been designated may appeal to the Office of Foreign Assets Control (<b>OFAC</b>) for removal from the sanctions list. Persons must send a written request to the OFAC with a detailed description of why they should be removed. If a person’s request for</p>	<p>A person who is sanctioned may apply in writing to the Minister of Foreign Affairs to have the sanction repealed.<sup>cxxix</sup> The Minister must make a decision on the application within 90 days and must give notice of a decision to</p>	<p>A sanctioned person may request that the Minister vary or revoke the designation,<sup>cxxxii</sup> and if unsuccessful, may apply to the High Court or Court of Session (as applicable) for review.<sup>cxxxiii</sup></p> <p>SAMLA provides for the procedure for requests to,</p>	<p>-</p>	<p>The Minister's decision to designate a person or entity, or declare a person, should be subject to both statutory judicial review pursuant to the <i>Administrative Decisions (Judicial Review) Act 1977</i> (Cth) and merits review. The LCA also supports consideration of an interim sanctions process, pending confirmation by an independent court or tribunal, and ongoing</p>

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	removal is denied, there is no cap on the number of appeals that individuals are permitted to file. <sup>cxxviii</sup>	reject the application. <sup>cxxx</sup> If an application is rejected, a foreign national must reapply to the Minister of Foreign Affairs if there has been a material change in the applicant's circumstances. <sup>cxxxi</sup>	and reviews by, the Minister to be made by regulations. <sup>cxxxiv</sup> These must require that the decision be made as soon as reasonably practicable and that the person who made the request be informed of the decision and the reasons for it. <sup>cxxxv</sup>  For each three year review period, the decision maker must review each designation that imposes an asset freeze or exclusion under the Immigration Act. <sup>cxxxvi</sup>		oversight of the regime by an independent body, such as an expert monitor or parliamentary committee.
<b>Termination of sanctions</b>	The President may terminate the application of sanctions if he/she determines that— (1) credible information exists that the person did not engage in the activity for which sanctions were imposed; (2) the person has been prosecuted appropriately for the activity for which sanctions were imposed; (3) the person has credibly demonstrated a significant change in behaviour, has paid an appropriate consequence for the activity for which sanctions were imposed, and has credibly committed to not engage in the sanctioned	Committees of the Senate and the House of Commons that are designated may conduct a review concerning the foreign nationals who are the subject of an order or regulation made under this Act and submit a report to the appropriate House together with their recommendations as to whether those foreign nationals should remain, or no longer be, the subject of that order or regulation. <sup>cxxxviii</sup>	The Minister who made the designation may at any time vary or revoke the designation, <sup>cxxxix</sup> and must do so where the required conditions for the designation are not met. <sup>cxl</sup>	-	The LCA suggests that consideration be given to requiring the Minister to review a designation or declaration in light of significant new evidence, or change in circumstances, which throws doubt on its continuing appropriateness. The intrusive nature of a designation or declaration means that there should be no delay before a review occurs.  As part of any such review, the affected person or entity should be invited to make submissions. They should also have the opportunity to seek revocation where significant new evidence arises.

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	activity in the future; or (4) the termination of the sanctions is in the national security interests of the US. <sup>cxxxvii</sup>				
<b>Reporting</b>	An annual report to Congress is required each December. <sup>cxli</sup> Each report includes 1) a list of foreign persons sanctioned each year 2) a description of the type of sanctions imposed 3) the number of foreign persons sanctioned and on whom sanctions have been terminated 4) the dates on which sanctions were imposed or terminated 5) the reasons for imposing or terminating sanctions, and 6) a description of the President's efforts to encourage the governments of other countries to impose similar sanctions. <sup>cxlii</sup>	A copy of each order or regulation with respect to sanctioned activity must be tabled in each House of Parliament within 15 days after it is made. It may be sent to the Clerk of the House if the House is not sitting. <sup>cxliii</sup>	The Secretary of State must lay before Parliament annual reports that specify any sanctions regulations that were created during the prior 12 months and identify which, if any, of the regulations 'stated a relevant human rights purpose' or 'amended or revoked regulations stating such a purpose'. <sup>cxliv</sup>	The IBAHRI Panel Report suggests that the executive should have an obligation to report to an independent committee designated under the legislation about its activities, assessments and decisions, as well as to what extent those reports should be made public. <sup>cxlv</sup>	The LCA considers that the Minister should be required to regularly report to Parliament on the numbers and kinds of sanctions made under the legislation, the general basis for these sanctions and any reviews and revocations made. Consideration should be given to how sensitive and/or classified material should be handled.

<sup>i</sup> Global Magnitsky Act 22 USC 2656 §§ 1261-1265 (2016).

<sup>ii</sup> President Donald Trump, Executive Order 13818 'Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption' (20 December 2017) (**Executive Order 13818**).

<sup>iii</sup> SC 2017, c 21.

<sup>iv</sup> Although the SAMLA received Royal Assent on 23 May 2018, at the time of writing, secondary legislation to operationalise the Act has not been adopted.

<sup>v</sup> International Bar Association Human Rights Institute, Independent High Level Panel of Legal Experts on Media Freedom (**IBAHRI Panel**), 'Report on Targeted Sanctions to Protect Journalists', 13 February 2020.

<sup>vi</sup> Executive Order 13818 ss 1(a)(ii)(A) and (B).

<sup>vii</sup> Ibid s 1(a)(iii)(A).

<sup>viii</sup> *Justice for Victims of Corrupt Foreign Officials Act* (2017) ss 4(1) and (2)(a).

<sup>ix</sup> Ibid ss 4(1) and (2)(c).

<sup>x</sup> Ibid ss 4(1) and (2)(d).

<sup>xi</sup> *Special Economic Measures Act* SC 1992, c-17 ss 4(1), (1.1)(c) and (d).

- xii *SAMLA* ss 1(1)(c) and (2)(f).
- xiii *Ibid* ss 1(1)(c) and (2)(g).
- xiv *Ibid* ss 1(1)(c) and (2)(i).
- xv See Part 5 of the *Proceeds of Crime Act 2002* (UK) which provides for the civil recovery of the proceeds etc. of unlawful conduct, in particular section 241 which defines ‘unlawful conduct’.
- xvi Executive Order 13818 s 2.
- xvii *Ibid* s 1.
- xviii *Ibid* ss 4 and 5.
- xix Legal basis for imposing restrictions on entry is contained in separate immigration legislation that was amended by the law (*Immigration and Refugee Protection Act* SC 2001, c. 27).
- xx *Justice for Victims of Corrupt Foreign Officials Act* (2017) s 4(1)(b).
- xxi *Ibid* ss 4(1)(a) and (3).
- xxii *SAMLA* ss 3-7.
- xxiii Executive Order 13818 s 1(a)(ii)(A).
- xxiv *Ibid* s 1(a)(ii)(B)(1).
- xxv *Ibid* s 1(a)(ii)(B)(2).
- xxvi *Global Magnitsky Act* s 3(a)(1). Note, ‘Gross violations of internationally recognized human rights’ is separately defined in 22 USC §2304(d)(1) as ‘torture or other cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person’.
- xxvii *Ibid* s 3(a)(3).
- xxviii *Justice for Victims of Corrupt Foreign Officials Act* (2017) s 4(2)(a).
- xxix *Ibid* s 4(2)(c). Defined as ‘acts of corruption including bribery, the misappropriation of private or public assets for personal gain, the transfer of the proceeds of corruption to foreign states or any act of corruption related to expropriation, government contracts or the extraction of natural resources — which amount to acts of significant corruption when taking into consideration, among other things, their impact, the amounts involved, the foreign national’s influence or position of authority or the complicity of the government of the foreign state in question in the acts.’
- xxx *SAMLA* s 1(2)(f).
- xxxi Other relevant purposes for applying sanctions under the *SAMLA* include ‘where it would be in the interests of international peace and security’, and ‘to further a foreign policy objective of the government of the UK’: *SAMLA* ss 1(2)(c) and (d).
- xxxii *SAMLA* ss 1(2)(f)(i) and (ii).
- xxxiii *Ibid* s 1(2)(i).
- xxxiv *Ibid* s 1(7).
- xxxv *Ibid*. The definition is contained in section 241A of the *Proceeds of Crime Act 2002* (UK).
- xxxvi *Proceeds of Crime Act 2002* (UK) ss 241A(1)-(4).
- xxxvii IBAHRI Panel, ‘Report on the Use of Targeted Sanctions to Protect Journalists’ (13 February 2020) 66.
- xxxviii *Ibid*.
- xxxix Transparency International, ‘Corruption Perceptions Index’ (Web page, 2019) <<https://www.transparency.org/en/cpi#>>.
- xl Office of the United Nations High Commissioner for Human Rights, ‘The Corporate Responsibility to Respect Human Rights’ (Interpretive Guide, 2012) 6.
- xli Geneva Academy of International Humanitarian Law and Human Rights, ‘What amounts to ‘a serious violation of international human rights law’? (Academy Briefing, August 2014) 11.
- xlii *Ibid* 27 citing Human Rights Committee (**HRC**), *Concluding Observations: Colombia*, UN doc. CCPR/C/COL/CO/6 (4 August 2010) [12,14].
- xliii *Ibid* citing HRC, *Concluding Observations: Algeria*, UN doc. CCPR/C/DZA/CO/3 (12 December 2007) [7].
- xliv *Ibid* citing HRC, *Concluding Observations: Israel*, UN doc. CCPR/C/ISR/CO/3 (3 September 2010) [9].
- xlv *Ibid* citing HRC, *Concluding Observations: Peru*, UN doc. CCPR/C/PER/CO/5 (29 April 2013) [11, 15].
- xlvi *Ibid* citing HRC, *Concluding Observations: Algeria*, UN doc. CCPR/C/DZA/CO/3 (2 December 2007) [7].
- xlvii *Ibid* citing HRC, *Concluding Observations: Ethiopia*, UN doc. CCPR/C/ETH/CO/1 (19 August 2011) [16].
- xlviii *Ibid* citing HRC, *Concluding Observations: Colombia*, UN doc. CCPR/C/COL/CO/6 (4 August 2010) [12, 14].
- xlix *Ibid* citing HRC, *Concluding Observations: Brazil*, UN doc. CCPR/C/BRA/CO/2 (1 December 2005) [9].
- <sup>1</sup> *Ibid* citing HRC, *Concluding Observations: Ethiopia*, UN doc. CCPR/C/ETH/CO/1 (19 August 2011) [16].
- <sup>ii</sup> *Ibid*.

- lii Geneva Academy of International Humanitarian Law and Human Rights, 'What amounts to 'a serious violation of international human rights law'? (Academy Briefing, August 2014) 28 citing HRC, *Concluding Observations: Israel*, UN doc. CCPR/C/ISR/CO/3 (3 September 2010) [9].
- liii Ibid 29 citing HRC, *Views: Communication No 778/1997* (2002) [6.2]; *Views: Communication No 612/1995* (1997) [5.2].
- liv SAMLA s 1(2)(g).
- lv IBAHRI Panel, 'Report on the Use of Targeted Sanctions to Protect Journalists' (13 February 2020) 66.
- lvi LCA, *Policy Statement on Human Rights and the Legal Profession: Key Principles and Commitments* (2017), available at <<https://www.lawcouncil.asn.au/resources/policies-and-guidelines>>.
- lvii *Justice for Victims of Corrupt Foreign Officials Act* (2017) s 4(2)(a).
- lviii SAMLA s 1(7) and *the Proceeds of Crime Act 2002* (UK) s 241A(2)(a).
- lix See eg, Australian Lawyers for Human Rights, Submission to Joint Standing Committee on Foreign Affairs, Defence and Trade, *Inquiry into targeted sanctions to address human rights abuses* (7 February 2020) 22.
- lx SAMLA ss 1(2)(f)(i) and (ii).
- lxi IBAHRI Panel, 'Report on the Use of Targeted Sanctions to Protect Journalists' (13 February 2020) 65.
- lxii Executive Order 13818 s 1(a)(ii)(A).
- lxiii *Global Magnitsky Act* s 2.
- lxiv Executive Order 13818 s 1(a)(ii)(B).
- lxv Ibid s 1(a)(iii)(A).
- lxvi Ibid s 1(a)(iii)(B).
- lxvii See US Department of State, 'Global Magnitsky Human Rights Accountability Act Annual Report 2019' 31 December 2019 < <https://www.federalregister.gov/documents/2019/12/31/2019-28231/global-magnitsky-human-rights-accountability-act-annual-report>>.
- lxviii *Justice for Victims of Corrupt Foreign Officials Act* (2017) s 2.
- lxix Ibid ss 4(1)(a) and 4(3).
- lxx SAMLA s 9(5).
- lxxi Ibid.
- lxxii IBAHRI Panel, 'Report on the Use of Targeted Sanctions to Protect Journalists' (13 February 2020) 71.
- lxxiii AS Regulations reg 6(1)(a).
- lxxiv Ibid reg 6(1)(b).
- lxxv Executive Order 13818 s 1(a)(iii).
- lxxvi Ibid s 2.
- lxxvii *Justice for Victims of Corrupt Foreign Officials Act* (2017) ss 2 and 4(2).
- lxxviii Ibid s 4(3).
- lxxix SAMLA s 9(5). See also *Proceeds of Crime Act 2002* s 316(8B).
- lxxx IBAHRI Panel, 'Report on the Use of Targeted Sanctions to Protect Journalists' (13 February 2020) 73.
- lxxxi See eg, *Air Caledonie International v Commonwealth* (1988) 165 CLR 462.
- lxxxii See eg, Executive Order 13818 ss 1(a)(ii)(A) and (B).
- lxxxiii IBAHRI Panel, 'Report on the Use of Targeted Sanctions to Protect Journalists' (13 February 2020) 24.
- lxxxiv *Justice for Victims of Corrupt Foreign Officials Act* (2017) s 4(2)(a).
- lxxxv Ibid s 4(2)(b).
- lxxxvi Ibid s 4(2)(c).
- lxxxvii Ibid 4(2)(d).
- lxxxviii See definition of 'gross human rights abuse or violation' above.
- lxxxix IBAHRI Panel, 'Report on the Use of Targeted Sanctions to Protect Journalists' (13 February 2020) 71.
- xc Executive Order 13818 s 1(a)(ii)(A).
- xcI Ibid (1)(a)(iii)(A).
- xcii *Justice for Victims of Foreign Corrupt Officials Act* ss 4(2)(a) and (b).
- xciii Ibid s 4(2)(c).
- xciv Ibid s 4(2)(d).

- <sup>xcv</sup> *SAMLA* ss 11(2)(a) and 11(3)(a).
- <sup>xcvi</sup> *Ibid* s 11(5).
- <sup>xcvii</sup> *Ibid* ss 11(2)(a) and 11(3)(b).
- <sup>xcviii</sup> *Ibid* ss 11(2)(a) and 11(3)(c).
- <sup>xcix</sup> *Ibid* ss 11(2)(a) and 11(3)(d).
- <sup>c</sup> *Ibid* ss 11(2)(a), 11(3)(d) and 9(5).
- <sup>ci</sup> IBAHRI Panel, 'Report on the Use of Targeted Sanctions to Protect Journalists' (13 February 2020) 72.
- <sup>cii</sup> *Ibid*.
- <sup>ciii</sup> Eg, *US Department of State, Foreign Operations, and Related Programs Appropriations Act 2020* s 7031(c)(A).
- <sup>civ</sup> AS Regulations reg 4, item 5(d).
- <sup>cv</sup> *Ibid* reg 4, item 6(h).
- <sup>cvi</sup> *Ibid* reg 3.
- <sup>cvi</sup> Executive Order 13818 s 1(a)(ii) and (iii).
- <sup>cviii</sup> *Justice for Victims of Corrupt Foreign Officials Act* (2017) s 4(1).
- <sup>cix</sup> See e.g. *Justice for Victims of Corrupt Foreign Officials Regulations*, SOR/2018-259, 29 November 2018, Preamble. The Governor in Council creates such 'orders or regulations' under the *Justice for Victims of Corrupt Foreign Officials Act*, and these regulations contain a list of the individuals who have been sanctioned.
- <sup>cx</sup> *SAMLA* ss 1(1) and 1(9).
- <sup>cx</sup> IBAHRI Panel, 'Report on the Use of Targeted Sanctions to Protect Journalists' (13 February 2020) 75.
- <sup>cxii</sup> *Global Magnitsky Act* s 3(c)(2).
- <sup>cxiii</sup> See IBAHRI Panel, 'Report on the Use of Targeted Sanctions to Protect Journalists' (13 February 2020) 34.
- <sup>cxiv</sup> *SAMLA* ss 11(2)(a) and (3) - An involved person means a person who (a) is or has been involved in an activity specified in the regulations made for the purpose of s 1(3); (b) is owned or controlled directly or indirectly by a person who is or has been so involved; (c) is acting on behalf of or at the direction of a person who is or has been so involved, or (d) is a member of, or associated with, a person who is or has been so involved.
- <sup>cxv</sup> *SAMLA* s 11(2)(b).
- <sup>cxvi</sup> IBAHRI Panel, 'Report on the Use of Targeted Sanctions to Protect Journalists' (13 February 2020) 75.
- <sup>cxvii</sup> See eg, the AS Act ss 10(1)(a) and (2) and AS Regulations regs 6(1) and 6(2).
- <sup>cxviii</sup> *Global Magnitsky Act* s 3(c)(2).
- <sup>cxix</sup> IBAHRI Panel, 'Report on the Use of Targeted Sanctions to Protect Journalists' (13 February 2020) 74.
- <sup>cx</sup> *Global Magnitsky Act* s 3(c)(1).
- <sup>cx</sup> *Ibid* s 3(d).
- <sup>cxii</sup> Note however that a Parliamentary All-Party Human Rights Caucus (the Raoul Wallenberg Centre for Human Rights) has been established to provide an informal mechanism for parliamentarians and civil society to submit stakeholder reports and evidence in support of sanctions listings.
- <sup>cxiii</sup> *SAMLA* s 2(4).
- <sup>cxiv</sup> *Ibid* s 32(1)(d).
- <sup>cxv</sup> See further discussion of guiding principles for effective triggering and oversight mechanisms, IBAHRI Panel, 'Report on the Use of Targeted Sanctions to Protect Journalists' (13 February 2020) <https://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=77561bf1-ef89-4df1-97e5-549f5929ddb3> 75.
- <sup>cxvi</sup> *Global Magnitsky Act* s 4(d)(1).
- <sup>cxvii</sup> See [https://www.international.gc.ca/world-monde/international\\_relations-relations\\_internationales/sanctions/listed\\_persons-personnes\\_inscrites.aspx?lang=eng](https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/listed_persons-personnes_inscrites.aspx?lang=eng).
- <sup>cxviii</sup> See US Department of Treasury, 'Filing a petition for removal from an OFAC List' (2017) <<https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/petitions.aspx>>.
- <sup>cxix</sup> *The Justice for Victims of Corrupt Foreign Officials Act* (2017) s 8(1).
- <sup>cx</sup> *Ibid* s 8(3).
- <sup>cx</sup> *Ibid* s 8(5).
- <sup>cxii</sup> *SAMLA* ss 23(1) and (3).
- <sup>cxiii</sup> *Ibid* s 38(1).
- <sup>cxiv</sup> *Ibid* s 33(1).
- <sup>cxv</sup> *Ibid* s 33(2).

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cxvvi Ibid s 24.

cxvii *Global Magnitsky Act* s 3(g). The President must report to the appropriate congressional committees not later than 15 days before the termination of the sanctions.

cxviii *The Justice for Victims of Corrupt Foreign Officials Act* (2017) s 16(3).

cxvix *SAMLA* s 22(2).

cxl Ibid ss 22(3) and (4).

cxli *Global Magnitsky Act* s 4(b)(2)(A).

cxlii Ibid 4(a).

cxliii *The Justice for Victims of Corrupt Foreign Officials Act* (2017) s 5.

cxliv *SAMLA* ss 32(1)(b) and 32(4).

cxlv IBAHRI Panel, 'Report on the Use of Targeted Sanctions to Protect Journalists' (13 February 2020) 75.