

Disclosing Foreign Influence Act

Summary of Legislation

Background: Since its enactment in 1938, the Foreign Agents Registration Act (FARA) has served to monitor and track certain foreign lobbying activities by agents of foreign principals¹ in the United States. Specifically, FARA requires individuals, groups, or organizations advocating on behalf of a foreign principal in the U.S. to register with the DOJ and report their lobbying materials so that the government and the public know who is doing what to influence U.S. policy.

Problem: Since its enactment, FARA has been amended, creating unintended outcomes within the current framework. A recent DOJ Office of the Inspector General (OIG) report highlights the longstanding deficiencies that have yet to be updated to address the growing complexities of foreign lobbying efforts. For example, DOJ has yet to implement a comprehensive FARA enforcement scheme.

Shortcomings of Current Law

- *Enforcement Authority* – according to the GAO and OIG, the National Security Division of the DOJ lacks compulsory investigative tools such as Civil Investigative Demand that would help to potentially improve enforcement and compliance.
- *Existing Exemptions* – OIG report indicates that changes made to FARA concerning the Lobbying Disclosure Act (LDA) have resulted in fewer FARA registrations, and thus less transparency.
- *Lack of Comprehensive Enforcement Strategy* – OIG concluded that no comprehensive enforcement strategy exists at DOJ and one is needed in order to effectively enforce FARA compliance.

Legislation — Disclosing Foreign Influence Act

The Act makes significant improvements to FARA by improving transparency in the registration process of persons serving as agents of foreign principals and provides the Department of Justice (DOJ) with the necessary tools to investigate foreign agents and enforce the law as it was intended.

Specific improvements to FARA include:

- remedies ambiguity and updates the filing threshold by tethering FARA reporting requirements to the Lobby Disclosure Act timeframe. Since 1980 over half of FARA registrations have been reported late or delinquent. The purpose of FARA is public disclosure and that purpose is defeated when foreign agents fail to register and provide informational materials to the government and the public in a timely manner.
- removes the LDA exemption which had been used as a crutch for many foreign agents not to register and therefore will result in a more accurate accounting of foreign agents by setting clear reporting requirements.
- provides the Attorney General with Civil Investigative Demand authority to investigate possible violations by those who should register as foreign agents, while putting safeguards in place to limit any abuses of power such as a 5 year sunset provision, limits on delegable authorities, and a

¹ 22 U.S.C. § 611 – Definitions: The term “foreign principal” includes— (1) a government of a foreign country and a foreign political party; (2) a person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and (3) 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.

mandatory OIG report to Congress on CID's use and any potential abuse. Thus, the law provides for additional oversight mechanisms to check and balance potential abuses of power.

- requires DOJ to develop a comprehensive enforcement strategy for FARA.
- requires the DOJ Inspector General to report on the enforcement strategy within one year after enactment and requires GAO to produce a comprehensive report on the effectiveness of the amendments made by the Act.