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Foreign Agents Registration Act: An Overview

In 1938, the Foreign Agents Registration Act (22 U.S.C. §§611-621; FARA) was enacted to require individuals doing political or advocacy work on behalf of foreign entities in the United States to register with the Department of Justice and to disclose their relationship, activities, receipts, and disbursements in support of their activities. The FARA does not prohibit any specific activities; rather it seeks to require registration and disclosure of them. According to the most recently available data, more than 400 active FARA registrants represent more than 600 foreign principals.

“The Foreign Agents Registration Act provides the public with an opportunity to be informed of the identity of persons engaging in political activities on behalf of foreign governments, foreign political parties and other foreign principals, so that their activities can be evaluated in light of their associations.”

-U.S. Department of Justice, *Report of the Attorney General to the Congress on the Administration of the Foreign Agents Registration Act*, June 2012

Background

In the years prior to World War II, Congress conducted several investigations into lobbying and foreign propaganda by Axis nations, specifically a large number of German propaganda agents operating in the United States. Upon the recommendation of the 73rd Congress’s (1934-1935) Special Committee on Un-American Activities, the Foreign Agents Registration Act (FARA), as initially conceived, would not prohibit political propaganda activities, but rather require that individuals engaged in propaganda on behalf of foreign governments and principals register with the government and disclose information about their clients, activities, and contract terms.

In 1966, FARA was amended to shift the focus from political propagandists to agents representing the economic interests of foreign principals. These amendments were partially the result of an investigation by the Senate Foreign Relations Committee into foreign sugar interests and other lobbying activities. The 1966 amendments changed several definitions in the law, prohibited contingent fee contracts, broadened exemptions to ensure legitimate commercial activities were not burdened, strengthened provisions for the disclosure and labeling of propaganda, and required the Department of Justice to issue regulations on the act (28 C.F.R. §5.1 et seq.).

Who Is a Foreign Principal?

Pursuant to FARA (22 U.S.C. §611(b)(2)), foreign principals include (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 “is not an individual and is organized under or created by the law of the United States ... and has its principal place of business within the United States”; or (3) “a partnership, association, corporation, organization, or other combination of persons organized under the law or having its principal place of business in a foreign country.”

Several exemptions exist to exclude media, news, and press services incorporated in the United States. This includes newspapers, magazines, periodicals, and other publications that file periodic disclosure statements with the U.S. Postal Service pursuant to 39 U.S.C. §3685.

Registration and Disclosure Requirements

FARA requires that individuals who represent a foreign principal must file, under oath, a registration statement within 10 days of becoming an agent of that entity. Pursuant to 22 U.S.C. §612, a registration statement must include

- registrant’s name and both personal and business addresses;
- registrant’s status, including nationality for all individuals, partnerships, and corporate directors or officers;
- statement of the nature of registrant’s business, including a complete list of employees and the nature of their work;
- copies of the registrant’s written agreement with a foreign principal and conditions for all oral agreements;
- nature and amount of contributions, income, money or other items of value received from a foreign principal;
- detailed statement of spending connected with activities for the foreign principal; and
- certification that statements made and documents filed are accurate.

Public Disclosure Database

The Attorney General is required under 22 U.S.C. §616(d) to maintain a public database of registration statements required under FARA. This database is publically available on the Department of Justice, FARA website under

“Document Search” (<https://www.fara.gov/search.html>). The database provides the ability to search by document type (e.g., registration statement) or by a descriptor, such as a specific foreign country, foreign principal, or an individual foreign agent.

DOJ Reporting Requirements

Pursuant to 22 U.S.C. §621, the Attorney General is required to report to Congress on the administration of FARA every six months. **Table 1** provides an overview of the number of active registrations and foreign principals represented between January 1, 2013, and December 31, 2017, the most up-to-date information available.

Table 1. Foreign Principal Registration, 2013-2017

Period	Active Registrations	Foreign Principals Represented
2013		
January 1 to June 30	377	532
July 1 to December 31	363	518
2014		
January 1 to June 30	378	538
July 1 to December 31	341	524
2015		
January 1 to June 30	353	553
July 1 to December 31	367	537
2016		
January 1 to June 30	372	539
July 1 to December 31	387	542
2017		
January 1 to June 30	395	564
July 1 to December 31	411	612

Source: U.S. Department of Justice, Foreign Agent Registration Act, *Reports to Congress*, at <https://www.fara.gov/annualrpts.html>.

Enforcement

Pursuant to 22 U.S.C. §618, noncompliance with FARA may result in monetary fines or jail time. Individuals who

willfully violate statutory FARA provisions or associated regulations are subject to fines up to \$10,000 and imprisonment up to five years. If the Attorney General determines that registration or disclosure materials do not comply with the law, registrants are generally given the opportunity to file an amended statement prior to legal action being taken. Details can be found on the FARA website at <https://www.fara.gov/enforcement.html>.

Criticisms of FARA

Several criticisms of FARA have been made. First, lobbying laws differ for foreign lobbyists (FARA) and domestic lobbyists (Lobbying Disclosure Act; LDA). These two laws are administered by two different entities—FARA by DOJ and LDA by Congress. To streamline the administration of lobbying registration and disclosure, it has been suggested that FARA and LDA administration and enforcement might be combined either at DOJ or in Congress to streamline registration and disclosure for all lobbying-related activities.

Second, some legislators have suggested that FARA’s focus is too narrow. Instead, they suggest that the definition be expanded to include individuals who engage in “promotional or informational” activities for a foreign principal. For example, in the 102nd Congress (1991-1992), H.R. 1725 would have changed the definition of foreign agent to “any person who engages in political activities for purposes of furthering commercial, industrial, or financial operations with a foreign principal.” Arguably, this definition would be more inclusive and might require additional individuals to register and disclose their representation of foreign principals under FARA.

For more information on lobbying, see CRS Report R44292, *The Lobbying Disclosure Act at 20: Analysis and Issues for Congress*, by Jacob R. Straus; CRS Report RL34377, *Lobbying Registration and Disclosure: The Role of the Clerk of the House and the Secretary of the Senate*, by Jacob R. Straus; and CRS Report R40245, *Lobbying Registration and Disclosure: Before and After the Enactment of the Honest Leadership and Open Government Act of 2007*, by Jacob R. Straus.

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