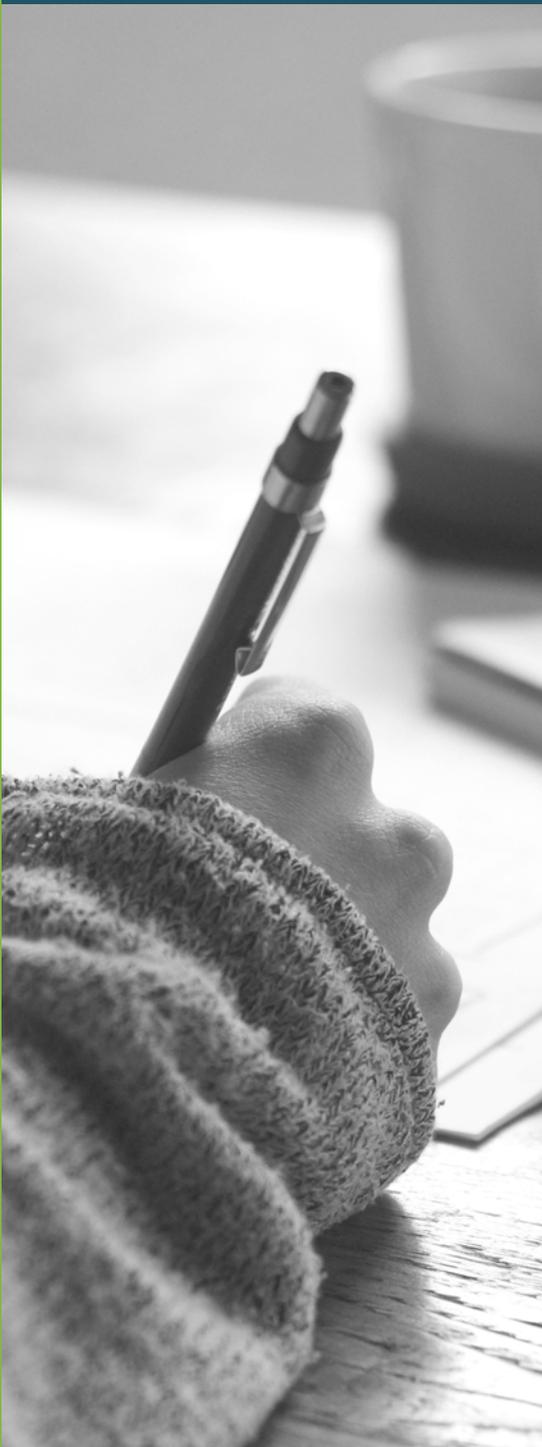


**BEN FREEMAN,  
SARAH JOLLEY,  
HANNAH POTEETE**  
**Foreign Influence  
Transparency  
Initiative**

**MAKING  
SENSE OF  
FOREIGN  
AGENTS  
REGISTRATION  
ACT ADVISORY  
OPINIONS**

# MAKING SENSE OF FARA ADVISORY OPINIONS



In early June 2018 the Department of Justice (DOJ) released 53 Advisory Opinions related to the Foreign Agents Registration Act (FARA). These Advisory Opinions were written in response to requests from individuals or firms seeking clarification of their obligation to register under the often confusing guidelines of this statute, which was designed to increase transparency of foreign influence in the American political process.

The public release of these documents, most of which were issued in the past eight years, was a recommendation of a DOJ Inspector General's report from 2016 that argued they would be a "worthwhile informational resource" if made publicly available. While heavily redacted, the newly released Advisory Opinions are indeed a worthwhile informational resource and provide important insights into how the FARA Registration Unit is determining who is, and is not, required to register under the Act. For example, they include important clarifications of when foreign foundations distributing money in the U.S. are required to register under FARA, and substantial clarification about the commercial exemption, which allows agents representing certain foreign businesses to register under the much less stringent reporting requirements of the Lobbying Disclosure Act.

Below you will find summaries of all of the newly released Advisory Opinions. The summaries include the date of the Advisory Opinion, the date of the request for the Advisory Opinion, the Registration Unit's ruling, a brief explanation of the ruling, and a hyperlink to the full ruling from the Registration Unit.

# ADVISORY OPINIONS ON AGENCY RELATIONSHIPS

**Advisory Opinion issued: 04/06/2018**

**Request Submitted: 01/16/2018**

**Ruling: NO obligation to register under FARA**

**Explanation:**

A U.S. person is inquiring about personally registering under FARA. The U.S. person has a contract with a U.S. company that is a registered agent under FARA. The U.S. person does not have to register because the U.S. person's contract is with the U.S. company, and not the foreign principal, which states that both the U.S. person and the U.S. company have equal control over the production of a T.V. show. The U.S. person is not "at the order, request, or under the direction or control of a foreign principal" per 22 U.S.C. § 611(c).

**Advisory Opinion Issued: 03/23/2018**

**Request Submitted: 02/27/2018**

**Ruling: NO obligation to register under FARA**

**Explanation:**

A U.S. association is a non-profit and recently joined a newly formed international organization. The international organization intends to sponsor meetings and events, and foster cooperation between the government and private sectors. The president and CEO of the U.S. association is a Vice Chair of the international organization. The U.S. association and international organization claim their activities will not be political. DOJ rules that the U.S. association and international organization are not in an agency relationship.

**Advisory Opinion Issued: 02/13/2018**

**Request Submitted: 01/31/2018**

**Ruling: NO obligation to register under FARA**

**Explanation:**

A U.S. organization is working for the release and homecoming of a prisoner in custody of a foreign government.

The U.S. organization is attempting to facilitate conversations between U.S. government officials and the foreign government officials. The U.S. organization is not obligated to register under FARA because it does not have a contractual agreement with any foreign principal, nor is it being paid by the foreign government. They are working independently, solely for the prisoner's release. The U.S. organization is not "at the order, request, or under the direction or control of a foreign principal" per 22 U.S.C. § 611(c).

**Conditions:**

However, if the foreign government requests something from the U.S. government in exchange for the release of the prisoner, and the U.S. organization is part of facilitating the discussion, then registration status may change. Additionally, this advisory opinion does not have any say regarding obtaining a license from OFAC.

**Advisory Opinion Issued: 02/07/2018**

**Request Submitted: 01/04/2018**

**Ruling: NO obligation to register under FARA**

**Explanation:**

An individual has a one-year contract with a U.S. company to provide consulting services to a foreign government and foreign private industry regarding "best governance practices." There may be meetings with world government organizations, including the U.S. government and the U.S. DOD. The individual does not have to register because the meetings would focus solely on commercial aspects of private industry, and the individual would not be seeking to influence the U.S. government. The individual would be working outside of the U.S. and is not "at the order, request, or under the direction or control of a foreign principal" per 22 U.S.C. § 611(c).

**Advisory Opinion Issued: 12/06/2017**

**Request Submitted: 11/03/2017**

**Ruling: NO obligation to register under FARA**

**Explanation:**

A U.S. company is inquiring about registering under FARA due to being in a contractual relationship with two separate U.S. firms that are registered under FARA. The U.S. company does not have an obligation to register under FARA because its contracts are with the two separate U.S. firms--not a foreign principal. The contracts limit the role of the U.S. company to providing meeting coordination, relationship facilitation, and cross-cultural communications clarification for the two U.S. firms. The U.S. company is not "at the order, request, or under the direction or control of a foreign principal" per 22 U.S.C. § 611(c).

**Advisory Opinion Issued: 6/22/2017**

**Request Submitted: 06/09/2017**

**Ruling: NO obligation to register under FARA**

**Explanation:**

A U.S. company will be hired by a foreign corporation to advise them on political, economic, security, and diplomatic issues. The consulting contract provided states that the U.S. company will not perform any activities that require registration under FARA.

**Additional:**

The U.S. company argues that even if they perform activities which require registration under FARA, they will be exempt from registration because "they would be physically outside the United States at the time of performance or delivery of the service." DOJ disagrees with this analysis.

**Advisory Opinion Issued: 9/20/2016**

**Request Submitted: 08/26/2016**

**Ruling: NO obligation to register under FARA**

**Explanation:**

A U.S. company is retained by a foreign consulate. The U.S. company provided an amended consulting agreement with language that clarifies it will not be required to communicate with the U.S. government or media outlets.

**Advisory Opinion Issued: 8/31/2015**

**Request Submitted: 06/30/2015**

**Ruling: YES obligated to register under FARA.**

**Explanation:**

A dual citizen is running for President of a foreign country as a member of a foreign political party. A U.S. firm wants to fundraise for the dual citizen's

presidential campaign. The dual citizen is considered "a 'foreign principal,' under Section 1(b) of the Act, 22 U.S.C. § 611(b), because of his candidacy for President of [foreign country], a position which would involve his acting outside the United States to further the national interests of [foreign government]." Fundraising for the dual citizen would make the U.S. firm an agent of the foreign principal, and they have to register under FARA as an agent of the dual citizen and their political party.

**Advisory Opinion Issued: 7/29/2015**

**Request Submitted: 03/25/2015**

**Ruling: NO obligation to register under FARA**

**Explanation:**

The U.S. organization is not engaging in political activities under the direction of a foreign principal.

**Advisory Opinion Issued: 7/02/2015**

**Request Submitted: 03/30/2015**

**Ruling: NO obligation to register under FARA**

**Explanation:**

A U.S. company is working for a foreign government. Their activities, as represented, do not require them to register as a foreign agent.

**Advisory Opinion Issued: 1/07/2015**

**Request Submitted: 09/18/2013; 09/16/2014**

**Ruling: NO obligation to register under FARA**

**Explanation:**

DOJ rules that a foreign national does not have to register because he/she "has not received instruction in espionage, counterespionage or sabotage service or tactics of a foreign government or foreign political party"

**Advisory Opinion Issued: 4/09/2013**

**Request Submitted: 01/12/2013**

**Ruling: Need additional information.**

**Explanation:**

An individual works for a foreign research center in a foreign country. DOJ needs to know 1) If the foreign government started the research center 2) If the foreign government "funds, directs, or controls it in any way" 3) If the individual or the research center engage in political activity 4) If the individual or the research center are attempting to influence U.S. policy on behalf of the foreign country

Advisory Opinion Issued: 09/06/2012  
Request Submitted: 03/15/2012; 03/31/2012  
Ruling: Need additional information.  
Explanation:  
An individual consults for the President, Prime Minister, and Ambassador of a foreign government on issues relating to security and national defense. The individual claims they do not engage in political activity on behalf of the foreign government. However, the individual did not disclose newspaper articles they had written about US policy relating to the foreign government. This counts as political activity. Additionally, the individual has been accused of accepting payments from the foreign embassy to write positive articles about the foreign ambassador. DOJ requests that the individual reply to these allegations and disclose if they received money from the foreign government, and in what amount.

Advisory Opinion Issued: 07/09/2012  
Request Submitted: 03/23/2012  
Ruling: The foreign partnership and foreign company are NOT obligated to register under FARA.  
The U.S. company must AMEND its FARA registration to disclose the relationship with foreign principal and foreign company.  
Explanation:  
The “[foreign country] Embassy hired [foreign partnership], [foreign partnership] hired [foreign company], and [foreign company] contracted with [US company] to deliver public relations services for [foreign government] in the United States.” Neither the foreign partnership nor foreign company lobby in the U.S. on behalf of the foreign government, so they are not obligated to register under FARA. All lobbying and public relations activities in the U.S. are done only by the U.S. company, however, they have not properly disclosed their relationship with the foreign company and foreign principal in their FARA registration--this must be amended.

Advisory Opinion Issued: 10/13/2011  
Request Submitted: 08/15/2011  
Ruling: YES obligation to register under FARA  
Explanation:  
A U.S. company is working for a foreign government to encourage tourism in a foreign region. The public relations activities proposed by the U.S. company qualify as political activity because they are designed “to influence any government agency, government official or member of the public... with reference to the political or public interests, policies or relations of a foreign country.”

Advisory Opinion Issued: 11/08/12  
Request Submitted: 08/13/2012; 10/03/2012  
Ruling: NO obligation to register under FARA  
Explanation:  
A U.S. nonprofit organization will research issues related to the U.S. and a foreign country. They received a grant from a foreign corporation. The U.S. nonprofit does not work for the foreign country and will not participate in any political activities.

Advisory Opinion Issued: 11/08/2012  
Request Submitted: 08/08/2012  
Ruling: YES obligated to register under FARA  
Explanation:  
A U.S. organization is working for a foreign government ministry. The U.S. organization is a 501(c)(3) tax exempt organization, but is not relieved from registering under FARA because it “engages in political activity in the United States for or in the interests of the foreign principal” per 22 U.S.C. § 611(o)  
Additional:  
Tax exempt status does not excuse organizations from registering under FARA



Advisory Opinion Issued: 08/26/2011  
Request Submitted: 08/18/2011  
Ruling: NO obligation to register under FARA

**Explanation:**

The U.S. CEO of a hospital in a U.S. city is working on his own project to erect a memorial in a foreign country. The U.S. CEO has hired a U.S. firm to arrange meetings with public and private officials in order to raise funds for the memorial. The U.S. firm is curious if they are obligated to register under FARA. The memorial is the project solely of the U.S. CEO, so they are not obligated to register under FARA since they are not acting "at the order, request, or under the direction or control" of a foreign principal, per 22 U.S.C. § 611(c).

**Conditions:**

If the U.S. firm decided to advance the relationship to political activities in support of the foreign government, then the U.S. firm would be obligated to register under FARA (i.e. "any effort to influence U.S. Government decisions regarding aid to the [foreign country]").

**Advisory Opinion Issued: 07/19/1988**  
**Request Submitted: 06/28/1988**  
**Ruling: YES obligation to register under FARA**  
**Explanation:**

A U.S. company is working to promote economic development in a foreign country. Working to attract U.S. investment in a foreign country is considered political activity.

Advisory Opinion Issued: 08/17/2010  
Request Submitted: 03/23/2010  
Ruling: YES obligation to register under FARA

**Explanation:**

A U.S. citizen and a foreign national (who is also a U.S. citizen) founded a U.S. company to represent a foreign government. The consulting contract states that the U.S. person and U.S. company will engage in activities designed to attract U.S. investments and influence U.S. government officials. The U.S. person is considered a foreign agent and must register under FARA, even though they have cut ties with the U.S. company: "dissolution of the organization does not relieve the officer or director of the obligation to register.

Consequently, [US company] and [US person] are foreign agents, and [US person] must register and terminate the registration for [himself/herself] and [US company]."

**Advisory Opinion Issued: 05/20/2010**  
**Request Submitted: 04/13/2010**  
**Ruling: NO obligation to register under FARA**  
**Explanation:**

A U.S. firm may work with a foreign individual's political campaign in a foreign country. They will be paid by the foreign individual or their foreign political party. The U.S. firm proposes "to advise [him/her] on the social networking tools and methods used by President Obama and other U.S. political candidates." The U.S. firm will introduce the foreign individual to U.S. government officials familiar with these methods. The purpose of these meetings is to instruct the foreign individual in social networking methods for use in the foreign political campaign, not to influence U.S. officials or policy.

# COMMERCIAL EXEMPTION: ADVISORY OPINIONS

**Advisory Opinion Issued: 02/09/18**

**Request Submitted: 02/01/2018**

**Ruling: YES obligated to register under FARA**

**Explanation:**

A U.S. company was hired by a U.S. law firm that was hired by a foreign state bank. The U.S. company states that it is going to help the U.S. law firm by “(1) an initial assessment of [foreign state bank]’s cybersecurity programs and its policies and programs concerning anti-money laundering and combating the financing of terrorism...(2) limited outreach arranged by [US law firm] with officials of U.S. banks and financial institutions as well as with officials of federal regulatory agencies...including strategic advice but no advocacy in either meetings; and (3)...familiarize them with [foreign state bank]’s programs to demonstrate its suitability for establishing commercial relationships with U.S. financial institutions, but does not include efforts to influence U.S. government policy.” The U.S. company is inquiring if they are obligated to register under FARA, seeing as they are not trying to persuade U.S. policy, and the activities are “private and non-political activities in furtherance of the principal’s bona fide trade or commerce,” per 613(d)(2). However, the advisory board finds the the U.S. company is not exempt under 613(d)(2), as they are meeting with and educating U.S. government officials about the foreign state bank. This activity would “directly promote the public interests of [foreign country]” and would obligate them to register under FARA.

**Advisory Opinion Issued: 02/09/2018**

**Request Submitted: 01/05/2018**

**Ruling: NO obligation to register under FARA**

**Explanation:**

A foreign corporation hired a U.S. firm to encourage foreign investors to explore economic opportunities in the United States. The U.S firm states that the foreign corporation is entirely private and not connected to the foreign government. The U.S. firm does not have to register because the activities proposed are considered commercial, not political.

**Advisory Opinion Issued: 12/21/2017**

**Request Submitted: 11/14/2017**

**Ruling: NO obligation to register under FARA**

**Explanation:**

A foreign embassy hired a U.S. firm to arrange meetings for a foreign government official with members of the defense and cybersecurity industry. As long as the activities proposed do not “directly promote the public or political interests of the foreign principal” and the U.S. firm adheres to the proposed activities, their work it considered commercial and exempt under Section 3(d)(l) of the Act, 22 U.S.C. §613(d)(l)

**Advisory Opinion Issued: 10/18/2017**

**Request Submitted: 08/09/2017**

**Ruling: NO obligation to register under FARA.**

**Explanation:**

A U.S. company is aiding the foreign company “with the goal of obtaining U.S. Customs and Border Protection (“CBP”) cargo pre-inspection at [foreign company]’s cargo facility in [foreign city].” They will do this by meeting with U.S. CBP officials and other U.S government agencies. The U.S. company is not obligated to register under FARA because the activities are private (not promoting “the public or political interest of the foreign government”), non-political because “they deal with existing CBP policy”, and “they are only concerned with the bona fide commercial, industrial, or financial operations of [foreign company]”, which exempts them under the “commercial exemption” per Section 613(d).

**Advisory Opinion Issued: 8/10/2017**  
**Request Submitted: 07/17/2017**  
**Ruling: NO obligation to register under FARA (for now)**

**Explanation:**

A foreign company (foreign company-1) is engaged in a co-venture with a second foreign company (foreign company-2). Foreign company-2 is potentially controlled by a foreign government. Foreign company-1 may lobby before the U.S. government in the future. Foreign company-1's current activities are considered commercial in nature and exempt under Section 3(d)(1).

**Conditions:**

Engaging in the proposed lobbying before the U.S. Congress and federal agencies would constitute political activity, and foreign company-1 would have to register as foreign agents under FARA.

**Advisory Opinion Issued: 07/12/2017**  
**Request Submitted: 06/16/2017**  
**Ruling: NO obligation to register under FARA**  
**Explanation:**

"[US company] provides a wide range of security solutions to government authorities and telecommunications providers. [The inquirer] disclosed that, as a member of the Board of [US company], [the inquirer's] primary responsibilities would include protecting the U.S. Government's best interests and ensuring that [US company] meets all of the requirements of the Special Security Agreements required by the Defense Security Service." The U.S. company is not obligated to register under FARA because "the activities of [the inquirer's] company are commercial in nature and thus qualify for the exemption provided by Section 3(d)(1) of [FARA] for private and non-political activities in furtherance of the bona fide trade or commerce of a foreign principal."

**Advisory Opinion Issued: 02/01/2012**  
**Request Submitted: 11/20/2011**  
**Ruling: NO obligation to register under FARA**  
**Explanation:**

Inquirer has worked on behalf of foreign person, who is a candidate for the President of the foreign country in 2012. The inquirer has corresponded with "President Barack Obama, Secretary of State Hillary Clinton, the National Security Council, and the Central Intelligence Agency recommending [foreign individual] as friendly to the interests of the United States."

The inquirer is considered "an agent of a foreign principal" per 22 U.S.C. § 611(c)(1), however, the inquirer is considered exempt as long as the activities are limited "to non-political activities or commercial transactions" per 22 U.S.C. § 613(d)(1)(2).

**Advisory Opinion Issued: 7/27/2011**  
**Request Submitted: 05/31/2011**  
**Ruling: NO obligation to register under FARA**  
**Explanation:**

Executives of a foreign company are meeting with U.S. government officials about the upcoming sale of a U.S. company owned by the foreign company to another U.S. company. The executives' proposed activities are considered commercial and exempt under 22 U.S.C. § 613 (d)(1) "for private and nonpolitical activities in furtherance of the bona fide trade or commerce of a foreign principal."

**Advisory Opinion Issued: 08/27/2003\***  
**Request Submitted: 08/12/2003**  
**Ruling: NO obligation to register under FARA**  
**Explanation:**

The inquirer states that his or her "firm has been retained by the [foreign government] to prepare litigation seeking to recover money owed to the [foreign government] under commercial contracts...[and has] been working with federal law enforcement agencies in connection with an ongoing investigation." The inquirer is not obligated to register under FARA, as "the Department will not challenge the applicability of the exemptions from registration provided in Sections 3(d)(1) and 3(g) to [the inquirer's] legal advice and representation of the [foreign government]."

\*Same document under "Legal Exemption" section

**Advisory Opinion Issued: 1/20/1984**  
**Request Submitted: 11/01/1983**  
**Ruling: YES obligation to register under FARA**  
**Explanation:**

A U.S. advertising firm is working for a foreign government to promote tourism and applied for a commercial exemption. DOJ states that their activities constitute political activity and they are obligated to register under FARA: "tourism advertisements are technically political propaganda, as that term is defined by Section 1(j) of the Act. The dissemination of political propaganda automatically precludes a commercial exemption."



# RELIGIOUS, SCHOLASTIC, FINE ARTS, OR SCIENTIFIC PURSUITS

# NATIONAL SECURITY EXEMPTION

**Advisory Opinion Issued: 07/12/2016**

**Request Submitted: 04/18/2016**

**Ruling: YES obligation to register under FARA**

**Explanation:**

A Foundation, “that is considered a quasi-government arm of the [foreign government]”, is engaged in curating displays in a museum, so “...the Foundation’s activities, especially with respect to the museum, could implicate a possible exemption” per 22 U.S.C. § 613(e). However, the Foundation will employ exhibits at a museum that “will display the history of diplomatic relations between the United States and [foreign country] governments and aim to educate the American public about the strong bonds that have existed between the two nations,” which means the Foundation is obligated to register under FARA per 22 U.S.C. § 611(o): “any activity that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a foreign country or foreign political party” obligates an organization to register.

**Advisory Opinion Issued: 11/24/2015**

**Request Submitted: 10/23/2015**

**Ruling: NO obligation to register under FARA**

**Explanation:**

The U.S. foundation in question is technically an “agent of a foreign principal” because it “disburses ... money, or other things of value within the United States pursuant to the grant agreement and any associated understandings with the Government of [foreign country].” However, it is exempt from registering under Section 613(e), as long as its activities are “in furtherance of the bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts.”

**Advisory Opinion Issued: 5/18/2012**

**Request Submitted: 08/08/2008; 03/15/2012**

**Ruling: Need additional information**

**Explanation:**

An Individual working for a foreign government argues that if their advisory opinion finds they must register under FARA, then they should qualify for the national security exemption found in 22 U.S.C. § 613(f). In the DOJ’s original 2008 ruling the individual was considered exempt. The DOJ is considering the new request separately from the 2008 ruling. As such, they need specific details of the individual’s current activities on behalf of the foreign government.

**Additional:**

“The national security exemption found in 22 U.S.C. § 613(f) is not available to the individual. It is permitted only if the President has, by publication in the Federal Register, designated for the purpose of Section 3(f) the country or countries deemed “vital to the defense of the United States.”

# LEGAL EXEMPTION

**Advisory Opinion:** 05/03/2018

**Request Submitted:** 03/08/2018

**Ruling:** NO obligation to register under FARA

**Explanation:**

A U.S. law firm is representing a private foreign bank in a foreign country. The law firm is not obligated to register under FARA because it is only representing the foreign principal per 22 U.S.C. § 613(g).

However, the U.S. law firm wanted to make sure that their contact with the the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) could be seen as influencing government officials. The U.S law firm's contact was not subject to registering under FARA since they were simply "asking that OFAC delay any designation of [foreign bank] and [foreign person] until they are afforded an opportunity to present responsive information and documents to address the allegations leading to the designation by OFAC." The Advisory Board states that the December 2017 "letter to OFAC appears to stop short of an attempt to influence OFAC's policies regarding its sanctions regime beyond its specific application to [US law firm]'s representation of [foreign person and foreign bank]."

**Advisory Opinion Issued:** 05/03/2018

**Request Submitted:** 03/07/2018

**Ruling:** NO obligation to register under FARA

**Explanation:**

A U.S. law firm that has been hired by a foreign state owned company to provide legal services is exempt from obligation to register under FARA per 22 U.S.C. § 613(g). However, the law firm wanted to make sure that their contact with the the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) could be seen as influencing government officials. The law firm's contact was not subject to registering under FARA since they were simply "asking that OFAC delay any designation of [foreign bank] and [foreign person] until they are afforded an opportunity to present responsive information and documents to address the allegations leading to the designation by OFAC." The Advisory Board states that the February 2018 "letter to OFAC appears to stop short of an attempt to influence OFAC's policies regarding its sanctions regime beyond its specific application to [US law firm]'s representation of [foreign person and foreign bank]."

**Advisory Opinion Issued:** 9/10/2013

**Request Submitted:** 08/02/2013

**Ruling:** NO obligation to register under FARA

**Explanation:**

A foreign corporation was placed on the Entity List of the Department of Commerce's Bureau of Industry and Security (BIS) for allegedly acting "contrary to U.S. national security and/or U.S. foreign policy interests." The foreign corporation hired a U.S. firm to help ensure its removal from the Entity List. The U.S. firm represents that it will not perform political activities on behalf of the foreign corporation. The DOJ rules that the U.S. firm is covered by the legal exemption.

**Advisory Opinion Issued:** 12/03/2012\*

**Request Submitted:** 08/17/2012

**Ruling:** YES obligation to register under FARA

**Explanation:**

U.S. firm 1 and U.S. firm 2, collectively known as U.S. Firm, are helping a foreign company acquire a U.S. company and navigate the Committee on Foreign Investment in the United States (CFIUS) process. The U.S. Firm asserted in their Opinion Request that they should be exempt under the commercial exemption (22 U.S.C. § 613 (d)(l) and (d) (2)), the legal exemption (22 U.S.C. § 613(g)), and the Lobbying Disclosure Act (LDA) exemption 22 U.S.C. § 613(h). The Advisory Board does not agree. While the U.S. Firm is helping with legal aspects of a commercial deal, the firm "will assist [foreign company] in acquiring a U.S. company, in navigating the CFIUS process, and in educating U.S. policymakers about [foreign company]'s business operations and proposed acquisition of a U.S. company" and the foreign company is "minority owned by [foreign municipal government]." The U.S. Firm is obligated to register under FARA because "the lobbying of Congress and the education of U.S. policymakers...is political activity in as much as it is an attempt to in any way influence the domestic or foreign policy of the United States and the political or public interests of the [foreign country]" per 22 U.S.C. § 611(c).

\*Same document under "FARA vs LDA" section

**Advisory Opinion Issued: 7/27/2011**  
**Request Submitted: 10/23/2010; 03/15/2011**  
**Ruling: NO obligation to register under FARA**  
**Explanation:**

A U.S. firm is representing foreign nationals within and outside the U.S. The firm inquired if it needs to register under FARA due to being funded by the foreign government and “acting at the request and under the direction and control of the [foreign government] in determining which cases to pursue.” So long as the U.S. firm does not participate in “political activities and [there] are not attempts to in any way influence U.S. Government officials or sections of the public within the United States with respect to the political or public interests, policies, or relations of the [foreign government],” and solely engage “in the legal representation of a disclosed foreign principal before any court of law or agency of the Government of the United States.” they are not obligated to register under FARA per the legal exemption 22 U.S.C. § 613 (g).

**Advisory Opinion Issued: 02/16/2011**  
**Request Submitted: 10/23/2010**  
**Ruling: No definitive ruling. Needs more clarification**  
**Explanation:**

A U.S. firm is representing a foreign government and foreign nationals and identifies cases itself. The U.S. firm “may then engage in pre-litigation discussions with relevant federal, state or local government officials in an attempt to avoid judicial action. These pre-litigation discussions may involve advocacy on behalf of the [foreign government] and/or on behalf of [foreign nationals]...The goal of the pre-litigation discussions will be to persuade these government officials to enforce existing policies or to change existing policies or practices affecting the legal rights of [foreign nationals] in the United States.” The Advisory Board agrees that the U.S. firm could be exempt from obligation to register under FARA as long as the said discussions do not go beyond advocacy “in the course of judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record,” per 22 U.S.C. § 613(g). However, the phrase, “persuade these government officials...to change existing policies and practices”, gives the Advisory Board hesitation, as this seems like “[p]olitical activity” as defined Section 611(o). The Advisory Board requests more clarification before offering a definitive ruling.

**Advisory Opinion Issued: 12/07/2010**  
**Request Submitted: 09/15/2010**  
**Ruling: YES obligation to register under FARA**  
**Explanation:**

A U.S. firm “is chief counsel for the plaintiffs, the [foreign government] and several of its Districts, in a suit pending in the [text deleted] District, against [multinational distributor] for money laundering, loss of tax revenue, and competitive harm...[T]he revenue rule precludes the courts of one country from enforcing the tax laws of another country.” The U.S. executive branch has the power to waive the revenue rule, which could restore the loss of tax revenues. Because of this, the U.S. firm “plans to meet with the State Department and seek to have them waive the rule in this case and communicate this to the district court.” Usually, “legal activities on behalf of the [foreign government] and its Districts would not require registration under FARA” per 22 U.S.C. § 613(g). However, the U.S. firm is obligated to register under FARA because the “DOJ considers activities with the State Department to be political activities” per 22 U.S.C. § 611(o).

**Advisory Opinion Issued: 08/27/2003\***  
**Request Submitted: 08/12/2003**  
**Ruling: NO obligation to register under FARA**  
**Explanation:**

The inquirer states that his or her “firm has been retained by the [foreign government] to prepare litigation seeking to recover money owed to the [foreign government] under commercial contracts...[and has] been working with federal law enforcement agencies in connection with an ongoing investigation.” The inquirer is not obligated to register under FARA, as “the Department will not challenge the applicability of the exemptions from registration provided in Sections 3(d) (l) and 3(g) to [the inquirer’s] legal advice and representation of the [foreign government].”  
 \*Same as document under “Commercial Exemption” section.

# FARA VS LDA

**Advisory Opinion Issued: 01/05/2018**

**Request Submitted: 11/02/2017**

**Ruling: NO obligation to register under FARA**

**Explanation:**

“[US company]’s client [Delaware corporation] is a corporation formed in Delaware with a registered address in Wilmington, Delaware. [US company] provides government relations services, pursues grant and incentive funding and supports company procurement efforts at the federal and state government levels for [Delaware corporation]. [Delaware corporation] is an indirect 100% owned subsidiary of [public company]. [Public company] is owned by its parent company, [public company 2], which itself is 51.1% owned by [foreign government]... [US company] is registered under the Lobbying Disclosure Act, 2 U.S.C. §1601 et seq. (“LDA”) for its work for [Delaware corporation].” The U.S. company is not obligated to register because they are eligible for the LDA exemption per 22 U.S.C. §613(h).

**Advisory Opinion Issued: 11/10/2015**

**Request Submitted: 06/17/2013**

**Ruling: NO obligation to register under FARA**

**Explanation:**

A U.S. firm represents a foreign company attempting to buy a U.S. company. In a December 3, 2013 letter, DOJ told the U.S. firm to register under FARA and provide additional information about the ownership of the foreign company. The U.S. firm produced a supplemental letter stating the foreign company is neither owned nor controlled by the foreign government. Therefore DOJ will allow U.S. firm to claim the Lobbying Disclosure Act exemption, 22 U.S.C. § 611(h).

**Advisory Opinion Issued: 04/09/2013**

**Request Submitted: 02/26/2013**

**Ruling: YES obligation to register under FARA**

**Explanation:**

A U.S. law firm wishes to obtain a special license from OFAC that would allow payments between the U.S. and a foreign bank. The request of the OFAC itself does not obligate registration under FARA.

However, the U.S. law firm is acting on behalf of a foreign bank, that is run by the foreign government, to establish a “connection with the licensed exports of food, medicine, and medical devices to [foreign country].” The U.S. law firm then inquires if the commercial exemption and LDA exemption apply; however, because the U.S. has sanctions against that foreign government, and therefore, the foreign bank, the two are defined as foreign principals per 28 C.F.R. § 5.307 and would obligate registration under FARA. Additionally, the U.S. law firm describes potentially “presenting proposals to Congress, non-governmental organizations, special interest groups, and the public, as well as proposing legislation to Congress. These activities are political and would require registration under FARA” per 22 U.S.C. § 611(c)(i).

**Advisory Opinion Issued: 12/03/2012\***

**Request Submitted: 08/17/2012**

**Ruling: YES obligation to register under FARA**

**Explanation:**

U.S. firm 1 and U.S. firm 2, collectively known as U.S. Firm, are helping a foreign company acquire a U.S. company and navigate the Committee on Foreign Investment in the United States (CFIUS) process. The U.S. Firm asserted in their Opinion Request that they should be exempt under the commercial exemption (22 U.S.C. § 613 (d)(1) and (d)(2)), the legal exemption (22 U.S.C. § 613(g)), and the Lobbying Disclosure Act (LDA) exemption 22 U.S.C. § 613(h). The Advisory Board does not agree. While the U.S. Firm is helping with legal aspects of a commercial deal, the firm “will assist [foreign company] in acquiring a U.S. company, in navigating the CFIUS process, and in educating U.S. policymakers about [foreign company]’s business operations and proposed acquisition of a U.S. company” and the foreign company is “minority owned by [foreign municipal government].” The U.S. Firm is obligated to register under FARA because “the lobbying of Congress and the education of U.S. policymakers...is political activity in as much as it is an attempt to in any way influence the domestic or foreign policy of the United States and the political or public interests of the [foreign country]” per 22 U.S.C. § 611(c).

\*Same document under “Legal Exemption” section.

**Advisory Opinion Issued: 12/03/2012**

**Request Submitted: 10/11/2012**

**Ruling: YES obligation to register under FARA**

**Explanation:**

A foreign bank hired a U.S. law firm “to provide legal and political consultancy services regarding the establishment of a direct banking relationship between [foreign bank] and U.S. financial institutions to facilitate licensed transactions between the United States and [foreign country].” The activities proposed by the U.S. law firm on behalf of the foreign bank are considered political activities benefiting a foreign country, and do not qualify for exemption under 22 U.S.C. § 613(h).

**Advisory Opinion Issued: 02/29/2012**

**Request Submitted: 01/23/2012**

**Ruling: YES obligation to register under FARA**

**Explanation:**

A U.S. firm has been hired by a foreign individual and will be paid by that foreign individual, not the government of the foreign country. The U.S. firm inquires if they are “exempt under 22 U.S.C. § 613(d)(2) claiming that the activities of [the] firm in this matter do not serve ‘predominantly a foreign interest.’” However, because of the foreign client is working toward the release of a prisoner in the foreign country who was “former leader of foreign political party” and is the foreign country’s “top opposition leader”, it is said that his/her “release from prison is key to fixing relations between [foreign country] and [region of the world].” The U.S. firm’s requested exemption only applies “so long as the political activities are not directed by a foreign government or foreign political party and the political activities do not directly promote the public or political interests of a foreign government or foreign political party.” The U.S. firm is obligated to register under FARA because the “firm’s activities will involve ‘political activities’” per 22 U.S.C. § 611(o).

**Advisory Opinion Issued: 10/19/2010**

**Request Submitted: 08/12/2010**

**Ruling: NO obligation to register under FARA**

**Explanation:**

A U.S. company consults for a foreign company and meets with U.S. government officials to “communicate...client’s interests and concerns as potentially impacted by U.S. laws, regulations and policies.” DOJ rules that registering under the Lobbying Disclosure Act is appropriate so long as the U.S. firm’s actions are limited to “the bona fide commercial, industrial or financial operations of the foreign corporation and are not directed by a foreign government or foreign political party, and do not directly promote the public or political interests of a foreign government or foreign political party.”

**Advisory Opinion Issued: 1/20/2010**

**Request Submitted: 10/14/2009**

**Ruling: YES obligation to register under FARA**

**Explanation:**

A foreign trade association hired a U.S. firm to promote “business and investment opportunities between the [foreign country] and the United States.” The U.S. firm agreed to meet with members of Congress and the Executive Branch on the foreign trade association’s behalf. Despite the U.S. firm’s claims that the foreign trade association is not directed or financed by the foreign country, it states in its letter: “[foreign trade association] receives funds [text deleted], which is approximately equivalent to 10 million US dollars, from the [foreign government] for undertaking various perennial projects on behalf of the [foreign government].” DOJ finds that these activities promote the political interests of the foreign country, and the U.S. firm is engaged in political activity on behalf of a foreign principal.



# ATTORNEY GENERAL EXEMPTION

Advisory Opinion Issued: 06/29/2017

Request Submitted: 06/12/2017

Ruling: YES obligation to register under FARA.

Explanation:

A dual citizen of two foreign countries opposes one of the foreign countries and wishes to position herself/himself to run against the leader of that foreign country. The foreign citizen plans to hire a U.S. lobbying firm to try to request the help of the U.S. to secure the integrity of the next election. The foreign citizen fears physical harm due to public “opposition to the [current foreign government]” and wishes to exempt documents from public disclosure. Advisory Board found this to be “contrary to the central purpose of FARA”. However, FARA “can redact such personally identifiable information”, like an address, “from publication on the FARA website upon receipt of a letter from the registrant (or counsel) requesting” to do so, but “cannot redact names of agents and foreign principals.”



# ADDITIONAL GENERAL INFORMATION

Advisory Opinion Issued: 8/13/2014

Request Submitted: 08/06/2013

Ruling: Need more information

Explanation:

A U.S. organization “consists of [foreign nationals] living in the United States who support the [foreign political party], a political party in [foreign country].” The purpose of the U.S. organization is to raise money from other foreign nationals to support the foreign political party. The organization claims it is not controlled by the foreign political party, funded by the foreign political party, engaged in political activities in the United States, or responsible for representing the foreign political party in the United States. DOJ needs more information before it can decide if the organization needs to register under FARA.

Advisory Opinion Issued: 11/08/2012

Request Submitted: 03/15/2012, 05/31/2012, & 09/18/2012

Ruling: Request for opinion withdrawn

Explanation:

The requester no longer needs the advise of the FARA Advisory Board because she/he is going to separate herself/himself from any relationship with the foreign government due to the “deteriorating security situation”.

Advisory Opinion Issued: 05/20/2010

Request Submitted: [date deleted]

Ruling: More information needed

Explanation:

Example of a request for more information from the FARA Advisory Board. The board would need:

- “(1) a description of the entire transaction and full disclosure of the identity of all foreign principals and agents, and the nature of the Congressional investigation”
- “(2) any articles of incorporation or partnership agreements for the foreign principal”
- “(3) a copy of the existing or proposed written contract or a full description of the terms and conditions of each existing or proposed oral contract between the parties”
- “(4) a certification by the requesting party that the review request contains ‘a true, correct and complete disclosure with respect to the proposed conduct’”
- “(5) the mandatory fee of \$96.00 for the Rule 2 advisory opinion, Section 5.5 (d)(10)”

**A REPORT BY  
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