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## Foreign Agents Registration Act (FARA): 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 (DOJ) 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 (December 2021), more than 450 active registrants represent about 750 foreign principals.

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“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

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### 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 73<sup>rd</sup> 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. §§5.1-5.1101).

### Who Is a Foreign Principal?

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” (22 U.S.C. §611(b)(2)).

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.

### Who is a Foreign Agent

FARA requires the registration of “any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal ...” (22 U.S.C. §611(c)(1)). An agent of a foreign principal is an individual or organization

who directly or through any other person—  
(i) engages within the United States in political activities for or in the interests of such foreign principal;

(ii) acts within the United States as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;

(iii) within the United States solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or

(iv) within the United States represents the interests of such foreign principal before any agency or official of the Government of the United States. (22 U.S.C. §611(c)(1))

A foreign agent must register with the DOJ within 10 days of agreeing to act as an agent of a foreign principal. In general, the foreign agent must disclose information related to their business; the nature of their relationship with the foreign principal, including a copy of their written contract or the conditions of an oral agreement; and statements on activities and money spent and received in connection with foreign agent activities (22 U.S.C. §612(a)).

## Exemptions to FARA

FARA contains eight exemptions that allow a potential registrant to avoid registering with the DOJ (22 U.S.C. §613). The eight exemptions are for (1) diplomatic or consular officers; (2) officials of foreign governments; (3) staff members of diplomatic or consular officers; (4) private and nonpolitical activities, including the solicitation of funds; (5) religious, scholastic, or scientific pursuits; (6) defense of a foreign government vital to U.S. defense; (7) certain persons qualified to practice law and who are engaged in certain legal representation; and (8) persons engaged in lobbying activities and registered under the Lobbying Disclosure Act (LDA; 2 U.S.C. §§1601-1614).

Potential registrants self-select whether they qualify for an exemption. The DOJ can provide an advisory opinion under 28 C.F.R. §5.2. The department provides a list of publicly released advisory opinions at <https://www.justice.gov/nsd-fara/fara-advisory-opinions>.

## Public Disclosure Database

FARA requires the Attorney General to maintain a public database of registration statements (22 U.S.C. §616(d)). This database is publicly available on the DOJ 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, a foreign principal, or an individual foreign agent.

## DOJ Reporting Requirements

FARA requires the Attorney General to report to Congress on the administration of FARA every six months (22 U.S.C. §621). **Table 1** provides an overview of the number of active registrations and foreign principals represented between January 1, 2019, and December 31, 2021, the three most recently available years.

**Table 1. Foreign Principal Registration, 2019-2021**

Period	Active Registrations	Foreign Principals Represented
2019		
January 1 to June 30	441	721
July 1 to December 31	451	716
2020		
January 1 to June 30	441	677
July 1 to December 31	455	704
2021		
January 1 to June 30	464	705
July 1 to December 31	492	749

**Source:** U.S. Department of Justice, Foreign Agent Registration Act, *Reports to Congress*, at <https://www.justice.gov/nsd-fara/fara-reports-congress>.

## Enforcement

Noncompliance with FARA may result in monetary fines or jail time (22 U.S.C. §618). 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 (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 consolidate oversight for all lobbying-related activities.

Second, some legislators have suggested that the LDA exemption in FARA (22 U.S.C. 613(h)) should be repealed to limit the number of foreign agents who might register under LDA rather than under FARA. For example, in the 117<sup>th</sup> Congress, the House Judiciary Committee’s Subcommittee on the Constitution, Civil Rights, and Civil Liberties held a hearing on “Enhancing the Foreign Agents Registration Act” (April 5, 2022), where proposed amendments to FARA were discussed, including the repeal of the LDA exemption.

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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