

THE FOREIGN AGENTS REGISTRATION ACT:

2024 YEAR IN REVIEW AND OUTLOOK FOR 2025

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EXECUTIVE SUMMARY

We entered 2025 with the world in turmoil, a new American administration in the White House, and various global actors—friends and foes alike—still actively vying for the attention of the American public.

The scene is set for a continued parade of foreign actors energetically engaged in the effort to influence American popular opinion. We therefore anticipated, at the beginning of the year, continued active enforcement of the Foreign Agents Registration Act (“FARA,” or “Statute”), consistent with the trend in recent years—ever since the first Trump Administration, and the sharp critique of the U.S. Department of Justice (“DOJ”) FARA Unit by the DOJ’s Office of Inspector General (“OIG”) in a 2016 report, which noted the historic underenforcement of the statute until that time.¹ But, as discussed below, the release of new policy guidance by recently appointed U.S. Attorney General Pamela Bondi raises some questions about the likely trajectory of FARA enforcement over the next four years, and at the very least, what priorities the FARA Unit may emphasize.²

Shortly before the appointment of the new Attorney General, pronouncements of various high-level DOJ officials (some of whom have since been removed from their positions), only weeks before, reinforced our anticipation of continued vigorous enforcement. These comments were made at the Sixth National Forum on the Foreign Agents Registration Act, the premier annual FARA conference held in Washington, D.C., on December 6, 2024.

For example, former Deputy Assistant Attorney General (“DAAG”) Eun Young Choi (who was among those reportedly removed from her senior position³), stated, in her Keynote Address, that FARA enforcement had been active throughout the year to counter covert efforts of foreign actors that impact our public discourse and invited comments to the then-pending release of the Notice of Proposed Rule Making containing proposed amendments to the FARA regulations. (As noted below, and as discussed in one of our recent client alerts, the Proposed Amendments to the FARA regulations were published on December 20, 2024; comments are due by March 3, 2025.⁴) Former DAAG Choi also reiterated that while



rulemaking could help clarify the existing enforcement structure, congressional action was required for some of the longstanding requests of DOJ, such as obtaining Civil Investigative Demand (“CID”) authority, clarifying the duration of the obligation to register, eliminating the Lobbying Disclosure Act exemption, and increasing fines and penalties under the Statute. It remains to be seen whether these former DOJ legislative priorities will remain priorities of the new administration.

We also anticipated continued emphasis on FARA, given the U.S. intelligence community’s annual threat assessment of 2024, which discussed the determined efforts of foreign adversaries to influence American public opinion.⁵ This can be seen in the reports of various “malign influence operations” of our global adversaries: China, Iran, and Russia, foremost among them.⁶ There is some reason to believe that these kinds of activities may still be a focus, even with a different FARA emphasis, because even under recent policy announcements, the FARA Unit is instructed to prioritize prosecution of espionage-like activity.

The latest policies also direct the FARA Unit to continue to police registration requirements, and so the risk of civil enforcement action remains. Consequently, **any** agents acting on behalf of **any** foreign principals, whether friendly or hostile—and for that matter, whether they are foreign government authorities, foreign political parties, non-governmental entities, or even foreign individual or corporate citizens—could still trigger registration obligations.

With this context, we offer in this Report an update on various developments relevant to those who may be viewed as agents of foreign principals (or as foreign principals), and therefore may have (or may trigger) FARA registration obligations. **Part I** offers a primer on FARA’s key components, its history and resurgence. **Part II** reviews recent DOJ policy announcements and what they may suggest about the new administration’s views of FARA enforcement. **Part III** covers recent FARA case developments, including the high-profile prosecutions of various federal and state public officials. **Part IV** addresses developments from within the DOJ FARA Unit itself, including an analysis of recent FARA advisory opinions and registrations. **Part V** addresses legislative efforts to reform the current FARA statute, as well as the recent efforts of some states to enact their own FARA analog statutes. Finally, **Part VI** considers other FARA issues of note, including the top issues Saul Ewing’s FARA Team is watching and waiting for in 2025.

As always, we invite your comments and questions.

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INTRODUCTION



WHAT IS FARA?

The FARA Statute

Congress passed FARA in 1938.⁷ The timing of its passage gives insight into FARA’s historical origins and the congressional purpose of the statute—to shine a light on foreign-initiated propaganda and public influence campaigns. FARA, at its core, is premised on transparency and disclosure. The rationale for requiring disclosure is to facilitate evaluation by the government and the American public of the activities of agents who might otherwise be acting surreptitiously on behalf of unidentified foreign principals.⁸

FARA requires certain agents of foreign principals who are engaged in political activities, or other activities specified under the statute, to register and make periodic public disclosures of their relationships with foreign principals, as well as receipts and disbursements in support of their activities.⁹ Registrants must provide detailed information at the time of registration, with periodic supplements thereafter.

FARA exempts certain activities from registration, but requires a careful analysis to determine whether those exemptions apply. As discussed later in this Report, FARA provides a process by which a prospective agent or

the agent’s legal counsel can solicit a formal advisory opinion from the FARA Unit as to whether an obligation to register exists.¹⁰

The FARA Unit, which is within the Counterintelligence and Export Control Section (“CES”) of DOJ’s National Security Division (“NSD”), administers all aspects of the statute, including both criminal and civil enforcement, administrative inspections,¹¹ and oversight of FARA registration.

Until the critical OIG report of 2016, FARA had been a backwater of the NSD, and enforcement of the statute prior to the OIG Report had been exceedingly rare. Since the 2016 report, however, DOJ has breathed new life into the FARA Unit, by making public formerly confidential advisory opinions (and issuing a raft of new ones), as well as by issuing letters of determination, bolstering the resources of the Unit, proposing needed administrative rule changes, and initiating high-profile prosecutions, with a spectrum of results. It remains to be seen whether, in light of the new priorities of the Trump Administration, we are about to see a return to dormancy in some respects, or what aspects of FARA enforcement may continue apace.

The FARA Regulations

FARA authorizes the Attorney General to make rules and regulations necessary to carry out the provisions of the statute.¹² Until the most recent proposed updates, the regulations were last updated in 2007.

As discussed in our recent client alert, and in more detail below, DOJ published an Advance Notice of Proposed Rulemaking (“ANPRM”), seeking public comments on potential amendments to the regulations on December 13, 2021.¹³ Three years later, on December 20, 2024, DOJ published its informal Notice of Proposed Rulemaking (“NPRM”), which was formally published in the Federal Register on January 2, 2025.¹⁴



Related Statutes

FARA is by no means the only arrow in DOJ’s quiver. Indeed, the FARA Unit analyzes the FARA statute in concert with several similar and in some cases overlapping statutes, including those set forth below:¹⁵

- **2 U.S.C. § 1601**, the Lobbying Disclosure Act of 1995 (“LDA”), covers those engaged in “lobbying activities” on behalf of domestic and foreign interests. FARA exempts some lobbyists from registration as foreign agents if they are registered as lobbyists for foreign powers so long as they are registered under the LDA. If the foreign principal is the primary beneficiary of the exemption, then the exemption will not apply.
- **18 U.S.C. § 219** prohibits any federal “public official” from acting as an agent of a foreign principal who would otherwise ordinarily be required to register under FARA. Section 219 is designed to address conduct by public officials in undisclosed alliances with foreign principals. The first successful use of this statute in a prosecution of a public official was in the 2024 conviction of former Senator Robert Menendez, discussed below.
- **18 U.S.C. § 951** requires anyone other than a diplomat acting on behalf of a foreign power to notify the Attorney General before acting on behalf of a foreign power. Registration under FARA satisfies this notification requirement. A significant exception to the Section 951 notification requirement is if the activity on behalf of the foreign power is commercial in nature, in which case registration is not required. As noted below, a similar “commercial exception” exists under FARA, which is the subject of one of the recent proposed regulatory amendments.
- **18 U.S.C. § 2386** is also known as the “Subversive Activities Act” and requires registration by organizations engaging in political or military activity operating under foreign control, or that have the purpose of overthrowing the U.S. government by force.

- **50 U.S.C. § 851** is the spy disclosure statute that requires registration by anyone who has received instruction or assignment in espionage, counterespionage or sabotage service or tactics of a foreign country or foreign political party.

As noted below, some of these statutes will be of increased importance to the FARA Unit in the next four years, and others less so, given the instruction in one recent DOJ policy memorandum that “[r]ecourse to criminal charges under the Foreign Agents Registration Act (FARA) and 18 U.S.C. § 951 shall be limited to instances of alleged conduct similar to more traditional espionage by foreign government actors.”¹⁶

Criminal and Civil Enforcement Penalties

The FARA Unit has both criminal and civil enforcement authority, as noted above, with a mandate to use all tools at their disposal to compel compliance with FARA’s statutory and regulatory provisions.¹⁷ The FARA Unit works in concert with the Federal Bureau of Investigation (“FBI”) and the U.S. Attorneys Offices around the country to enforce FARA.

Criminal penalties apply only to **willful** violations of the Statute.¹⁸ In this context, willfulness is a term of art, and, as in most areas of the law, signifies a heightened state of intent. Specifically, willfulness requires not merely the knowledge and intent to violate the law common to most federal criminal statutes, but an awareness that the law specifically prohibits the conduct in question.¹⁹

Criminal violations of the FARA statute can result in imprisonment for up to five years for each violation and a fine of up to \$250,000.²⁰ Violations, such as failing to properly label informational materials, provide adequate disclosure to Congress or a federal agency,

correct deficiencies in registrations, or entering into a contingent fee arrangement, can be punished by imprisonment for up to six months and a fine of up to \$5,000.²¹

The obligation to register is a continuing one, for as long as the requirement persists.²² A knowing and deliberate failure to file—or to supplement a prior registration—may be charged as a continuing offense and subject a defendant to multiple counts for related conduct.²³ There is, however, a five-year statute of limitations in criminal cases that runs from the last overt act taken by the agent on behalf of a foreign principal.²⁴

As for civil enforcement, if the FARA Unit determines that certain prospective conduct requires registration, but the registration is not satisfactorily accomplished, the FARA Unit is empowered to seek an injunction from a United States District Court in order to enjoin the prospective conduct, or to require registration or supplementation of information.²⁵ The FARA Unit may put an entity or individual on notice of non-compliance with FARA’s registration requirements and, following a short grace period, the entity or individual may be deemed to be in violation of the statute for continued non-compliance.²⁶

In *Attorney General v. Wynn*, a civil case, the U.S. Court of Appeals for the D.C. Circuit held on June 14, 2024, that the obligation to register as an agent ceases when the agent’s activity on behalf of the principal ceases.²⁷ In so holding, the Court relied in part upon the D.C. Circuit’s earlier holding in a criminal case, *United States v. McGoff*, that the government’s failure to charge a FARA violation within five years of an agent’s last overt act on behalf of the foreign principal was beyond the statute of limitations.²⁸ In *Wynn*, the government petitioned for rehearing *en banc*, but the D.C. Circuit denied the petition on December 5,

2024.²⁹ Consequently, *Wynn*'s holding remains good law, and although it is not binding in other circuits, where DOJ may be hoping for a *cert*-worthy circuit split to invite U.S. Supreme Court review, the *Wynn* decision is likely to remain influential and persuasive authority.

The FARA Unit's Brochure

The FARA Unit has a simple two-page brochure providing a basic overview of FARA for general public awareness, along with four scenarios that could help to identify unregistered agents of foreign principals.³⁰ Entitled "Protecting the United States from Covert Foreign Influence," the brochure cautions that:



Foreign governments routinely engage in efforts to influence our domestic and foreign policies, legislation, democratic processes, and public opinion. These governments sometimes exert this influence by employing lobbyists, public relations professionals, prominent businesspeople, or former U.S. government officials on their behalf. Such efforts are legal—if they are transparent.³¹

The brochure solicits reports of potential violations of the statute: "If you suspect you've encountered an unregistered agent of a foreign government, contact your local FBI field office or DOJ's FARA Unit."³²

FARA'S RECENT HISTORY AND RESURGENCE

The 2016 Office of Inspector General Report

At the request of the House of Representatives, the DOJ OIG conducted an audit of DOJ's administration of the FARA statute and issued a report in 2016 (the "OIG Report").³³ Among other observations, the OIG found that the number of FARA registrations had declined over the past few decades, and that it was only rarely enforced.

The OIG Report identified several factors leading to these decreases, including the passage of the LDA, the imposition of registration fees, the perceived breadth of some of the law's exemptions and the limited civil tools for compelling production of information. The OIG found that within DOJ, there were differing interpretations as to the purposes of FARA enforcement compared to other related violations of law. Various components of DOJ, such as the FBI, U.S. Attorneys Offices, and the NSD, did not communicate effectively about enforcement.

Finally, the OIG concluded that DOJ lacked a comprehensive enforcement strategy for FARA, and proposed a set of 14 recommendations to help improve the enforcement and administration of FARA. Among some of the more notable recommendations were: (1) considering making FARA advisory opinions publicly available (as they now are); (2) developing a comprehensive strategy for FARA enforcement and administration that includes agencies conducting FARA investigations and prosecutions that is integrated with DOJ's national security efforts; (3) ensuring the FARA Unit timely informs investigators and prosecutors regarding reasons for decisions not to approve FARA prosecutions; and (4) establishing a comprehensive system for tracking FARA cases received for review, and the disposition of those cases.³⁴



RECENT POLICY GUIDANCE ON FARA ENFORCEMENT FROM ATTORNEY GENERAL PAM BONDI

As noted above, recent policy announcements by U.S. Attorney General Pam Bondi indicate a change in the new administration's approach to FARA enforcement. The following excerpt from the Attorney General's February 5, 2025 memorandum on Charging, Plea Negotiations, and Sentencing, captures the notable shift in emphasis:

Shifting Resources in the National Security Division. To free resources to address more pressing priorities, and end risks of further weaponization and abuses of prosecutorial discretion, the Foreign Influence Task Force shall be disbanded. ***Recourse to criminal charges under the Foreign Agents Registration Act (FARA) and 18 U.S.C. § 951 shall be limited to instances of alleged conduct similar to more traditional espionage by foreign government actors. With respect to FARA and § 951, the Counterintelligence and Export Control Section, including the FARA Unit, shall focus on civil enforcement, regulatory initiatives, and public guidance.***³⁵

In other words, the guidance to the FARA Unit is to allocate scarce criminal investigative and prosecutorial resources to things that are most like espionage. This would seem to exclude many of the kinds of willful failure to register prosecutions of recent years. But, notwithstanding this change in emphasis, there will still be a role for the FARA Unit in continuing to enforce the registration requirements, albeit with a focus on largely civil rather than criminal enforcement.

2024 CASE DEVELOPMENTS

CASES INVOLVING U.S. PUBLIC OFFICIALS AND THEIR ASSOCIATES

In 2024, there were several FARA prosecutions of current or former U.S. officials and their associates, some of the most notable of which are discussed below.

Robert Menendez, Wael Hana, and Fred Daibes

In July 2024, U.S. Senator Robert Menendez (D-NJ) and businessmen Wael Hana and Fred Daibes were convicted of engaging in a bribery and foreign influence scheme, following a trial in the Southern District of New York.³⁶ Menendez and his wife allegedly accepted bribes worth hundreds of thousands of dollars from the businessmen to advance their interests and those of the Egyptian government.³⁷ Menendez allegedly agreed to protect a business monopoly granted to Wael Hana by Egypt and attempted to disrupt criminal cases of Hana's associates.³⁸ In return, Menendez allegedly received cash and luxury items, including gold bars and a Mercedes-Benz.³⁹ Menendez was charged under 18 U.S.C. § 219, FARA's companion statute, which prohibits public officials from acting as agents of foreign principals.⁴⁰ He was convicted of this charge, along with conspiracy to commit bribery, wire fraud, and extortion, and received an 11-year prison sentence.⁴¹

Senator Menendez is the first sitting federal official to be convicted under Section 219. His wife, Nadine Menendez, pleaded not guilty and is scheduled to go to trial in March 2025.⁴²



Enrique Roberto "Henry" Cuellar and Imelda Cuellar

In May 2024, Congressman Enrique Roberto "Henry" Cuellar (D-TX), and his wife, Imelda Cuellar, were charged in the Southern District of Texas with violations of FARA's companion statute.⁴³ The Cuellars allegedly received approximately \$600,000 in bribes from an oil and gas company controlled by the Azerbaijan government, as well as a Mexican bank.⁴⁴ Congressman Cuellar allegedly used his position to facilitate money laundering through front and shell companies, and to

influence U.S. foreign policy in favor of Azerbaijan.⁴⁵ The indictment alleges the Cuellars laundered these bribes through front companies and middlemen to shell companies owned by Imelda Cuellar.⁴⁶ Trial is currently scheduled to begin on September 22, 2025 before U.S. District Judge Lee H. Rosenthal.

David Rivera

On December 17, 2024, a grand jury in the District of Columbia indicted David Rivera, a former Florida Representative, on charges of violating FARA.⁴⁷ Rivera allegedly provided consulting and lobbying services to Raul Gorrin, a sanctioned Venezuelan businessman.⁴⁸ Gorrin, who was on the Specially Designated Nationals and Blocked Persons List (“SDN list”) since 2019, allegedly hired Rivera to lobby U.S. officials to remove Gorrin from the list, and paid Rivera over \$5.5 million to accomplish this.⁴⁹ Rivera allegedly created fraudulent shell companies to receive funds and make payments to those assisting his lobbying efforts.⁵⁰ His initial appearance and arraignment occurred on February 14, 2025, before U.S. Magistrate Judge Zia M. Faruqi. A status conference is scheduled for March 13, 2025.

In addition to these charges, Rivera was charged in 2022 with failing to register under FARA for lobbying on behalf of the Venezuelan government.⁵¹



Linda Sun and Chris Hu

In September 2024, former New York State official Linda Sun was indicted in the Eastern District of New York on charges of violating and conspiring to violate FARA.⁵² The indictment alleges Sun engaged in numerous political activities for the People’s Republic of China (“PRC”) and the Chinese Communist Party (“CCP”) while serving as Deputy Chief of Staff in the New York State Executive Chamber.⁵³ Sun did not register as a foreign agent and allegedly concealed her connection to the PRC and CCP. Her husband, Chris Hu, was charged with money laundering, bank fraud conspiracy, and misuse of identification.⁵⁴ Sun and Hu allegedly laundered millions of dollars from the PRC and CCP for extravagant personal purchases.⁵⁵ A status conference was held on February 11, 2025, before U.S. District Judge Brian M. Cogan, but no trial date is set.

Sue Mi Terry

In July 2024, the U.S. Attorney’s Office for the Southern District of New York charged Sue Mi Terry, a prominent North Korea expert and former CIA analyst, with violations of FARA for acting as an agent of South Korea—*i.e.*, the Republic of Korea (“ROK”).⁵⁶ As a former White House National Security Council member,⁵⁷ Terry focused on ROK affairs. The indictment alleges she publicly advocated for policies favorable to the ROK, provided access to U.S. public officials, and disclosed non-public information to the ROK.⁵⁸ In exchange, Terry allegedly received luxury goods, dinners, and funding for her Korean affairs public policy program.⁵⁹ A status conference is scheduled for March 4, 2024, before U.S. District Lorna G. Schofield, but a trial date has not yet been set.

CASES INVOLVING PRIVATE CITIZENS

Kostiantyn Kalashnikov and Elena Afanasyeva

In September 2024, the U.S. Attorney’s Office for the Southern District of New York indicted Russian nationals Kostiantyn Kalashnikov and Elena Afanasyeva on charges of violating FARA and conspiring to commit money laundering.⁶⁰ They and their employer, RT (formerly “Russia Today”), allegedly spent nearly \$10 million creating online content promoting Russia and RT’s goals in the U.S.⁶¹ They released over 2,000 videos across social media, including YouTube, garnering over 16 million views on YouTube alone.⁶² FBI Director Christopher A. Wray stated that such companies, directed by the Russian government, aim to trick Americans into consuming Russian propaganda.⁶³ The date for the initial appearance has not yet been set.



Barry Bennett and Douglas Watts

In January 2024, lobbyist Barry Bennett and political consultant Douglas Watts entered Deferred Prosecution Agreements (“DPAs”) for FARA violations relating to Bennett’s lobbying firm, Avenue Strategies.⁶⁴ According to DOJ announcements, Avenue Strategies was allegedly hired by a foreign government to create a lobbying and public relations campaign to benefit a foreign principal, and registered under FARA but concealed the foreign principal’s connection to the efforts.⁶⁵ DOJ did not disclose the foreign principal in the

DPA, but public reports allege Bennett allegedly received funding and instructions from the Qatari government for public relations work.⁶⁶ Bennett instructed Watts to create a separate, unregistered company for a lobbying campaign designed to disparage a rival government and improve Qatar’s standing with the U.S.⁶⁷

According to the same DOJ announcements, under the DPAs Bennett consented to the filing of a two-count criminal information, charging him with making false reports and filing false information under FARA.⁶⁸ Watts consented to a three-count criminal information, charging him with acting as an agent under FARA and making false and fraudulent statements to the FBI.⁶⁹ The criminal information filed for both Bennett and Watts will be dismissed with prejudice upon their satisfaction of the terms of the DPAs, which includes payment of \$100,000 in fines.⁷⁰ This, as some have observed, is reportedly the first instance of the FARA Unit’s use of DPAs in connection with FARA violations.



DOJ FARA UNIT DEVELOPMENTS

ADVISORY OPINIONS

As noted above, FARA registrants may submit inquiries to the FARA Unit for guidance on whether registration may be required for contemplated transactions or activities.⁷¹ The FARA Unit posts redacted versions of its advisory opinions issued to an inquiring party, which provide helpful information to the public at large.

In 2024, the FARA Unit published 19 advisory opinions. These opinions addressed requests from a variety of requestors, including among others:

A medical practitioner and U.S. citizen appointed by a foreign governmental official to represent a foreign country on healthcare matters at medical conferences and meetings⁷²

A private consultant to a charitable foundation and the private office of a spouse of a foreign government official to develop her overseas brand and brand narrative⁷³

A law firm seeking to audit and provide legal guidance to a foreign embassy regarding the foreign country's export controls⁷⁴

A journalist who accepted an invitation from a foreign government to attend an upcoming conference in that country to discuss current issues related to the foreign country⁷⁵

A foreign citizen seeking to lobby Congress in a volunteer capacity on behalf of a U.S. non-governmental organization that advocates for policy changes related to the American space economy⁷⁶

A U.S.-based public relations firm asked by a foreign entity to provide media relations support to a foreign government official during any visits to the United States⁷⁷

The FARA Unit concluded registration was required in 13 of the 19 advisory opinions (68%). The Unit concluded that exemptions from registration were not appropriate on the basis of the diplomatic exemption (§ 613(a)–(c)), commercial exemption (§ 613(d)), religious, scholastic, fine arts, or scientific pursuits exemption (§ 613(e)), and legal exemption (§ 613(g)).

In the remaining 6 of the 19 advisory opinions (32%), the FARA Unit determined the requestor was not obligated to register. Generally, the Unit found in those cases that the requestor was not acting as an agent of a foreign principal because (1) the requestor would not engage in any activities required to be reported;⁷⁸ (2) the activities would occur exclusively in a foreign country and away from a U.S. audience;⁷⁹ or (3) the principal was a U.S. entity, and therefore not within FARA’s definition of a “foreign principal.”⁸⁰

LETTERS OF DETERMINATION

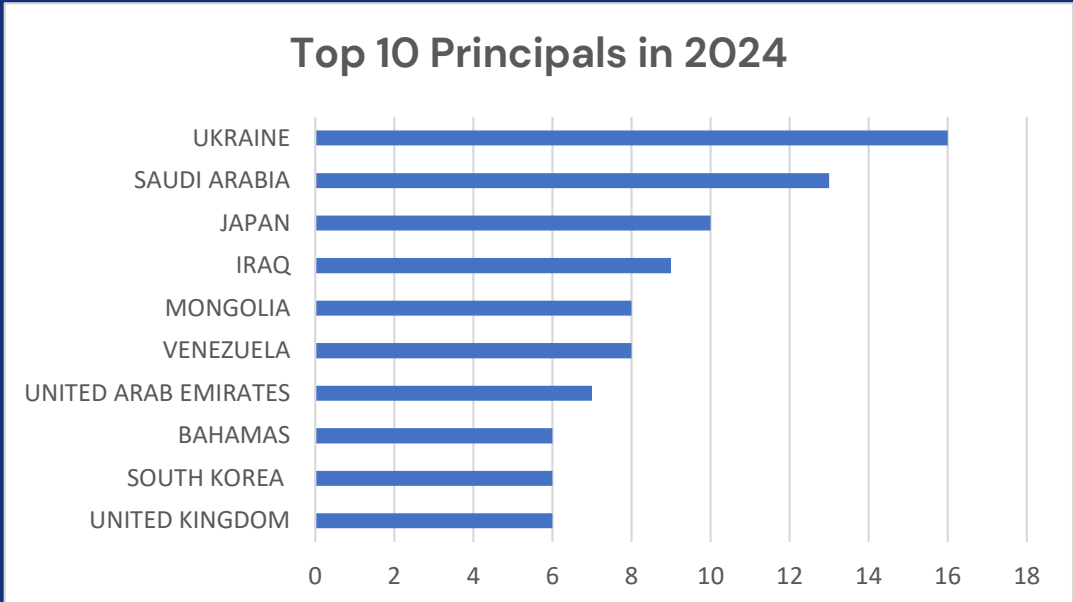
When the FARA Unit believes a potential agent may have a registration obligation, it may inform the potential registrant of the potential obligation and may request additional information through a letter of inquiry.⁸¹ Once the FARA Unit evaluates the additional information, it issues a letter of determination to the prospective agent, setting forth the Unit’s analysis regarding the reasons registration is required.⁸² Over the past five years, the FARA Unit has issued six letters of determination. None have been issued since May 24, 2022.⁸³ Unlike the advisory opinions, the letters of determination are not redacted.

REGISTRATIONS

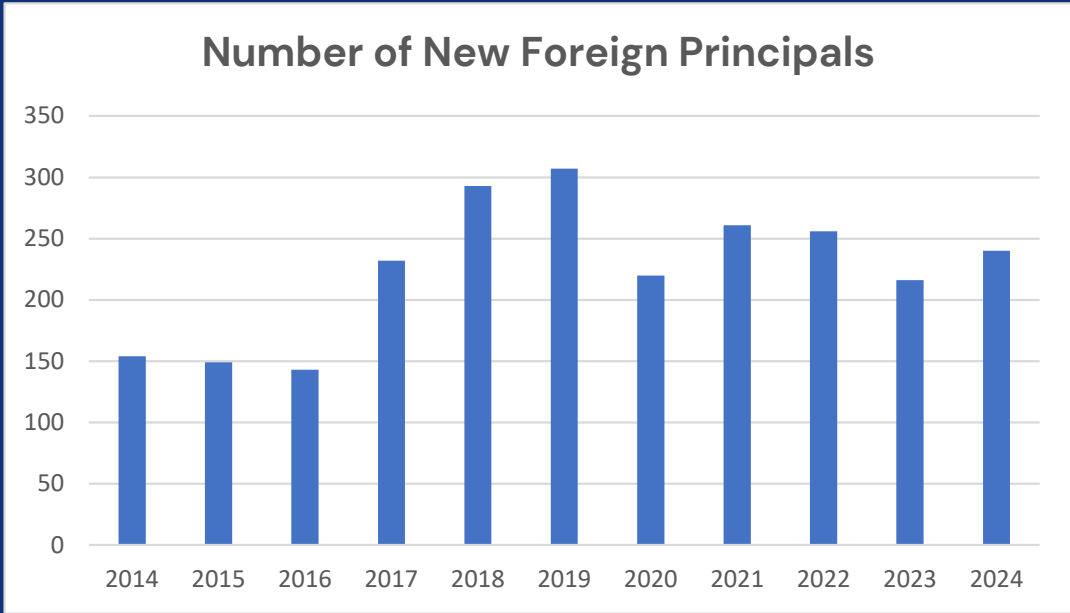
New Registrations in 2024

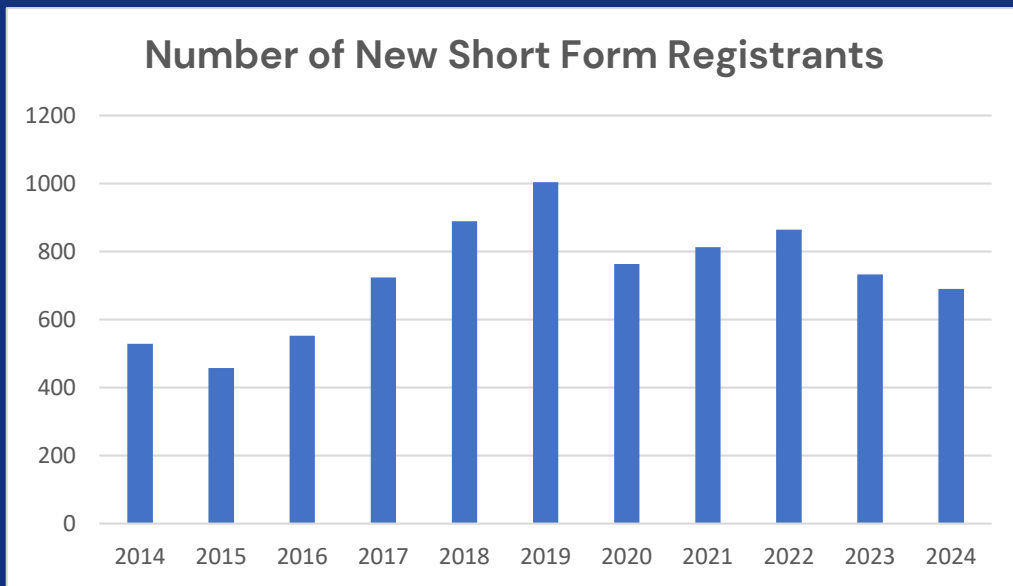
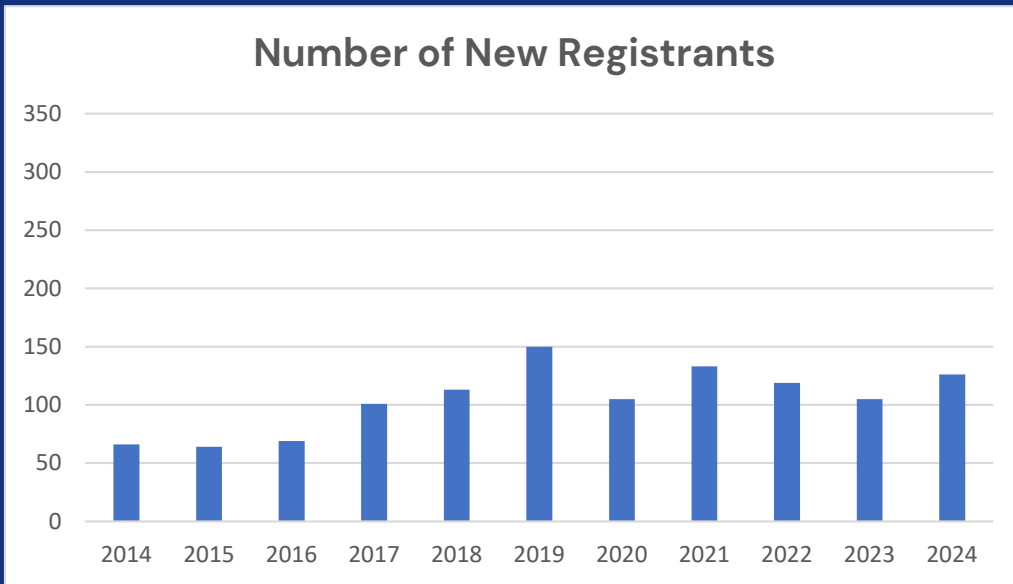
DOJ maintains a detailed database of FARA registrations.⁸⁴ The database includes records related to individuals or entities registered with the FARA Unit (*i.e.*, registrants), partners, officers, directors, associates, employees, and agents of a registrant (*i.e.*, short form registrants), and foreign persons, entities, government, or political parties covered by FARA (*i.e.*, principals). As of February 7, 2025, there were 533 active registrants, 2,406 active short form registrants, and 729 active foreign principals in the FARA registration database.⁸⁵

In 2024 alone, there were 240 new foreign principals registered.⁸⁶ The top ten most popular foreign countries of these foreign principals are listed in the chart below.⁸⁷



Over the past ten years, the numbers of FARA registrations have increased significantly, as shown in the chart immediately below. Additionally, as also shown in the charts that follow, annual registrations for new foreign principals, new registrants, and new short form registrants, increased from 2014, peaked in 2019, and have consistently remained 25 to 40% higher compared to ten years ago.⁸⁸





One notable foreign principal who registered in 2024 is Julian Assange, the Australian founder of WikiLeaks, who was held at a United Kingdom prison seeking to avoid extradition to the United States where he faced espionage charges for one of the biggest national security leaks in American history.⁸⁹ On February 5, 2024, Mr. Assange’s attorneys at Harris St. Laurent & Wechsler LLP registered under FARA as Mr. Assange’s agent.⁹⁰

Other notable newly registered agents of foreign principals in 2024⁹¹ include global law firm Cravath, Swaine & Moore LLP, which registered due to its representation of Mykola Zlochevsky and Burisma Holdings Limited in connection with governmental investigations in the United States and Ukraine.⁹² Another global law firm, Gibson, Dunn & Crutcher LLP, registered under FARA due to its representation of former Mongolian Prime Minister Sukhbaatar Batbold, as well as Battushig Batbold, Altai Holdings LLC, and Sky Hypermarket LLC in connection with ongoing legal proceedings and associated public and government relations efforts.⁹³



LEGISLATIVE DEVELOPMENTS

FEDERAL LEGISLATIVE DEVELOPMENTS

In parallel with the increase in FARA investigations and prosecutions, a number of legislative amendments to FARA have been introduced. Five of them are discussed below.

First, Senator Charles Grassley (R-IA) introduced the Foreign Agents Disclosure and Registration Enhancement Act in June 2019.⁹⁴ In April 2023, he reintroduced a revised version, which was referred to the Committee on Foreign Relations.⁹⁵ The bill proposes amendments to enhance FARA’s investigative and enforcement tools, including:

- 1 Increasing criminal penalties for failing to register, label, or disclose information;⁹⁶
- 2 Prohibiting agents from willfully failing to disclose their FARA-registered status before or during meetings with Congress members;⁹⁷
- 3 Establishing a mechanism for issuing CIDs to relevant parties;⁹⁸
- 4 Adding civil penalties for violations;⁹⁹
- 5 Prohibiting foreign principals from paying fines on behalf of agents;¹⁰⁰ and
- 6 Auditing the LDA exemption.¹⁰¹

DOJ voiced strong support for the civil enforcement mechanism that would allow CIDs to be issued to parties who may have relevant information in connection with a civil investigation.¹⁰² Without additional enforcement measures, DOJ has to rely on individuals voluntarily providing information, which can be incomplete or misleading.¹⁰³ Granting the FARA Unit CID authority would permit the Unit to more thoroughly investigate whether a party has a FARA registration obligation without pursuing the criminal measures available in, for example, a grand jury investigation.¹⁰⁴ DOJ also suggested broadening the disclosure provision to include all engagements with legislative and executive officials.¹⁰⁵ Additionally, DOJ suggested repealing the LDA exemption instead of auditing it, as proposed in H.R. 9393.¹⁰⁶ Other recommendations included allowing the Attorney General to omit sensitive information in annual reports and increasing misdemeanor fines.¹⁰⁷

Second, in July 2023, Senator Grassley introduced the Retroactive Foreign Agents Registration Act to address the issues raised in the *Wynn* case discussed elsewhere in this Report.¹⁰⁸ This bill would extend FARA's registration requirement to individuals acting as agents of foreign principals **at any time**.¹⁰⁹ Representative Ben Cline (R-VA) sponsored a companion bill in December 2024.¹¹⁰

Third, in August 2024, Representative Katie Porter (D-CA) introduced the Foreign Political Influence Elimination Act of 2024.¹¹¹ This bill proposes amendments to FARA such as removing the LDA exemption.¹¹² Other proposed amendments in the legislation include:

- Allowing exemptions for legal representation;¹¹³
- Requiring a “conspicuous statement” on online materials;¹¹⁴
- Amending civil enforcement fines;¹¹⁵ and
- Establishing a dedicated FARA enforcement unit.¹¹⁶

Fourth, in May 2024, Representative Ilhan Omar (D-MN) introduced the Protect Against Unlawful Lobbying (“PAUL”) Act of 2024.¹¹⁷ The bill proposes creating a separate DOJ unit for FARA investigation and enforcement, granting the AG authority to impose civil penalties, and requiring FARA registrants to disclose transactions involving officeholders.¹¹⁸

Fifth, in July 2024, Senator John Cornyn (R-TX) introduced an amendment to the National Defense Authorization Act for Fiscal Year 2025.¹¹⁹ The amendment proposes limiting FARA exemptions for agents of China, Russia, and Iran.¹²⁰

STATE LEGISLATIVE DEVELOPMENTS

In 2024, several states introduced legislation similar to FARA to monitor foreign influence on political activities. Although none were in effect as of the date of this publication, these proposals reflect growing interest in addressing foreign influence, particularly at the state level. States that have introduced legislation include Arizona, California, Georgia, Illinois, New York, Oklahoma, Tennessee, and West Virginia.¹²¹

Two of the bills have already been vetoed or withdrawn. In Georgia, Senate Bill 368, which required registration for agents of foreign principals and prohibited foreign contributions to U.S. political campaigns, was vetoed by Governor Brian Kemp due to concerns about unintended registration

requirements.¹²² In Tennessee, House Bill 1854, which mirrored FARA with a retroactive filing requirement, was withdrawn shortly after introduction.¹²³ That bill included a retroactive filing requirement for all political activity within the past ten years.¹²⁴

The remaining bills vary in their scope, with some (*e.g.*, Arizona, Illinois, and Oklahoma) addressing only “countries of concern” and others, like FARA, broadly addressing all potential foreign principals. In Arizona, for example, House Bill 2506 would operate like FARA, but only apply to China (including Hong Kong), Cuba, Iran, North Korea, Russia, Saudi Arabia, and Venezuela.¹²⁵ Illinois Senate Bill 3542 would similarly only apply to those countries.¹²⁶ In Oklahoma, House Bill 1150 applies to countries of concern, but defines them as “any country designated by the United States Secretary of State as hostile or a Country of Concern.”¹²⁷ H.B. 1150 largely mirrors FARA, but does not have a commercial exemption.

Other state bills similar to FARA have a broader scope, applying to any foreign principal, but vary in their other terms. California Senate Bill 1151, for example, states that the bill’s purpose is to promote transparency in political activities within the state “in a manner similar to the FARA,” and contains similar registration terms.¹²⁸ In New York, Assembly Bill A4492 does not require disclosures or registration, but prohibits individuals who are or have ever been foreign agents from holding civil office (*i.e.*, a public official or political party position).¹²⁹

Finally, West Virginia House Bill 5043 would impose similar disclosure and registration requirements as FARA.¹³⁰ However, H.B. 5043 states that activities “within the United States, and specifically within the State of West Virginia,” are subject to registration.¹³¹



OTHER FARA ISSUES WE'RE WATCHING

RETROACTIVITY OF THE REGISTRATION REQUIREMENT

As noted above, the decision of the U.S. Court of Appeals for the D.C. Circuit to deny the government's petition for rehearing *en banc* in *Wynn*, leaves in place the holding of that decision—*i.e.*, that the FARA registration obligation ends when the agent is no longer acting on behalf of the principal. This is likely to add to the legislative impetus to address FARA retroactivity, which took on new life after the *Wynn* trial court's holding in October 2022. Following the trial court decision, Senator Grassley proposed Senate Bill S. 2229 in July 2023, as discussed above, to make FARA retroactive.¹³² If passed, that bill would amend FARA to require registration “while the person acts as an agent of a foreign principal **or at any time thereafter.**”¹³³

Given the support of DOJ's FARA Unit for a retroactivity fix, and the relative weakness of the registration requirement without one, further legislative efforts to address *Wynn* are likely.

FARA ACTIVITY ON CAMPUS



We anticipate the Trump Administration will dedicate renewed focus and resources to the activity of campus activists for whom there may be evidence of a relationship with a foreign principal. The FARA Unit is well equipped to initiate such investigations. As one advisory opinion has already made clear, “a person who engages in speeches at U.S. college and university campuses on behalf of a foreign government may have an obligation to register under FARA if he or she engages in ‘political activity.’”¹³⁴ Further, legislators have increasingly expressed concern over FARA-qualifying activities on college campuses.

Some Republican legislators have maintained that college organizations with connections to Hamas or the CCP have engaged in activities requiring FARA registration, and that the Biden Administration

and DOJ failed to take appropriate enforcement action. For instance, Senators Tim Scott (R-SC) and Charles Grassley (R-IA) jointly wrote to DOJ urging more enforcement against campus organizations linked to Hamas, which the U.S. Department of State has long designated as a Foreign Terrorist Organization.¹³⁵ Other Republican Senators have supported this initiative, arguing that the National Students for Justice in Palestine (“NSJP”) is an example of an organization financed by entities associated with the Hamas terrorist organization.¹³⁶ Concern for on-campus foreign principal political activity resulted in a lawsuit filed against Attorney General Merrick Garland for failing to enforce FARA against NSJP, American Muslims for Palestine, and “other agents of Hamas.”¹³⁷

In addition to Hamas-linked groups, Senators Scott and Grassley expressed similar concern for Chinese student organizations having associations with the CCP, and wrote to DOJ in 2023 urging increased enforcement of FARA.¹³⁸ According to the letter, the Chinese Students and Scholars Associations allegedly advocates on behalf of the CCP, and has chapters on college campuses across the U.S.¹³⁹ Other Republican Senators joined in urging increased enforcement on campus.¹⁴⁰

Relatedly, Linda Sun, the former Deputy of Chief of Staff to New York Governor Kathy Hochul and former Governor Andrew Cuomo, discussed above, who was later charged with FARA violations in 2024, had lobbied for the signing of a 2021 New York state law requiring Asian college students to disclose their countries of origin when signing up for extracurricular activities.¹⁴¹ Subsequent charges against Sun (discussed above) revealed her promotion of CCP interests in her capacity as a public servant.¹⁴² Parents expressed concern over the CCP possibly obtaining access to this information, and Sun’s FARA charges increased concerns of on-campus FARA activity that was unregistered and under-enforced.¹⁴³

The concern in Congress for foreign-sponsored and influenced campus activism is likely to find a receptive audience in the new Trump Administration.

PRESIDENTIAL PARDONS FOR FARA CHARGES



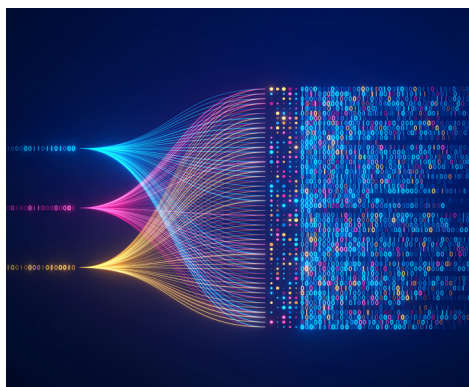
Perhaps one indication of the political sensitivity of FARA enforcement in recent years is the degree to which FARA prosecutions have resulted in Presidential pardons—on both sides of the political aisle. Most recently, President Biden pardoned Kaveh Afrasiabi, who was charged in 2021 with FARA violations, but was pardoned as part of a prisoner swap with Iran in 2023.¹⁴⁴

Similarly, in a reversal from prior promises not to pardon his son, Hunter Biden, President Biden pardoned Hunter on December 1, 2024.¹⁴⁵ In doing so, President Biden pardoned him of all crimes he “*may* have committed,” for a ten-year period.¹⁴⁶ Hunter had not been charged with FARA violations at the time of his pardon, yet Internal Revenue Service whistleblowers alleged they were prevented from reviewing evidence that could have linked both President Biden and Hunter Biden to activity that should have been registered under FARA.¹⁴⁷ Further, the investigation

against Hunter Biden revealed evidence that foreign principals allegedly paid him to influence U.S. policy.¹⁴⁸ None of the evidence against Hunter Biden can be used to prosecute him under FARA—at least not for the duration of the statute of limitations, given the breadth of the pardon, which extends to crimes he “may have committed.”¹⁴⁹

The Biden Administration is not alone. President Trump pardoned a number of associates with FARA convictions in his prior administration. Paul Manafort, President Trump’s 2016 Campaign Manager, pleaded guilty in 2018 to conspiracy to willfully violate FARA, make false statements on FARA documents, launder money in connection with a FARA violation, and tamper with witnesses.¹⁵⁰ Similarly, Elliot Broidy, previously a top fundraiser to President Trump’s 2016 campaign, pleaded guilty to conspiracy to violate FARA.¹⁵¹ Michael Flynn, President Trump’s former National Security Advisor, pleaded guilty to making materially false statements regarding his foreign lobbying work.¹⁵² President Trump pardoned all three individuals prior to leaving office in early 2021.

FARA AND THE FUTURE OF ARTIFICIAL INTELLIGENCE



Senator Ted Cruz (R-TX) has expressed concern over European organizations’ influence over U.S. artificial intelligence (“AI”) policy, specifically the Centre for the Governance of Artificial Intelligence (a U.K.-based nonprofit).¹⁵³ His letter to Attorney General Garland on November 21, 2024, requested documentation from DOJ about the Centre’s possible FARA registration obligation.¹⁵⁴

The primary concern of the letter is that foreign influence may promote the over-censoring of AI creation and government management of AI development.¹⁵⁵ This comes in conjunction with DOJ’s Justice AI initiative, launched last year.¹⁵⁶ Other U.S. policymakers have similarly expressed concern about foreign efforts to influence AI research, development, and commercial deployment in the U.S.¹⁵⁷ With increased competition with foreign adversaries like China, and the prospect of AI development opening a new kind of “space race,” the stage is set for intense competition in this area, and with it, the likelihood of increased foreign influence efforts.

TIKTOK FARA REGISTRATION INSTEAD OF FEDERAL BAN?

TikTok, one of the most popular social media platforms in the U.S.,¹⁵⁸ faced an effective U.S. ban in 2024 before President Trump signed an executive order stalling the law that would prevent its operation.¹⁵⁹

A federal law was proposed in 2024 that would require TikTok’s owner, Chinese company ByteDance, to sell to a U.S. government-approved buyer.¹⁶⁰ In its brief it submitted to the U.S. Supreme Court, TikTok argued that the federal law does not survive the scrutiny required to limit free speech because there are less restrictive alternatives to addressing potential foreign influence, namely, registration under FARA.¹⁶¹ Rather than requiring a total divestiture of Chinese interests,

TikTok claimed that FARA disclosures are the proper, and less restrictive, channel to regulate foreign influence through the social media platform.¹⁶² Although the Court's final opinion did not address the FARA argument, the mention of FARA in this context suggests it will continue to have relevance.¹⁶³

President Trump's executive order instructed the Attorney General not to enforce the new federal law for 75 days from the date of the order¹⁶⁴—i.e., until April 5, 2025.

ABOUT SAUL EWING'S FARA EXPERIENCE

Saul Ewing LLP's White Collar & Government Enforcement Practice has represented non-profit entities in FARA investigations, including through our engagement with the FARA Unit of the U.S. Department of Justice. We have developed FARA compliance policies and trainings, and our bench of experienced litigators and former government officials, including former Assistant United States Attorneys, and National Security Division and CIA personnel, are available to assist clients with FARA compliance and guidance.

Feel free to contact Saul Ewing for any FARA needs, including FARA compliance training and policy implementation, conducting internal investigations to determine if registration requirements or exemptions apply, if engagement with the government is necessary or advisable, whether a FARA Unit advisory opinion can be obtained to clarify an unsettled area of the law, or in responding to letters of inquiry or potential enforcement action.

ENDNOTES

¹ See Office of the Inspector General, U.S. Dep't of Justice, *Audit of the National Security Division's Enforcement and Administration of the Foreign Agents Registration Act*, Audit Division 16-24 (Sept. 7, 2016), <https://www.oversight.gov/sites/default/files/documents/reports/2017-07/a1624.pdf> [hereafter *OIG Audit*].

² See Memorandum of Pamela Bondi, U.S. Att'y Gen., to U.S. Dep't of Justice Employees (Feb. 5, 2025), <https://www.justice.gov/ag/media/1388541/dl?inline>. We discuss this memorandum in a recent client alert. See Alope Chakravarty & Justin C. Danilewitz, *Attorney General Pamela Bondi Charts New Course for U.S. Department of Justice With Several New Policy Memoranda on Day 1 at "Main Justice"*, Saul Ewing LLP (Feb. 7, 2025), <https://www.saul.com/insights/alert/attorney-general-pamela-bondi-charts-new-course-u-s-department-justice-several-new>.

³ See Devlin Barrett et al., *Trump Moves Quickly to Install New Leaders at Key U.S. Attorneys' Offices*, N.Y. Times (Jan. 21, 2025), <https://www.nytimes.com/2025/01/21/us/politics/trump-us-attorneys-justice-department.html>.

⁴ See Justin C. Danilewitz & Chris Klein, *DOJ Releases Much-Anticipated Proposed Amendments to Foreign Agents Registration Act (FARA) Regulations*, Saul Ewing LLP (Dec. 30, 2024), <https://www.saul.com/insights/alert/doj-releases-much-anticipated-proposed-amendments-foreign-agents-registration-act>.

⁵ See Office of the Director of National Intelligence, *Annual Threat Assessment of the U.S. Intelligence Community* (Feb. 5, 2024), <https://www.dni.gov/files/ODNI/documents/assessments/ATA-2024-Unclassified-Report.pdf>.

⁶ See *id.* at 12 (China), 17 (Russia), 20 (Iran).

⁷ FARA is codified at 22 U.S.C. §§ 611-621.

⁸ See *OIG Audit*, *supra* note 1, at i-iii.

⁹ See 22 U.S.C. § 612.

¹⁰ See 28 C.F.R. § 5.2.

¹¹ For example, the FARA Unit's authority extends to administrative books and records inspections. See U.S. Dep't of Justice, *Frequently Asked Questions*, <https://www.justice.gov/nsd-fara/frequently-asked-questions> (last visited Feb. 18, 2025) (under "What is the FARA Registration Unit ('FARA Unit')?").

¹² See 22 U.S.C. § 620. The FARA regulations are codified at 28 C.F.R. §§ 5.1-5.1101.

¹³ See Danilewitz & Klein, *supra* note 4.

¹⁴ See Amending and Clarifying Foreign Agents Registration Act Regulations, 90 Fed. Reg. 40 (Jan. 2, 2025) (to be codified at 28 C.F.R. pt. 5).

¹⁵ A helpful summary of relevant statutes, from which the summary that follows is drawn, is available on the FARA Unit website. See U.S. Dep't of Justice, *FARA Related Statutes*, <https://www.justice.gov/nsd-fara/fara-related-statutes> (last visited Feb. 18, 2025).

¹⁶ See Memorandum of Pamela Bondi, *supra* note 2.

¹⁷ See U.S. Dep't of Justice, *FARA Enforcement*, <https://www.justice.gov/nsd-fara/fara-enforcement> (last visited Feb. 5, ¹⁸ See 22 U.S.C. § 618(a); see also U.S. Dep't of Justice, *FARA Enforcement*, *supra* note 17.

¹⁹ See, e.g., Jury Instructions at 44, *United States v. Rafiekian*, No. 1:18-cr-457-AJT-1 (E.D. Va. July 23, 2019), ECF No. 354-5 ("A person acts 'willfully' when he knowingly performed an act, deliberately and intentionally, as contrasted with accidentally, carelessly, or unintentionally and with knowledge that his conduct was unlawful.").

²⁰ See 22 U.S.C. § 618(a)(2); 18 U.S.C. § 3571(b).

²¹ See 22 U.S.C. §§ 618(a)(2), (h).

²² See 22 U.S.C. §§ 612(a)–(b), 618(e).

²³ See 22 U.S.C. § 618(e).

²⁴ See 18 U.S.C. § 3282; see also *United States v. McGoff*, 831 F.2d 1071, 1075 (D.C. Cir. 1987) (explaining that prosecutions under FARA are governed by the general, five-year statute of limitations for non-capital offenses).

²⁵ See 22 U.S.C. § 618(f).

²⁶ See 22 U.S.C. § 618(g); see also Default Judgment, *Att'y Gen v. Federación de Alcades Pedaneo*, No. 5:23-cv-1575-JMG (E.D. Pa. Oct. 6, 2023), ECF No. 9 (ordering permanent injunction against defendant who failed to register as an agent under FARA).

²⁷ *Att'y Gen. v. Wynn*, 104 F.4th 348, 352 (D.C. Cir. 2024).

²⁸ *Id.* (citing *McGoff*, 831 F.2d at 1073).

²⁹ *Att'y Gen. v. Wynn*, No. 22-5328, 2024 WL 4993610 (D.C. Cir. Dec. 5, 2024).

³⁰ See U.S. Dep't of Justice, Federal Bureau of Investigation, *Foreign Government Efforts to Influence Policy & the Public* (Sept. 1, 2020), <https://www.justice.gov/d9/pages/attachments/2020/09/01/protecting-us-covert-foreign-influence.pdf>.

³¹ *Id.*

³² *Id.*

³³ See *OLG Audit*, *supra* note 1, at 21–22.

³⁴ *Id.*

³⁵ Memorandum of Pamela Bondi, *supra* note 2 at 4 (emphasis added).

³⁶ See Indictment at 1, *United States v. Menendez*, No. 1:23-cr-490-SHS-1 (S.D.N.Y. Sept. 21, 2023), ECF No. 1.

³⁷ See *id.* at 2.

³⁸ See *id.* at 2, 6.

³⁹ *Id.* at 2, 19.

⁴⁰ See 18 U.S.C. § 219.

⁴¹ See Kara Scannell & Lauren del Valle, *Former Sen. Bob Menendez Sentenced to 11 Years for Corruption and Bribery Conviction*, CNN (Jan. 29, 2025), <https://www.cnn.com/2025/01/29/politics/bob-menendez-sentencing/index.html>.

⁴² See *id.*

⁴³ See Indictment at 44, 49–50, *United States v. Cuellar*, No. 4:24-cr-224 (S.D. Tex. Apr. 30, 2024), ECF No. 1 (charging the defendant with violating 18 U.S.C. § 219).

⁴⁴ See *id.* at 1–2.

⁴⁵ See *id.*

⁴⁶ See *id.*

⁴⁷ See Indictment at 1, *United States v. Rivera*, No. 1:24-cr-570-EGS (D.D.C. Dec. 17, 2024), ECF No. 1.

⁴⁸ See *id.* at 4.

⁴⁹ See *id.*

⁵⁰ See *id.* at 5–6.

⁵¹ See *id.* at 4; see also Associated Press, *New Charges Target Ex-Miami Congressman for Lobbying on Behalf of Sanctioned Venezuelan Tycoon*, Politico (Dec. 18, 2024), <https://www.politico.com/news/2024/12/18/david-rivera-new-charges-venezuela-00195159>.

⁵² See Indictment at 1, *United States v. Sun*, No. 1:24-cr-346-BMC (E.D.N.Y. Sept. 3, 2024), ECF No. 4.

⁵³ See *id.* at 4.

⁵⁴ See *id.* at 5, 52.

⁵⁵ See *id.* at 5.

⁵⁶ See Indictment at 1–2, *United States v. Terry*, No. 1:24-cr-427-LGS (S.D.N.Y. July 15, 2024), ECF No. 2.

⁵⁷ See *id.*

⁵⁸ See *id.* at 1–2.

⁵⁹ See *id.* at 1.

⁶⁰ See Indictment at 1, *United States v. Kalashnikov*, No. 1:24-cr-519-UA (S.D.N.Y. Sept. 3, 2024), ECF No. 2.

⁶¹ See *id.* at 1–2.

⁶² See *id.* at 2.

⁶³ See Press Release, U.S. Dep’t of Justice, *Justice Department Disrupts Covert Russian Government-Sponsored Foreign Malign Influence Operation Targeting Audiences in the United States and Elsewhere* (Sept. 4, 2024), <https://www.justice.gov/opa/pr/justice-department-disrupts-covert-russian-government-sponsored-foreign-malign-influence>.

⁶⁴ See Letter from Matthew M. Graves, U.S. Dep’t of Justice, to Ed Wilson & Terrence G. Reed, Lankford & Reed PLLC (Dec. 28, 2023), <https://storage.courtlistener.com/recap/gov.uscourts.dcd.263358/gov.uscourts.dcd.263358.3.1.pdf> (detailing the government’s offer of a DPA to Barry P. Bennett).

⁶⁵ See *id.* at 9–10.

⁶⁶ See Byron Tau, Aruna Viswanatha, & Julie Bykowicz, *Republican Lobbyist Barry Bennett Comes Under*

DOJ Scrutiny, Wall St. J. (Aug. 24, 2021), https://www.wsj.com/articles/republican-lobbyist-barry-bennett-comes-under-doj-scrutiny-11629806934?mod=hp_lead_pos11.

⁶⁷ See Letter from Matthew M. Graves, *supra* note 64, at 8, 14.

⁶⁸ See Information, *United States v. Bennett*, No. 1:24-cr-2-BAH (D.D.C. Jan. 2, 2024), ECF No. 1.

⁶⁹ See Information, *United States v. Watts*, No. 1:24-cr-3-BAH (D.D.C. Jan. 2, 2024), ECF No. 1.

⁷⁰ Letter from Matthew M. Graves, *supra* note 64, at 2.

⁷¹ See 28 C.F.R. § 5.2 (setting forth advisory opinion procedure); see also U.S. Dep't of Justice, *Advisory Opinions*, <https://www.justice.gov/nsd-fara/advisory-opinions> (last visited Feb. 18, 2025) (compiling advisory opinions issued since January 1, 2010).

⁷² See U.S. Dep't of Justice, FARA Unit, Opinion Letter (Sept. 13, 2024), <https://www.justice.gov/nsd-fara/media/1376796/dl?inline>.

⁷³ See U.S. Dep't of Justice, FARA Unit, Opinion Letter (Sept. 20, 2024), <https://www.justice.gov/nsd-fara/media/1376826/dl?inline> [hereafter, *September 20th Advisory Opinion I*].

⁷⁴ See U.S. Dep't of Justice, FARA Unit, Opinion Letter (May 28, 2024), <https://www.justice.gov/nsd-fara/media/1377006/dl?inline> [hereafter, *May 28th Advisory Opinion*].

⁷⁵ See U.S. Dep't of Justice, FARA Unit, Opinion Letter (Aug. 22, 2024), <https://www.justice.gov/nsd-fara/media/1376841/dl?inline> [hereafter, *August 22nd Advisory Opinion*].

⁷⁶ See U.S. Dep't of Justice, FARA Unit, Opinion Letter (May 10, 2024), <https://www.justice.gov/nsd-fara/media/1377001/dl?inline> [hereafter, *May 10th Advisory Opinion*].

⁷⁷ See U.S. Dep't of Justice, FARA Unit, Opinion Letter (Sept. 20, 2024), <https://www.justice.gov/nsd-fara/media/1376806/dl?inline> [hereafter, *September 20th Advisory Opinion II*].

⁷⁸ See, e.g., *May 28th Advisory Opinion*, *supra* note 74; *August 22nd Advisory Opinion*, *supra* note 75.

⁷⁹ See, e.g., *September 20th Advisory Opinion I*, *supra* note 73.

⁸⁰ See, e.g., *May 10th Advisory Opinion*, *supra* note 76.

⁸¹ See U.S. Dep't of Justice, *Letters of Determination*, <https://www.justice.gov/nsd-fara/letters-determination> (last visited Feb. 18, 2025).

⁸² See *id.*

⁸³ See *id.*

⁸⁴ See U.S. Dep't of Justice, *Foreign Agents Registration Act – Browse Filings*, <https://efile.fara.gov/ords/fara/f?p=1381:1:5353547521460> (last visited Feb. 7, 2025).

⁸⁵ See *id.* (searching “Active Registrants,” “Active Short Form Registrants,” and “Active Foreign Principals”).

⁸⁶ See *id.* (searching “Active Foreign Principals in a Date Range”).

⁸⁷ See *id.*

⁸⁸ See *id.* (searching “Active Foreign Principals in a Date Range,” “Active Registrants in a Date Range,” and “Active Short Form Registrants in a Date Range”).

⁸⁹ See Lauren Frayer & Fatima Al-Kassab, *A U.K. Court Delays Extradition of WikiLeaks Founder Julian Assange to the U.S.*, NPR (Mar. 26, 2024), <https://www.npr.org/2024/03/26/1240861168/wikileaks-julian-assange-uk-court-delays-extradition>

⁹⁰ See U.S. Dep’t of Justice, Ex. A to Registration Statement of Harris St. Laurent & Wechsler, LLP (Feb. 5, 2024), <https://efile.fara.gov/docs/7370-Exhibit-AB-20240205-2.pdf>.

⁹¹ See U.S. Dep’t of Justice, *Foreign Agents Registration Act – Browse Filings*, *supra* note 84 (searching “Active Registrants in a Date Range”).

⁹² See U.S. Dep’t of Justice, Registration Statement of Cravath, Swaine & Moore, LLP (Jan. 4, 2024), <https://efile.fara.gov/docs/7358-Registration-Statement-20240104-1.pdf>.

⁹³ See U.S. Dep’t of Justice, Registration Statement of Gibson, Dunn & Crutcher, LLP (Sept. 4, 2024), <https://efile.fara.gov/docs/7454-Registration-Statement-20240904-1.pdf>.

⁹⁴ See S. 1762, 116th Cong. (2019).

⁹⁵ See S. 1364, 118th Cong. (2023).

⁹⁶ *Id.* § 3(a) (proposing amendment to increase maximum felony fine from \$10,000 to \$200,000 and misdemeanor fine from \$5,000 to \$15,000).

⁹⁷ *Id.* § 3(a)(i)(1).

⁹⁸ *Id.* § 9(a)(1).

⁹⁹ *Id.* § 4(j)(1)(C)–(D).

¹⁰⁰ *Id.* § 4(j)(1)(A)(ii).

¹⁰¹ *Id.* § 7.

¹⁰² See Letter from Carlos Felipe Uriarte, Assistant Att’y Gen., Office of Legislative Affairs, U.S. Dep’t of Justice, to Members of the Committee of Foreign Relations (Nov. 11, 2022), <https://www.justice.gov/ola/media/1260856/dl?inline=>.

¹⁰³ See *id.* at 2.

¹⁰⁴ See *id.*

¹⁰⁵ See *id.* at 3.

¹⁰⁶ See *id.* at 1–3.

¹⁰⁷ See *id.* at 6.

¹⁰⁸ S. 2229, 118th Cong. (2023).

¹⁰⁹ *Id.* § 3(a)(1) (emphasis added).

¹¹⁰ See H.R. 4545, 118th Cong. (2024).

¹¹¹ See H.R. 9393, 118th Cong. (2024).

¹¹² See *id.* §§ 101, 201(a).

¹¹³ See *id.* § 202.

¹¹⁴ See *id.* § 203(d)(2).

¹¹⁵ See *id.* § 204.

¹¹⁶ *Id.* § 206.

¹¹⁷ See H.R. 8553, 118th Cong. (2024).

¹¹⁸ See *id.* §§ 2(i)(1), 3(d), 4(a).

¹¹⁹ See S. 4638, amend. 2154, 118th Cong. (2024).

¹²⁰ See *id.*

¹²¹ See H.B. 2506, 56th Leg., 2d Reg. Sess. (Ariz. 2024); S.B. 1151, 2024 Leg., Reg. Sess. (Cal. 2024); S.B. 368, 2024 Leg., Reg. Sess. (Ga. 2024); S.B. 3542, 103rd Gen. Assemb., Reg. Sess. (Ill. 2024); Assemb. B. 4492, 2024 Leg., Reg. Sess. (N.Y. 2023); H.B. 1150, 2024 Leg., Reg. Sess. (Okla. 2024); H.B. 1854, 113th Gen. Assemb., Reg. Sess. (Tenn. 2024); H.B. 5043, 2024 Leg., Reg. Sess. (W. Va. 2024).

¹²² See Greg Bluestein, *Kemp Veto Preserves Data Center Tax Break in Georgia*, Atlanta J-Const. (May 7, 2024), <https://www.ajc.com/politics/veto-day-kemp-will-soon-decide-whether-to-sign-or-nix-key-georgia-proposals/ERHECJVZQVFFVNOID45JORJ25A/>.

¹²³ See Tenn. H.B. 1854.

¹²⁴ See *id.* § 8–6–502.

¹²⁵ See Ariz. H.B. 2506 § 1(P)(1).

¹²⁶ See Ill. S.B. 3542 § 10.

¹²⁷ See H.B. 1150, 2024 Leg., Reg. Sess. § 2(14) (Okla. 2024).

¹²⁸ See S.B. 1151, 2024 Leg., Reg. Sess. § 1(g)–(h) (Cal. 2024).

¹²⁹ See Assemb. B. 4492, 2024 Leg., Reg. Sess. (N.Y. 2023).

¹³⁰ See H.B. 5043, 2024 Leg., Reg. Sess. (W. Va. 2024).

¹³¹ *Id.* § 6B–3A–1(c)(1)(i)–(iv).

¹³² See S. 2229, 118th Cong. (2023).

¹³³ *Id.* § 3(a)(1) (emphasis added).

¹³⁴ See U.S. Dep’t of Justice, FARA Unit, Opinion Letter (Mar. 27, 2019), <https://www.justice.gov/nsd-fara/page/file/1180296/dl?inline=>.

¹³⁵ See Letter from Senator Charles E. Grassley et al. to Merrick Garland, Att’y Gen., U.S. Dep’t of Justice, & Christopher A. Wray, Director, Federal Bureau of Investigation (Oct. 8, 2024), https://www.scott.senate.gov/wp-content/uploads/grassley_ernst_cruz_scott_to_doj_and_fbi_-_fara_-_nsjp_related_groups.pdf.

¹³⁶ See *id.*

¹³⁷ See Complaint, *Am. First Legal Found. v. Garland*, No. 1:24-cv-3105-RJL (D.D.C. Nov. 1, 2024), ECF No. 1.

¹³⁸ See Letter from Senator Tim Scott et al., to Merrick Garland, Att’y Gen., U.S. Dep’t of Justice (Dec. 8, 2023), https://www.grassley.senate.gov/imo/media/doc/scott_grassley_et_al_to_doj_-_cssa_fara.pdf.

¹³⁹ See *id.*

¹⁴⁰ See *id.*

¹⁴¹ See Dierdre Bardolf, *NYC Forces Asian Students to Disclose ‘Sensitive’ Background Info: ‘CCP Would Love This’*, N.Y. Post (Nov. 2, 2024), <https://nypost.com/2024/11/02/us-news/nyc-forces-asian-students-to-share-sensitive-background-info-ccp-would-love-this/>.

¹⁴² See Indictment at 1, *United States v. Sun*, *supra* note 52.

- ¹⁴³ See Michael Katz, *Lawsuits Target Biden WH Over Pro-Hamas Campus Protests*, Newsmax (Nov. 4, 2024), <https://www.newsmax.com/newsfront/america-first-legal-lawsuits-biden-administration/2024/11/04/id/1186649/>.
- ¹⁴⁴ See Executive Grant of Clemency (Sept. 14, 2024), https://www.justice.gov/d9/2023-09/afrasiabi_warrant.pdf.
- ¹⁴⁵ See Michael D. Shear & Zolan Kanno-Youngs, *President Pardons His Son, Hunter Biden*, N.Y. Times (Dec. 1, 2024), <https://www.nytimes.com/live/2024/12/01/us/hunter-biden-pardon-live> (updated Dec. 3, 2024).
- ¹⁴⁶ *Id.*
- ¹⁴⁷ See Peter Flaherty, *By Pardoning Hunter, Joe Biden Pardons Himself*, Nat'l Legal & Pol'y Ctr. (Dec. 1, 2024), <https://nlpc.org/government-integrity-project/by-pardoning-hunter-joe-biden-pardons-himself/>.
- ¹⁴⁸ See Shear & Kanno-Youngs, *supra* note 145.
- ¹⁴⁹ See *id.*
- ¹⁵⁰ See Casey Michel, *Foreign Agents 360* (2024).
- ¹⁵¹ See Kenneth P. Vogel, *Elliott Brody Pleads Guilty in Foreign Lobbying Case*, N.Y. Times (Oct. 20, 2020), <https://www.nytimes.com/2020/10/20/us/politics/elliott-broidy-foreign-lobbying.html>.
- ¹⁵² See Michel, *supra* note 150, at 362.
- ¹⁵³ See Letter from Senator Ted Cruz to Merrick Garland, Att'y Gen., U.S. Dep't of Justice (Nov. 21, 2024), <https://www.commerce.senate.gov/services/files/55267EFF-11A8-4BD6-BE1E-61452A3C48E3>.
- ¹⁵⁴ See *id.*
- ¹⁵⁵ See *id.*
- ¹⁵⁶ See Press Release, U.S. Dep't of Justice, *Update on Deputy Attorney General Lisa Monaco's Justice AI Convenings* (Aug. 16, 2024), <https://www.justice.gov/opa/pr/update-deputy-attorney-general-lisa-monacos-justice-ai-convenings-0>.
- ¹⁵⁷ See *id.*
- ¹⁵⁸ See Alejandra O'Connell-Domenech, *TikTok's Popularity Among Americans Growing Faster Than Any Other Platform: Pew, The Hill* (Jan. 31, 2024), <https://thehill.com/changing-america/well-being/mental-health/4440620-tiktok-popularity-among-americans-growing-fastest-pew/>.
- ¹⁵⁹ Exec. Order No. 14166, 90 Fed. Reg. 8611 (Jan. 20, 2025) (reinstating TikTok's ability to operate in the U.S.).
- ¹⁶⁰ See Sapna Maheshwari & Amanda Holpuch, *Why TikTok Faces a U.S. Ban, and What's Next?*, N.Y. Times (Jan. 17, 2025), <https://www.nytimes.com/article/tiktok-ban.html>.
- ¹⁶¹ See Brief for Petitioners at 39, *TikTok, Inc. v. Garland*, 145 S. Ct. 57 (No. 24-656) (Dec. 27, 2024) ("The Foreign Agents Registration Act . . . provides a powerful, on-point illustration. Even when American citizens are actual agents for foreign powers, Congress chose registration and disclosure over speech restrictions.") (citations omitted).
- ¹⁶² See *id.*
- ¹⁶³ See *TikTok, Inc., v. Garland*, 145 S. Ct. 57 (2025).
- ¹⁶⁴ Exec. Order No. 14166, *supra* note 159.

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