

# Foreign Agents Disclosure and Registration Enhancement Act of 2021

Congress passed the Foreign Agents Registration Act (FARA) to ensure policy makers and the American public is aware of lobbying or influence efforts on behalf of foreign governments, political parties or other foreign principals. However, congressional oversight has found a lack of compliance with and enforcement of FARA. The Justice Department's (DOJ) FARA Registration Unit also faces challenges in gathering the necessary information to determine whether entities should register under the law.

The *Foreign Agents Disclosure and Registration Enhancement Act* seeks to improve compliance and enforcement through new investigative tools and increased penalties for violations. It also requires a study of potential abuse by surreptitious by actors using the Lobbying Disclosure Act exemption to sidestep FARA registration requirements.

## Civil Investigative Demand Authority

The bill authorizes the Attorney General to issue civil investigative demands (CID) to compel production of information needed to fully assess whether actions by an individual or entity require registration under FARA:

- The Attorney General, Deputy Attorney General, or Assistant Attorney General for National Security, prior to the institution of a civil or criminal proceeding under FARA, may issue a CID requiring the production of documentary material, information, or oral testimony.
- For accountability purposes, such authority cannot be delegated below the AAG for National Security.
- Recipients of a CID may petition a U.S. District Court to modify or set aside such demand—providing an important check on the use of CID.
- The CID authority sunsets after 5 years, providing Congress with an opportunity to determine whether it is being used appropriately and should be reauthorized.
- DOJ Inspector General must review the use of FARA CID authority within one year of implementation.
- DOJ must provide annual reports to Congress on the number, nature and results of CIDs issued under FARA.

## Increased Penalties for Noncompliance

The bill increases criminal fines under FARA and establishes new civil penalties for noncompliance:

- Criminal fines for any willful violation of FARA or any willful false statement or material omission in a registration statement are increased from \$10,000 to \$200,000.
- Criminal fines for deficient registration statements or unlawful contingent fee arrangements are increased from \$5,000 to \$15,000.
- Civil penalties are established for failure to file a timely or complete registration statement (\$10,000), failure to file a timely or complete supplement to a registration statement (\$1,000), and failure to remedy a deficient registration statement after notice (up to \$200,000).
- Fines collected shall be used to defray the costs of enforcing FARA.

## Comprehensive Enforcement and Administration Strategy

DOJ is required to develop and implement a comprehensive strategy to improve FARA enforcement that includes:

- A cost-benefit analysis of the current fee structure, an assessment of the appropriateness of all current FARA exemptions, and ensuring proactive public release of advisory opinions.
- The Government Accountability Office (GAO) must also conduct an analysis, within 3 years of enactment, of the effectiveness of the enforcement and administration of FARA.

## Lobbying Disclosure Act Exemption Audit

- GAO must conduct an analysis, within 1 year, of the Lobbying Disclosure Act exemption from FARA, including whether the exemption is operating as intended or creating opportunities for misuse or abuse.
- GAO must develop and provide policy recommendations to improve oversight and compliance with Federal lobbying registration and disclosure requirements.