

United States Senate
WASHINGTON, DC 20510

August 16, 2022

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
Department of Justice

Dear Attorney General Garland:

During the Obama, Trump and Biden administrations, Congress has conducted oversight of the Department of Justice's (DOJ) enforcement of the Foreign Agents Registration Act (FARA).¹ FARA is an important statute that was designed not to prohibit activity but rather to require individuals to register with the DOJ if they are acting as an agent of a foreign government or enterprise to influence U.S. policy or public opinion. This helps ensure transparency and accountability in the public policy arena.

Proper enforcement of, and compliance with, FARA remains a top priority of ours as foreign governments and enterprises continue to use agents within the United States as conduits to lobby for policy changes and engage in public relations activity for the benefit of foreign principals. It is against that backdrop that we write to you about the close relationship between the Brookings Institution and the State of Qatar.

In January 2007, the Brookings Institution and the Ministry of Foreign Affairs of the State of Qatar entered into a multi-million dollar relationship to form the "Brookings Doha Center" (hereinafter "the Center") under the laws of the State of Qatar.² Thus, not only was Brookings associated with a foreign principal, the State of Qatar, the Center was also a foreign principal because it was organized under the laws of a foreign country and its principal place of business was located in Doha, Qatar.³ The Ministry of Foreign Affairs also had significant financial power over the Center. For example, according to the publicly released agreement

¹ The FARA requires individuals to register with the Department of Justice (DOJ) if they act, even through an intermediary, "as an agent, representative, employee, or servant" or "in any other capacity" at the behest of a foreign principal, including a foreign political party, government, or corporation, for purposes of engagement with a United States official to influence U.S. policy or the public. The registration applies to anyone who attempts to influence a U.S. government official on behalf of a foreign principal in an effort to "formulat[e], adopt[,], or chang[e] the domestic or foreign policies of the United States." Likewise, an individual whose activities are subject to registration under FARA and who sends informational material "for or in the interest of [a] foreign principal" with the intent or belief that such material will be circulated among at least two persons must transmit the material to the Attorney General no later than 48 hours after actual transmission. Notably, an ongoing failure to register with the DOJ is a continuing offense. See 22 U.S.C. § 611; see also "The term 'foreign principal' includes - (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 that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country."

² See Brookings Doha Ctr., Establishment Agreement & Memorandum of Ass'n, POLITICO (2007), <https://www.documentcloud.org/documents/22062334-20070101-brookings-doha-center-establishment-agreement-memorandum-of-association?responsive=1&title=1>.

³ According to Brookings, it ended its "affiliation" with the Center and the Center is now the "Middle East Council on Global Affairs." The same questions raised with respect to FARA's application to the Center could still apply to the new entity.

between the Brookings Institution and the State of Qatar, “[t]he Director of the Center will engage in regular consultation with [the Ministry of Foreign Affairs], regarding the development and ongoing operations of the Center.”⁴ Additionally, “[t]he Director and other relevant Brookings personnel will develop and submit to [the Ministry of Foreign Affairs]” an annual budget and “an agenda for programs that will be developed by the Center.”⁵ The initial donation from the State of Qatar to cover the first three years of the Center’s operation was \$5,000,000.⁶ With respect to additional funding, “[a]t the end of the first year, the parties agree to meet and review the center’s activities, costs and projected budget...”⁷

Thus, the State of Qatar was able to exercise control, directly and indirectly, over the Center via the funding scheme. This structure places the Brookings Institution squarely within the definition of an “agent of a foreign principal” which provides, in part, that agents are entities that act “in any...capacity at the order, request, or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal” and engages in political activities or public relations within the United States.⁸

The Center’s activities also appear to fall outside the exemption covering “bona fide religious, scholastic, academic or scientific pursuits or of the fine arts,” as described in 22 U.S.C. § 613(e), because the Center’s conduct appears to extend beyond scholastic or academic matters to influencing the U.S. Government and the public, which is “political activity” as defined in 22 U.S.C. § 611(o).⁹ Indeed, as part of the U.S.-Islamic World Forum, with which the Center is closely associated, U.S. Government officials have been listed as participants.¹⁰

Based on the agreement between the Ministry of Foreign Affairs and the Brookings Institution, it appears the Center’s activities were intended to impact policy-makers in the United States for the benefit of its multi-million dollar funder and foreign principal, the State of Qatar. According to the text of the agreement, the Center would focus its activities within the State of Qatar. The Center’s founding documents explicitly mention only one country where forums would take place – Qatar. The Center would “host various regional forums” in “Doha, Qatar and other places,” and “develop relationships with the public and the private sectors in the State of

⁴ See Brookings Doha Ctr., Establishment Agreement & Memorandum of Ass’n, POLITICO (2007), <https://www.documentcloud.org/documents/22062334-20070101-brookings-doha-center-establishment-agreement-memorandum-of-association?responsive=1&title=1>.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ 22 U.S.C. § 611(c).

⁹ The Act defines “political activity” as “any activity that the person engaging in believes will, or 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 government of a foreign country or a foreign political party.” See 22 U.S.C. § 611(o). The regulations implementing FARA provide that the terms “formulating, adopting, or changing,” as used in the definition of “political activities” include “any activity which seeks to maintain any existing domestic or foreign policy of the United States.” 28 C.F.R. § 5.100(e).

¹⁰ U.S. Islamic World Forum, Brookings & Ministry of Foreign Affairs (Oct. 6, 2014), <http://qatarconferences.org/usislamicforum2014/pdf/US-Islamic-World-Forum-2014-Agenda-English.pdf>; U.S. Islamic World Forum, Brookings & Ministry of Foreign Affairs (June 1, 2015) <https://www.brookings.edu/wp-content/uploads/2016/07/FINAL-Web-PDF-English.pdf>; see also Brookings Doha Ctr., Establishment Agreement & Memorandum of Ass’n, POLITICO (2007), <https://www.documentcloud.org/documents/22062334-20070101-brookings-doha-center-establishment-agreement-memorandum-of-association?responsive=1&title=1>.

Qatar” and “Gulf countries.”¹¹ The Center would “[p]rovide its audience in Qatar and the Gulf region with research and analysis generated by Brookings.”¹² In addition, it would “[f]acilitate partnerships with Qatari and international corporations and firms....”¹³

The Center would effectuate its goals by,

[e]stablish[ing] a structure linking policy-makers and opinion leaders in both the United States in [sic] the Islamic world in the realm of independent public policy research and outreach to provide a model for other independent research organizations in the region, while at the same time serving to improve the output of the Saban Center’s Washington-based programming[.]¹⁴

The Center would also be involved in “convening of the annual meeting of the U.S.-Islamic World Forum.”¹⁵ In the past, U.S. Government officials have attended that very event, which would serve the purpose of the Center, which was to create a bridge between U.S. policy-makers and their foreign counterparts and to

[p]romote ongoing dialogue between the U.S. and the Islamic world through the U.S.-Islamic World Forum, and to promote independent, policy-relevant research on policy issues related to the Islamic World, including relations with the U.S.¹⁶

At its core, the Center would

function as a center for research, study and dissemination of information as a part of the Brookings Institution and in cooperation with Saban Center with the purpose of enhancing American relations with Muslim states and communities through policy research and outreach activities, and to undertake research related to the geopolitical and socioeconomic issues in the Muslim world.¹⁷

¹¹ See Brookings Doha Ctr., Establishment Agreement & Memorandum of Ass’n, POLITICO (2007), <https://www.documentcloud.org/documents/22062334-20070101-brookings-doha-center-establishment-agreement-memorandum-of-association?responsive=1&title=1>.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* Past directors of the Saban Center for Middle East Policy (now the Center for Middle East Policy) include Martin Indyk, Kenneth Pollack and Tamara Cofman Wittes. The Center is currently led by Natan Sachs.

¹⁵ *Id.*

¹⁶ See U.S. Islamic World Forum, Brookings & Ministry of Foreign Affairs (Oct. 6, 2014), <http://qatarconferences.org/usislamicforum2014/pdf/US-Islamic-World-Forum-2014-Agenda-English.pdf>; see also Brookings Doha Ctr., Establishment Agreement & Memorandum of Ass’n, POLITICO (2007), <https://www.documentcloud.org/documents/22062334-20070101-brookings-doha-center-establishment-agreement-memorandum-of-association?responsive=1&title=1>.

¹⁷ *Id.*

The Center would also produce research to “disseminate ideas and information about relations between the United States in particular, and the West, more generally, and the Islamic World.”¹⁸ The Center also agreed to engage in “outreach activities” for “leaders and the public” to understand and solve issues relating to “U.S.-Islamic World relations.”¹⁹ Finally, in addition to organizing research forums and producing research and analysis “generated by scholars in the region,” the Center would provide public press statements and “other educational programs.”²⁰

The Center’s defined purpose, mission and activities constitute policy activities that can be reasonably viewed as intending to influence U.S. policy-makers and the public to be positively disposed toward the State of Qatar. Even when viewed in the most favorable light, these activities appear to be “political activities” under the FARA statute because they include activities that a person “believes will, or that the person intends to, in any way to influence...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[.]”²¹ That intent is clear with respect to the Center’s goal to “establish a structure linking policy-makers and opinion leaders in both the United States and the Islamic world...” and the fact that U.S. Government officials have attended meetings in Qatar associated with the Center for discussions related to those very issues.²²

Based on the available evidence and the plain text of the agreement between the Brookings Institution and the Ministry of Foreign Affairs of the State of Qatar, it is clear that a foreign principal had significant control over the Center and the Center itself was a foreign principal, the State of Qatar provided the Center with millions of dollars in financial support, and the Center most likely engaged in activity that it either intended or believed would influence the U.S. Government and public for the benefit of the foreign principal. These factors indicate that the Brookings Institution’s conduct with the State of Qatar falls outside the exemption covering “bona fide religious, scholastic, academic or scientific pursuits or of the fine arts,” as described in 22 U.S.C. § 613(e). Accordingly, the Brookings Institution appears to be a foreign agent for the State of Qatar for purposes of FARA and should register as such with DOJ.

DOJ issued a press release when it required RT, a Russian state-owned broadcasting network, to register as a foreign agent and said the following:

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ FARA defines “political activities” as any activity that the person engaging in “believes will, or 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 government of a foreign country or a foreign political party.” See 22 U.S.C. § 611(o); see also 28 C.F.R. § 5.304(d).

²² See Brookings Doha Ctr., Establishment Agreement & Memorandum of Ass’n, POLITICO (2007), <https://www.documentcloud.org/documents/22062334-20070101-brookings-doha-center-establishment-agreement-memorandum-of-association?responsive=1&title=1>.

Americans have a right to know who is acting in the United States to influence the U.S. government or public on behalf of foreign principals. The Department of Justice is committed to enforcing FARA and expects compliance with the law by all entities engaged in specified activities on behalf of any foreign principal, regardless of its nationality.²³

Further, that same press release said:

Congress passed FARA in 1938, intending to ensure that the American public and our lawmakers know the source of information that is provided at the behest of a foreign principal, where that information may be intended to influence U.S. public opinion, policy and laws.²⁴

The American public deserves to know when foreign entities are operating in and attempting to influence U.S. policy and public opinion. Moreover, Congress must be made aware of foreign support provided to think tanks which often provide policy advice to Congress that impacts legislation and its potential passage into law. The sanctity of the legislative process must be free from foreign influence because members answer to the American people, not a foreign power.

Accordingly, please answer the following no later than August 29, 2022:

1. What actions has DOJ taken to assess whether the Brookings Institution and its affiliates such as the Center and Saban Center (hereinafter “affiliates”), or other think tanks, should have registered under FARA for work on behalf of the State of Qatar or other foreign governments?
2. Has the DOJ sent a letter of inquiry or letter of determination to the Brookings Institution and its affiliates relating to their activity on behalf of the State of Qatar? If so, please provide a copy. If not, why not?
3. Did the Brookings Institution or any of their employees or affiliates ever request an advisory opinion from DOJ on whether they would be required to register as foreign agents under FARA based on their activity related to the State of Qatar, or with any other foreign entity? If so, please provide a copy of the request and opinion.

²³ Press Release, Dep’t of Just., Production Company Registers Under the Foreign Agent Registration Act as Agent for the Russian Government Entity Responsible for Broadcasting RT (Nov. 13, 2017), <https://www.justice.gov/opa/pr/production-company-registers-under-foreign-agent-registration-act-agent-russian-government>.

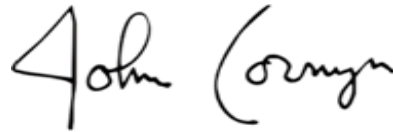
²⁴ *Id.*

We anticipate that your written reply and most responsive documents will be unclassified. Please send all unclassified material directly to the Committee. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to the Committee, and provide a classified addendum to the Office of Senate Security. Although the Committee complies with all laws and regulations governing the handling of classified information, it is not bound, absent its prior agreement, by any handling restrictions.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary



John Cornyn
U.S. Senator



Tom Cotton
U.S. Senator



Ted Cruz
U.S. Senator