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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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November 9, 2020

VIA ELECTRONIC TRANSMISSION

The Honorable William Barr
Attorney General
United States Department of Justice
Washington, D.C. 20220

Dear Attorney General Barr:

For several years, in both the Obama and Trump administrations, I have conducted oversight of the Department of Justice's (DOJ) lax and selective enforcement of the Foreign Agents Registration Act (FARA).¹ In April 2015, I began my FARA oversight activities and, as Chairman of the Senate Committee on the Judiciary, I held a FARA oversight hearing in July 2017. Based on the findings of my oversight activities, I've also introduced the bipartisan *Foreign Agents Disclosure and Registration Enhancement Act* (S.1762) to shore up the law.² 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. FARA is a content-neutral law and does not require any entity or individual to refrain from certain types of speech or activities.

Proper enforcement of, and compliance with, FARA remains a top priority of mine 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

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. "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 Foreign Agents Disclosure and Registration Enhancement Act of 2019, S. 1762, 116th Cong. (2019).

principals.³ Sometimes, however, certain relationships appear to operate outside of the transparency requirements and spirit of FARA. For example, based on recently released emails, texts, and my recent report with Senator Johnson on conflicts of interest relating to Hunter Biden's financial activities and those of his business associates, it appears that he and his uncle, James Biden, had significant connections to CEFC China Energy Co. Ltd. (CEFC).⁴ The records also show that CEFC was an extension of the Chinese government and that CEFC intended to alter U.S. policy and public opinion to its benefit and that the Chinese government would be the principal beneficiary of those actions. The apparent relationships came to light not through proper FARA registration but only through the work of my oversight activities and through recent media revelations.

Recently released emails relating to Hunter Biden, James Biden, and their business associates show their close financial and business relationship with CEFC and Ye Jianming. Ye Jianming is a Chinese national, chairman of CEFC, and a frequent figure in Hunter Biden's financial dealings in China. Based on public reports that were available in 2015, when his contact with Hunter Biden began to ramp up, Ye was a founder of CEFC and chairman of the board for its subsidiary, the China Energy Fund Committee.⁵ Although CEFC reportedly remained a private company until state-owned enterprises assumed control of it in 2018, reporting in 2017 indicated that it received financing from the China Development Bank, "hired a number of former top officials from state-owned energy companies," and had "layers of Communist Party committees across its subsidiaries — more than at many private Chinese companies."⁶ My recent report with Senator Johnson also showed that Ye had connections not just to the communist party in China, but also China's People's Liberation Army, the armed forces of the Chinese communist party.⁷

In addition, recently released information shows that CEFC's corporate mission was, "[t]o expand cooperation in the international energy economy and contribute to the *national* development."⁸ Indeed, those same records state that CEFC is "dedicating itself to serving China's national energy strategy," "developing national strategic reserves [for oil]," and "[p]artnering with centrally-administered and state-owned enterprises[.]"⁹ Those records also make clear that CEFC was an extension of the communist Chinese government:

³ Dep't of Justice, Recent FARA cases, (Nov. 13, 2019), <https://www.justice.gov/nsd-fara/recent-cases>.

⁴ S. Rep., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns, S. Comm. on Homeland Sec. and Governmental Aff. and S. Comm. on Fin., 116th Cong., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns (2020). <https://www.finance.senate.gov/chairmans-news/johnson-grassley-release-report-on-conflicts-of-interest-investigation>.

⁵ See J. Michael Cole, *Unstoppable: China's Secret Plan to Subvert Taiwan*, THE NATIONAL INTEREST (Mar. 23, 2015), <https://nationalinterest.org/feature/unstoppable-chinas-secret-plan-subvert-taiwan-12463>. See, S. Rep., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns, S. Comm. on Homeland Sec. and Governmental Aff. and S. Comm. on Fin., 116th Cong., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns (2020).

⁶ Chen Aizhu and Jan Lopatka, *China's CEFC has big ambitions, but little known about ownership, funding*, REUTERS (Jan. 12, 2017), <https://www.reuters.com/article/us-cefc-china/chinas-cefc-has-big-ambitions-but-little-known-about-ownership-funding-idUSKBN14X0B5>; see CONFIDENTIAL DOCUMENT 7 (on file with Comms.).

⁷ See S. Rep., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns, S. Comm. on Homeland Sec. and Governmental Aff. and S. Comm. on Fin., 116th Cong., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns (2020).

⁸ Ye Jianming & CEFC China Energy Company Limited, An Introduction, at 2, Prepared by James A. Gilliar of EEI Group (emphasis added).

⁹ *Id.* at 5.

At the time, China was hungry for crude, but its state-backed companies were having difficulty closing some deals abroad. The optics of China's state-backed giants marching into a country to buy and extract oil weren't great for central Asian politicians. This paved the way for private firms like CEFC, which can strike oil deals in Europe and the Middle East where Chinese State Owned Enterprises (SOEs) could bring political liabilities.¹⁰

That same document also states that CEFC "is building an energy storage and logistics system in Europe" to connect China, Europe and the Middle East which would then "[serve] China's ambitions to have overseas storage locations connected with world markets."¹¹ CEFC was the perfect vehicle to bring financial benefits to the communist regime under the guise of a private sector company.¹² CEFC is clearly a foreign principal as defined by FARA and Hunter Biden's and James Biden's work for CEFC directly benefitted the communist Chinese government thereby making them potential agents of that government.

Ye was not the only foreign agent that Hunter Biden associated with from CEFC. Chi Ping Patrick Ho, a business associate of Ye's and CEFC, was charged and convicted of international bribery and money laundering offenses stemming from his work for the CEFC-backed China Energy Fund Committee.¹³ After his arrest, his first call was reportedly to James Biden.¹⁴ Hunter Biden reportedly represented Patrick Ho for a period of time and received at least \$1 million for his representation.¹⁵ According to recent reporting, the federal government obtained at least one FISA warrant on Patrick Ho, indicating his potential counterintelligence threat to the United States.¹⁶ Indeed, Hunter Biden was well aware of Patrick Ho's links to the communist Chinese government, specifically its intelligence services. According to records reportedly released from Hunter Biden's laptop, Hunter Biden said the following,

I have another New York Times reporter calling about my representation of Patrick Ho – the f***ing spy chief of China who started the company that my partner, who is worth \$323 billion, founded and is now missing.¹⁷

Hunter Biden's reference to his "partner" is an apparent reference to Ye. Before Ye disappeared, he and CEFC had been looking to do business in the United States and his efforts were in line with the communist Chinese government's goal to "[prioritize] economic

¹⁰ *Id.* at 6.

¹¹ *Id.* at 7.

¹² Andrew C. McCarthy, *A Collusion Tale: China and the Bidens*, NATIONAL REVIEW (Oct. 31, 2020), <https://www.nationalreview.com/2020/10/a-collusion-tale-the-bidens-and-china/>.

¹³ *Id.*; Press Release, U.S. Attn'y Geoffrey S. Berman, Patrick Ho, Former Head Of Organization Backed By Chinese Energy Conglomerate, Convicted Of International Bribery, Money Laundering Offenses, (Dec. 5, 2018), <https://www.justice.gov/usao-sdny/pr/patrick-ho-former-head-organization-backed-chinese-energy-conglomerate-convicted>.

¹⁴ Alexandra Stevenson, David Barboza, Matthew Goldstein, and Paul Mozur, *A Chinese Tycoon Sought Power and Influence. Washington Responded.*, THE NEW YORK TIMES (Dec. 12, 2018), <https://www.nytimes.com/2018/12/12/business/cefc-biden-china-washington-ye-jianming.html>.

¹⁵ S. Rep., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns, S. Comm. on Homeland Sec. and Governmental Aff. and S. Comm. on Fin., 116th Cong., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns at 79 (2020).

¹⁶ Chuck Ross, *Feds Obtained FISA Warrant Against Hunter Biden's Chinese Business Associate, Documents Show*, DAILY CALLER (Oct. 27, 2020), <https://dailycaller.com/2020/10/27/hunter-biden-patrick-ho-cefc-fara/>.

¹⁷ *Id.*

development as the ‘central task’ and the force that drives China’s modernization across all areas, including its armed forces.”¹⁸ Hunter Biden’s position of influence and connections to Chinese business interests, which were further strengthened while his father was vice president, most likely appealed to Ye, a man who *The New York Times* has since described as “[wanting] access to the corridors of power in Washington.”¹⁹ It has also been reported that CEFC donated \$100,000 to the Clinton Foundation, presumably as part of that public influence effort.²⁰

Based on recently released records, Ye and Hunter Biden formed a lucrative financial relationship that resulted in Hunter Biden receiving millions of dollars while Ye and CEFC gained inroads to lucrative U.S. investment opportunities.²¹ For example, records show that Hunter Biden had an arrangement to receive a \$10 million annual fee from Ye “based on introductions alone.”²² As part of Hunter Biden’s efforts to assist Ye, he reportedly began working on a deal for Ye that involved a \$40 million investment in a natural gas project on Monkey Island in Louisiana that reportedly fell through in 2018.²³ On Aug. 8, 2017, CEFC Infrastructure Investment wired \$5 million to the bank account for Hudson West III.²⁴ It is unclear whether Hunter Biden was half-owner of Hudson West III at that time. However, starting on Aug. 8, the same day the \$5 million was received, and continuing through Sept. 25, 2018, Hudson West III sent frequent payments to Owasco, Hunter Biden’s firm.²⁵ These payments, which were described as consulting fees, reached \$4,790,375.25 in just over a year.²⁶ According to public comments by Mr. Bobulinski, the Chinese saw Hunter Biden “as a political or influence investment.”²⁷

Mr. Bobulinski’s assessment is supported by an email reportedly sent by James Biden on May 15, 2017, to which Biden attached a list of contacts in the United States called “Key

¹⁸ Dep’t of Def., Military and Security Developments Involving the People’s Republic of China, (2020) <https://media.defense.gov/2020/Sep/01/2002488689/-1/-1/1/2020-DOD-CHINA-MILITARY-POWER-REPORT-FINAL.PDF>.

¹⁹ Alexandra Stevenson, David Barboza, Matthew Goldstein, and Paul Mozur, *A Chinese Tycoon Sought Power and Influence. Washington Responded.*, THE NEW YORK TIMES (Dec. 12, 2018), <https://www.nytimes.com/2018/12/12/business/cefc-biden-china-washington-ye-jianming.html>.

²⁰ *Id.*

²¹ James Biden also financially benefitted from his association with Hunter Biden and Gongwen Dong, a Ye business associate. As my joint report with Senator Johnson notes, Hunter Biden opened a line of credit with Gongwen Dong for approximately \$100,000 and credit cards were issued to Hunter, James Biden, and his wife, Sara Biden, for a global shopping spree. CEFC entities also transferred approximately \$4.8 million to Hunter Biden’s law firm, Owasco and Owasco transferred approximately \$1.4 million to James Biden’s firm, the Lion Hall Group. Sara Biden refused to answer the bank’s questions about the transaction and the bank submitted the account for closure. Gongwen Dong-linked Hudson West III LLC sent approximately \$76,000 to the Lion Hall Group. *See*, S. Rep., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns, S. Comm. on Homeland Sec. and Governmental Aff. and S. Comm. on Fin., 116th Cong., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns at 79 (2020).

²² Emma-Jo Morris and Gabrielle Fonrouge, *Emails reveal how Hunter Biden tried to cash in big on behalf of family with Chinese firm*, NEW YORK POST, (Oct. 15, 2020), <https://nypost.com/2020/10/15/emails-reveal-how-hunter-biden-tried-to-cash-in-big-with-chinese-firm/>.

²³ *See*, S. Rep., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns, S. Comm. on Homeland Sec. and Governmental Aff. and S. Comm. on Fin., 116th Cong., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns at 76 (2020).

²⁴ CONFIDENTIAL DOCUMENT 7 (on file with Comm.).

²⁵ CONFIDENTIAL DOCUMENT 7 (on file with Comm.).

²⁶ CONFIDENTIAL DOCUMENT 7 (on file with Comm.); CONFIDENTIAL DOCUMENT 11 (on file with Comms.).

²⁷ Paul Sperry, *Senate Panel Investigating Hunter Biden’s Failure to Register as Foreign Agent*, REAL CLEAR INVESTIGATIONS (Oct. 27, 2020), https://www.realclearinvestigations.com/articles/2020/10/27/senate_probes_hunter_bidens_failure_to_register_as_foreign_agent_125798.html.

domestic contacts for phase one target projects.”²⁸ That list included influential Democratic politicians like New York Governor Andrew Cuomo, New York Senators Chuck Schumer and Kristen Gillibrand, New York Mayor Bill de Blasio, and California Senators Dianne Feinstein and Kamala Harris.²⁹ James Biden also reportedly sent a second list for overseas contacts called “Foreign Contacts for development projects (mainly phase two).”³⁰ This list included various world leaders like former Colombian President Juan Manuel Santos, former Argentinian President Mauricio Macri, and Mexico’s Carlos Slim, considered to be one of the world’s wealthiest individuals.³¹

These lists of politicians were created as a way to focus the Bidens’ efforts to create connections that would help them close deals for CEFC. A report by *The New York Times* quoted former President Carter’s national security advisor about CEFC’s financial efforts, “[t]hey were looking to do business deals in the energy space and they were looking for connections to help them do that.”³² In order for Ye to succeed with future business in the United States, he had to, as *The New York Times* stated, “build influence.”³³ Based on the recently released records, that is exactly what Hunter Biden and James Biden were supposed to do for CEFC. Accordingly, it appears that Hunter and James Biden, based on their family name and political influence, were agents of CEFC, as both had planned roles with CEFC’s investment vehicles and engaged in efforts to seal financial deals for Ye and CEFC, which would ultimately benefit the communist Chinese government.

Based on additional emails and texts that have recently been made public, it appears that Hunter Biden had concerns about registering under FARA, as well as potential violations of the Foreign Corrupt Practices Act, based on his association with CEFC. On May 1, 2017, Hunter Biden reportedly said in reference to his work for CEFC,

No matter what it will need to be a US company at some level in order for us to make bids on federal and state funded projects. Also We [sic] don’t want to have to register as foreign agents under the FCPA which is much more expansive than people who should know choose not to know. James has very particular opinions about this so I would ask him about the foreign entity.³⁴

When the available evidence is taken as a whole, it is clear that CEFC intended to make inroads in the United States for the purpose of expanding its business and used Hunter Biden and his business associates to help effectuate that intent. In pursuit of its goals, it appears that CEFC may have taken action to influence U.S. policy and public opinion in its favor and gain access to several U.S. politicians in an attempt to curry favor for potential business transactions. The DOJ

²⁸ Email from Jim Biden to James Gilliar and cc’ing Hunter Biden, Tony Bobulinski, and Rob Walker (May 15, 2017).

²⁹ *Id.*

³⁰ Email from Jim Biden to James Gilliar and cc’ing Hunter Biden, Tony Bobulinski, and Rob Walker (May 15, 2017) with attached document dated May 15, 2017, titled Re: Foreign Contacts for development projects (mainly phase two).

³¹ *Id.*

³² Alexandra Stevenson, David Barboza, Matthew Goldstein, and Paul Mozur, *A Chinese Tycoon Sought Power and Influence. Washington Responded.*, THE NEW YORK TIMES (Dec. 12, 2018), <https://www.nytimes.com/2018/12/12/business/cefc-biden-china-washington-ye-jianming.html>.

³³ *Id.*

³⁴ Joseph Simonson, *Hunter Biden aimed to avoid violating Foreign Corrupt Practices Act in pursuit of Chinese business deal*, WASHINGTON EXAMINER (Oc. 27, 2020). <https://www.washingtonexaminer.com/news/hunter-biden-aimed-to-avoid-violating-foreign-corrupt-practices-act-in-pursuit-of-chinese-business-deal>

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

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.³⁵

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.³⁶

Based on the information acquired to date, CEFC was controlled by a foreign government, received financial support therefrom, and may have engaged in activity to influence the U.S. Government and public for the benefit of the communist Chinese government. Accordingly, the actions by Hunter Biden and James Biden on behalf of CEFC, Ye Jianming, and other officers connected to CEFC, potentially make them agents of the Chinese government for purposes of longstanding public disclosure laws. The American public deserves to know when foreign entities are operating in and attempting to influence U.S. policy and public opinion.

Accordingly, I request that the DOJ review the evidence to determine if the actions undertaken by Hunter Biden and James Biden for CEFC, Ye Jianming, and other individuals linked to the communist Chinese government, constitute activity that requires registration under FARA. In addition, please answer the following no later than November 23, 2020:

1. What actions has the DOJ taken to assess whether Hunter Biden, James Biden, and their corporate entities or employees should have registered under FARA for work on behalf of the Chinese government or other foreign governments or foreign principals?
2. Has the DOJ sent a letter of inquiry or letter of determination to Hunter Biden or James Biden? If so, please provide a copy. If not, why not?
3. Under 28 C.F.R. § 5.2, any present or prospective agent of a foreign entity may request an advisory opinion from the Justice Department regarding the need to register. Did Hunter Biden, James Biden, 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 CEFC, or with any other foreign entity? If so, please provide a copy of the request and opinion.

³⁵ Press Release, Dep't of Justice, 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>

³⁶ *Id.*

4. Please provide all prosecutorial memoranda, correspondence between DOJ, Hunter Biden, James Biden, and all reports and summaries of interviews relating to any potential obligations to register under FARA, or other criminal activity for which the DOJ and FBI are reviewing their conduct.

I 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.

Thank you for your attention to this request. Should you have any questions, please contact Joshua Flynn-Brown of my Committee staff at 202-224-4515.

Sincerely,



Charles E. Grassley
Chairman
Committee on Finance