



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

December 21, 2017

[addressee deleted]

Re: Advisory Opinion pursuant to 28 C.F.R. § 5.2 concerning application of the Foreign Agents Registration Act

Dear [name deleted]:

This is in reference to your letter of November 14, 2017, in which you requested an advisory opinion pursuant to 28 C.F.R. § 5.2 regarding the possible obligation of your company, [US firm], to register pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”).

The purpose of FARA is to inform the American public of the activities of foreign agents working for foreign principals to influence U.S. government officials and/or the American public with reference to the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a foreign country or foreign political party. An “agent of a foreign principal” is defined, in pertinent part, as “any person who acts ... at the order, request, or under the direction or control of a foreign principal ... and who directly or through another person ... engages within the United States in political activities for or in the interests of such foreign principal.” 22 U.S.C. § 611(c)(1)(i). The term “foreign principal” includes “a government of a foreign country and a foreign political party, any person outside the United States..., and 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.” *Id.* § 611(b).

You indicate that [US firm], a government relations firm in Washington, DC, was asked by the Embassy of [foreign country] to assist with facilitating meetings for [foreign government official] when [he/she] travels to Washington, DC. The nature of the meetings would be to introduce the [foreign government official] to private industry leaders in the defense and cybersecurity markets. You inquire whether such activities would require [US firm] to register under FARA.

Based upon these representations, the proposed activities of [US firm] are considered commercial in nature and thus qualify for the exemption provided by Section 3(d)(1) of the Act, 22 U.S.C. § 613(d)(1), for private and non-political activities in furtherance of the bona.fide trade or commerce of a foreign principal so long as the activities are restricted to those stated in your letter. The implementing regulations provide in pertinent part that “the activities of an agent of a

foreign principal ... in furtherance of the bona fide trade or commerce of such foreign principal, shall be considered 'private' even though the foreign principal is owned or controlled by a foreign government, so long as the activities do not directly promote the public or political interests of the foreign principal." 28 C.F.R. §5.304(b).

Please note that the question of obligation or exemption must be revisited as the nature of the activities changes. Thus, should [US firm]'s activities for the Embassy of [foreign government] and/or [foreign government official] change in that they are directed by the aforementioned to engage in political activities to directly promote the public or political interests of the Embassy of [foreign government], [foreign government official] or a foreign political party, a registration under FARA would be required because [US firm] would be acting as an agent of a foreign principal by representing, within the United States, the interests of a foreign principal before any agency or official of the Government of the United States. 22 U.S.C. § 611(c)(1)(iv). In this instance, [US firm] should contact this Unit immediately in order that we may reexamine whether it has an obligation to register under FARA at that time.

If you have any questions please contact me at (202) 233-0776.

Sincerely,

[name deleted]
Senior Trial Attorney
FARA Registration Unit