



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

March 22, 2019

By FedEx

[addressee deleted]

Re: Advisory Opinion Pursuant to 28 C.F.R. § 5.2

Dear [name deleted]:

We write in response to your letter of January 30, 2019, requesting an advisory opinion, pursuant to 28 C.F.R. § 5.2, with respect to the obligation of your client, [US company], to register pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”). Based on the representations in your letter, we have concluded that the proposed activities of your client would be exempt from registration under FARA.

According to your January 30, 2019 letter, [private company headquartered in US city that is a wholly-owned US subsidiary of a foreign corporation that is itself wholly owned by a foreign government (“US subsidiary”)]. [US subsidiary] employs over 2,300 persons in the United States and their executive team is comprised entirely of U.S. citizens. [US company] proposes to represent [US subsidiary] on federal legislative and regulatory issues affecting the U.S. operations of their extensive U.S. [text deleted] businesses. On behalf of [US subsidiary], [US company] would engage in lobbying contacts with members of Congress and their staff and would interact with officials at federal regulatory agencies.¹ These activities on behalf of [US company] would relate solely to its U.S. operations. You further represent that no one acting for or on behalf of [US company] will have any contacts with anyone acting for or on behalf of [foreign government parent company “foreign parent”], and that all direction and control of all activities undertaken by [US company] will come from executives and employees of [US subsidiary].

Your letter stipulates that [foreign parent] is a “foreign principal” as defined by FARA in Section 611(b)(3),² and that the proposed activities on behalf of [US subsidiary] would constitute “political activity” as defined in Section 611(o) of the Act.³ Thus, if [US company] engages in the proposed activities, it would be acting as an agent of a foreign principal pursuant to 22 U.S.C. §611(c)(1). However, you assert that [US company]’s proposed activities are exempt from registration pursuant to Section 613(d)(2) because its activities on behalf of [US subsidiary] will be commercial in nature, will not serve predominantly a foreign interest, and will be directly

¹ A copy of the proposed contract between [US company] and [US subsidiary] was provided with your letter.

² The term “foreign principal” includes “a government of a foreign country” 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.” 22 U.S.C. § 611(b).

³ The term “political activities” means 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 foreign political party. 22 U.S.C. § 611(o).

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in furtherance of [US subsidiary]'s "bona fide commercial, industrial and financial" operations and not those of [foreign parent]. You further propose that [US company] will register pursuant to the Lobbying Disclosure Act of 1995 ("LDA"), as well as fully report on the LDA disclosure forms, its lobbying activities on behalf of [US subsidiary] and the ownership of [US subsidiary] by [foreign parent].

Based upon the foregoing representations in your letter describing the nature and extent of activities proposed to be undertaken by your client in connection with the domestic operations of [US subsidiary], we do not contest that the proposed activities qualify for the exemption from registration under FARA pursuant to Section 613(d)(2).

Please note that the questions of obligation and exemption are based solely upon the specific facts set out in your January 30, 2019 letter and must be revisited in the event that any of the facts change. Thus, should your client's activities change in a way that promote the public or political interests of a foreign government or foreign political party, a registration under FARA may be required because your client could be acting as an agent of a foreign principal and not be entitled to an exemption. 22 U.S.C. § 611(c)(1). If any of the facts do change, you or your client should contact the FARA Unit immediately in order that we may reexamine whether your client has an obligation to register.

If you have any questions regarding this matter, please contact [name deleted] by telephone at (202) 233-0776.

Sincerely,

Brandon L. Van Grack
Chief, FARA Unit