



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

January 29, 2020

Via Email and USPS

[addressee deleted]

Re: [text deleted]
Request for Advisory Opinion Pursuant to 28 C.F.R. § 5.2

Dear [name deleted]:

We write in response to your letter of December 12, 2019 (“December 12 Letter”), requesting an opinion, pursuant to 28 C.F.R. § 5.2(a), with respect to your firm’s registration obligation under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”), for its potential work for [foreign corporation]. Based upon the representations in your letter, we have concluded that [US law firm] may avail itself of the exemption set out in Section 613(h) of the Act (the “LDA exemption”). 22 U.S.C. § 613(h).

The December 12 Letter describes [US law firm]’s proposed activities on behalf of [foreign corporation], to include lobbying and providing legal advice and assistance relating to compliance with U.S. laws and conditions set out in: (i) [foreign corporation]’s plea agreement with the Department of Justice; (ii) the superseding settlement agreement between [foreign corporation] and the [U.S. government agency]; and (iii) the independent assessment being conducted by [text deleted]. Your request for an advisory opinion only relates to the government relations work [US law firm] is performing for [foreign corporation], distinct from the legal and compliance work [US law firm] is providing to [foreign corporation].

The December 12 Letter further states that [US law firm]’s lobbying would be focused on instances in which U.S. government action, related to the settlements, is directed at [foreign corporation]. In that context, [US law firm] would inform the U.S. government and Members of Congress of [foreign corporation]’s compliance efforts consistent with [foreign corporation]’s settlement obligations and the monitors’ recommendations. The December 12 Letter notes that [US law firm]’s efforts would not involve lobbying for or against trade restrictions, sanctions, or administrative measures directed at [foreign country] generally, the [foreign government], or [foreign government] officials. As noted in the December 12 Letter, [foreign corporation]’s continued compliance with its obligations under the settlement agreements is necessary for [foreign corporation] to continue commercial and financial operations in the United States.

FARA requires registration of “agents of foreign principals” who are engaged in political activities or other specified activities under the Act. Your letter acknowledges that [foreign corporation] is a foreign principal and that [US law firm] will be engaged in covered activities. Accordingly, absent an exemption, [foreign corporation] would be required to register under

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FARA.

However, as noted in your December 12 Letter, agents of entities and persons (other than agents of foreign governments and foreign political parties) engaged in lobbying activities and registered under the Lobbying Disclosure Act of 1995, 2 U.S.C. § 1601 *et seq.*, may be exempt from registration under FARA. *See* 22 U.S.C. § 613(h). The LDA exemption is tempered by FARA's implementing regulations, which state that "[i]n no case where a foreign government or foreign political party is the principal beneficiary will the [LDA] exemption . . . be recognized." 28 C.F.R. § 5.307.

To that end, your letter states that [US law firm] will be engaged in lobbying; and [US law firm] is now registered under the LDA. Your letter further asserts [foreign corporation] is not a foreign government or foreign political party, and [US law firm]'s activities will not principally benefit the [foreign country]'s government.¹ Given those representations, we do not contest your claim that [US law firm] is entitled to the LDA exemption.

Please note that the availability of the LDA exemption is premised upon the facts and representations made in the December 12 Letter. Thus, should [US law firm]'s activities for [foreign corporation] change in any way, or if [foreign corporation]'s activities change, then the question of [US law firm]'s status under FARA could also change. If that occurs, please contact the FARA Unit immediately so that we may reexamine whether [US law firm] has an obligation to register under FARA at that time.²

We will treat your submission in accordance with 28 C.F.R. § 5.2(m). Please contact the undersigned by telephone at (202) 233-0776, if you have any questions.

Sincerely,

Brandon L. Van Grack
Chief, FARA Unit

¹ [text deleted] [a majority of the] shares are publically traded.

² Based upon our determination that the LDA exemption is applicable, we make no determination regarding [US law firm]'s eligibility for the "commercial exemption" set out in Section 613(d)(2) of the Act.