



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

July 31, 2020

VIA EMAIL

[Addressee deleted]

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

Dear [name redacted]:

This is in reference to your email message of July 24, 2020 (the “July 24 email”), in which you request an advisory opinion, pursuant to 28 C.F.R. § 5.2, as to whether your firm, [law firm], is obligated to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 et seq. (“FARA” or the “Act”) for work it will perform on behalf of the [U.S. representative of foreign pro-democracy council].¹ The [U.S. Representative of Foreign Pro-Democracy Council] is the U.S. representative of the [Foreign Pro-Democracy Council], a pro-democracy group based in [foreign country]. Based upon your representations, we have determined that your client would not have an obligation to register at this time.

In the July 24 email, you disclose that [U.S. Representative of Foreign Pro-Democracy Council] has retained your firm to provide open a U.S. bank account, review vendor contracts, assist [U.S. Representative of Foreign Pro-Democracy Council] in forming a non-profit, and undertake other administrative tasks. Your firm disclaims any effort to influence any agency or official of the U.S. Government or any section of the U.S. public 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.

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.

¹ Your email notes that the [Foreign Pro-Democracy Council] and the [U.S. Representative of Foreign Pro-Democracy Council] have extensive relationships with the U.S. State Department. In that regard, you provided a letter of support that the State Department recently provided the [U.S. Representative of Foreign Pro-Democracy Council] for opening a bank account in the United States. You also provided a copy of the license granted by the Office of Foreign Assets Control, Department of the Treasury, to [U.S. Representative of Foreign Pro-Democracy Council] authorizing certain transactions and activities that would otherwise be prohibited pursuant to the [foreign government] Sanctions Regulations.

[Addressee deleted]

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Generally speaking, a party is an “agent of a foreign principal” who must register under FARA if it acts “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 who directly or through any other person,” and within the United States:

- (i) engages in political activities for or in the interests of such foreign principal;
- (ii) acts as public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;
- (iii) solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or
- (iv) represents the interests of such foreign principal before any agency or official of the Government of the United States.

See 22 U.S.C. § 611(c)(1).

Your July 24 email asks whether your firm would be required to register for engaging in the above-described activities on behalf of the [U.S. Representative of Foreign Pro-Democracy Council]. The [U.S. Representative of Foreign Pro-Democracy Council] is a foreign principal under the definition set out at 22 U.S.C. § 611(b)(1) and, pursuant to your agreement, your firm would be acting under its direction and control. However, your firm would not be obligated to register under FARA, so long as its activities remain focused on the corporate and administrative tasks described above, and the firm does not engage in the activities enumerated in 22 U.S.C. § 611(c)(1).

Our conclusion is limited to the facts and circumstances outlined in your July 24 email, and may change should your firm’s activities on behalf of the [U.S. Representative of Foreign Pro-Democracy Council] change. For example, your firm may need to register under FARA if its activities are undertaken with an intent to influence a U.S. Government official or agency or a segment of the public within the United States concerning the domestic or foreign policies of the United States or with respect to the political or public interest, policies, or relations of the [U.S. Representative of Foreign Pro-Democracy Council], or of any foreign country or foreign political party. If that were to occur, your firm should contact us immediately.

[Addressee deleted]

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We will treat your submission in accordance with 28 C.F.R. § 5.2(m). Please contact [name deleted] at (202) 233-0776, if you have any questions.

Sincerely,

/s/ Brandon L. Van Grack

Brandon L. Van Grack
Chief, FARA Unit