

Updates on Congressional Action on FARA Reform

February 20, 2019

Amid [high-profile cases](#) involving the Foreign Agents Registration Act (“FARA”), some Members of Congress have expressed increased interest in improving transparency and enforcement of FARA. Their efforts have thus far stalled, but the landscape could be shifting toward reform. Here are notable pieces of legislation and other congressional actions to watch:

- [Disclosing Foreign Influence Act](#): This legislation, introduced by Sen. Chuck Grassley (R-Iowa), repeals an exemption in FARA that allows lobbyists for foreign corporations and nonprofits to register under the Lobbying Disclosure Act (“LDA”) instead of FARA. The LDA has less stringent disclosure requirements. Currently, the exemption is not available if the foreign principal is a foreign government or foreign political party, or if the foreign principal or political party is the principal beneficiary of the FARA activities. Repealing the exemption would mean that entities who lobby for foreign corporations or nonprofits would now have to either register under FARA, with its more strict disclosure requirements, or look its other exemptions, such as the “commercial exemption,” which applies to activities that are private, nonpolitical, and in furtherance of trade or commerce. The bill also empowers the Department of Justice (DOJ) to issue civil investigative demands. The bill was referred to the Committee on Foreign Relations in October 2017, where it has stalled, though Sen. Grassley has indicated that he may [reintroduce](#) the bill. Rep. Mike Johnson introduced an [identical bill](#) in the house, which was ordered to be reported by the House Judiciary committee on a 15-6 vote in January 2018.
- [Foreign Agents Registration Amendments Act](#): This bill, introduced by Sens. Dianne Feinstein (D-CA), Cornyn (R-TX), Shaheen (D-NH), and Young (R-IN), would also repeal the LDA exemption and give the DOJ civil investigative demand authority. It would also establish a unit within the DOJ dedicated to enforcement of FARA and give the DOJ authority to impose civil fines on those who fail to register or disclose their activities as required. It was referred to the Committee on Foreign Relations in March of 2018.
- [Curtailing Lobbyists and Empowering Americans for a New Politics \(CLEAN\) Act](#): Sen. Michael Bennett (D-CO) has introduced a bill that would reform lobbying disclosure rules, including repealing the LDA exemption in FARA. The bill was referred to Committee on Rules and Administration but has not been acted upon since July.
- [Repelling Encroachment by Foreigners into U.S. Elections \(REFUSE\) Act](#): Sponsored by Rep. Kaptur (D-OH) and several others, this House bill would also repeal the LDA exemption and grant the DOJ civil investigative demand authority. It also addresses FARA’s “legal exemption,” which allows lawyers representing a foreign government or foreign political party in court or before a federal agency to forego registration under FARA. The bill would require those who believe they are entitled to the legal exemption to request and gain approval of the exemption from the Attorney General. The bill has been referred to the House Subcommittee on the Constitution and Civil Justice.
- [Foreign Agents Modernization and Enforcement Act](#): Introduced by Sens. Shaheen and Young (R-IN), this bill would also grant DOJ civil demand authority in investigating potential FARA violations. It also updates FARA to include social media communications in the materials foreign agents must file with the DOJ. The

bill has been referred to Committee on Foreign Relations, which has taken no action on it yet. Reps. Cicilline (D-RI) and Gaetz (R-FL) introduced an [identical bill](#) in the House, which has been referred to the Subcommittee on Crime, Terrorism, Homeland Security, and Investigations.

- [Foreign Agent Lobbying Transparency Enforcement Act](#): Sen. Tammy Duckworth (D-IL) introduced this bill in July 2017, which would amend FARA to impose graduated civil fines for multiple offenses under FARA by an individual who is an agent of a foreign principal. The bill would also amend FARA to require disclosure of informational materials sent by foreign agents to *any* person, instead of two or more people as the law currently requires. The bill has been referred to the Committee on Foreign Relations.
- [H.R. 1](#): The first bill introduced in the House this Congress, sponsored by Reps. Sarbanes (D-MD) and Pelosi (D-CA), it contains some FARA-related provisions, including a measure to establish a dedicated FARA enforcement unit within the DOJ and another to establish civil fines for failing to file timely, complete registration statements. It would also require foreign agents to disclose known transactions conferring anything of value to officeholders within 60 days. The House Judiciary Committee held hearings on H.R. 1 in January of 2019,

While efforts to update FARA have stalled in Congress, interest in reforming and improving enforcement of the law does not appear to be waning as the Department of Justice increases its scrutiny of FARA compliance. FARA.us will continue to monitor developments and news about the law.

For more information, please contact a member of [Caplin & Drysdale's Political Law](#) team or visit our blogsite www.FARA.us.

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