

INSIGHTS

DOJ Reveals Foreign Agent Cases Are Fara from Over

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On March 6, Assistant Attorney General for National Security John C. Demers announced that the Department of Justice (“DOJ”) has designated a new deputy chief to lead the Foreign Agents Registration Act (“FARA”) unit and that DOJ will start treating FARA as an enforcement priority. The new role will be filled by former Mueller Investigation Special Prosecutor Brandon Van Grack, a veteran of the National Security Division and the U.S. Attorney’s Office in Eastern District of Virginia. Although DOJ has been adding to its FARA investigation team over the past year and a half, the “priority” announcement signals a shift toward greater focus on these investigations and potential charges.

[FARA \(enacted in 1938\)](#) is a “disclosure statute that requires persons acting as agents of foreign principals in a political or quasi-political capacity to make periodic public disclosure of their relationship with the foreign principal, as well as activities, receipts and disbursements in support of those activities.” The term “foreign principal” is defined broadly and includes foreign political parties, a person or organization outside the U.S. (except U.S. citizens) and any entity organized under the laws of a foreign country or having its principal place of business in a foreign country. In practice, anyone who intends to act as an agent must register with the DOJ within ten days of agreeing to become an agent and before performing any activities for the foreign principal. In addition to registering, agents are required to file forms outlining their agreements with, income from, and expenditures on behalf of the foreign principal. These forms are public records and must be supplemented every six months. There are additional **[disclosure and record keeping obligations](#)**. The statute has both civil and criminal enforcement mechanisms.

After decades of relatively few FARA prosecutions, the statute has become an increasingly prominent focal point of charges connected with the Mueller Investigation. In 2017, Paul Manafort and Richard Gates were charged with knowingly and willfully violating FARA by failing to register as agents of the government of Ukraine, the Ukrainian Party of Regions, former Ukrainian President Victor Yanukovich, and the Opposition Bloc, a successor political party to the Party of Regions. Manafort and Gates were further charged with violating FARA by making several false statements of material facts and omissions of material facts in a FARA document submitted to the DOJ. Manafort and Gates both subsequently reached guilty pleas. Another Manafort associate, lobbyist Samuel Patten, also pleaded guilty for failing to register as a foreign agent under FARA. Most recently, the law firm Skadden, Arps, Slate, Meagher & Flom reached an agreement with DOJ over its failure to register former firm partner Greg Craig’s

work for a Ukrainian political party, and the firm was required to disgorge \$4.6 million in fees and to improve its internal compliance policies as a result. Craig remains under personal investigation as well.

The prospect of increasing FARA investigations and prosecutions indicates that foreign interests that rely on U.S. agents, and the agents themselves, should diligently review their internal FARA-compliance measures to ensure that they adhere to FARA's requirements. They should also be prepared to respond carefully to FARA-related inquiries because the responses will apparently be subject to greater scrutiny by the DOJ.