

Bipartisan Senators Introduce Legislation to Enforce Retroactive Foreign Agent Registration Under FARA

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On July 11, 2023, Senators Chuck Grassley (R-Iowa) and Gary Peters (D-Mich.) introduced the Retroactive Foreign Agents Registration Act (RFARA) in a continuing effort to bolster the transparency and accountability of foreign lobbying in the United States. Companion legislation was introduced in the House by Reps. Mike Gallagher (R-Wis.) and Raja Krishnamoorthi (D-Ill.).

If enacted, this legislation would require individuals/entities who fall within the purview of FARA to register as foreign agents even after ceasing to engage in FARA registerable activity for a foreign principal (e.g., lobbying, public relations). The bill aims to address concerns regarding undisclosed foreign lobbying in the United States, and to provide the Department of Justice (DOJ) with explicit legal authority to enforce retroactive registrations under FARA. "Foreign agents who fail to register during their service must come clean and wash the grease off their hands even after they've left the job. Our bill makes an important update to FARA to realign its original intent by ensuring all foreign agents show their work to the American people," Grassley stated. The bill is joined in bipartisan support by Senators Marco Rubio (R-Fla.), Todd Young (R-Ind.) and Elizabeth Warren (D-Mass.), along with Reps. Chip Roy (R-TX), Jamie Raskin (D-MD), Rob Wittman (R-VA), Seth Moulton (D-MA), Jim Banks (R-IN), Mikie Sherrill (D-NJ), Dusty Johnson (R-SD), Abigail Spanberger (D-VA), and Shontel Brown (D-OH).

This legislation follows closely behind a 2022 U.S. District Court case in which DOJ sought a civil injunction requiring casino mogul Stephen Wynn to register as a foreign agent of Beijing for his lobbying

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activities conducted in 2017. The Court dismissed that case, stating that any obligation of Wynn to register under FARA ceased when his relationship with the foreign principal ended. DOJ filed its notice of appeal challenging the District Court ruling in December 2022; the appeal is pending. This bill seeks to provide DOJ with the necessary tools to enforce retroactive registration under FARA and speaks to continuing bipartisan efforts to strengthen the administration and enforcement of the statute.

Wiley's FARA Handbook provides further information on FARA as well as the relationship between FARA and the LDA. Additional information on pending LDA and FARA reforms can also be found in our coverage of proposals in the 117th Congress and 2022 Review of FARA developments. Please contact the FARA attorney listed on this alert for any questions.

Maddie Van Aken, a Legislative and Reporting Coordinator at Wiley Rein LLP, contributed to this alert.