



# FARA Reform

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## What to Watch For

In recent years, the Foreign Agents Registration Act (FARA) has come under heightened scrutiny from Congress and the Department of Justice (DOJ) with a focus on modernizing the arcane law, which governs the disclosure of foreign influence in the United States. FARA and its accompanying regulations provide limited guidance on many of its provisions, and while DOJ's Advisory Opinions are helpful, there remains considerable confusion and uncertainty about the boundaries of FARA's often broad or vague exemptions. With DOJ enforcement on the rise, many are left with questions on how to navigate FARA's complexities.

### DOJ Rulemaking

In late 2021, DOJ issued an Advance Notice of Proposed Rulemaking and request for public comments regarding modernizing FARA, including some of FARA's most commonly-invoked exemptions, such as the "commercial exemptions," the "Lobbying Disclosure Act" exemption, and "legal exemption." The potential changes to these exemptions could have far-reaching implications on foreign-owned companies, public relations and government affairs firms, political consultants, non-profit organizations, law firms, and many others who rely on the current exemptions. The Department is expected to release its proposed rule by the end of this year, which will then be open for another round of public comments.

### Bipartisan Congressional Activity

In addition to the Department's rulemaking, Congress has introduced several bipartisan proposals targeting FARA, largely focused on FARA's enforcement mechanisms and the various loopholes that exist under the current regime. One such proposal, which passed committee, would require companies that utilize FARA's LDA exemption to indicate so on their federal lobbying disclosure reports. Other legislation would eliminate both the LDA and commercial exemptions where a foreign principal is considered a foreign adversary, while a different bill would require non-profits and think tanks that are engaged in lobbying or public relations efforts to disclose funding received from foreign principals.

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