



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

February 29, 2024

Via E-mail

[Requestor]

[Address]

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

Dear [Requestor]:

We write in response to your letter of December 1, 2023 (“the December 1 Letter”), in which you request an advisory opinion, pursuant to 28 C.F.R. § 5.2, concerning the possible obligation of your client, [Company A], to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or “the Act”), for activities it is engaging in pursuant to an agreement with [foreign based religious organization]. After consideration of your request, as well as the additional information you provided at our request in a letter dated January 30, 2024 (“the January 30 Letter”), we have determined that [Company A] is required to register under FARA, as discussed below.

Background

According to the December 1 Letter, [Company A] proposes to act as a media and press consultant to the [foreign-based religious organization]. The Letter describes the [foreign-based religious organization] as a [foreign city A]-based, non-profit religious organization that acts as a voice for interfaith relations with [redacted], works to combat [religious prejudice], and operates in more than [redacted] countries to provide resources and support to [followers of the religion]. The December 1 Letter represents that “through its programs and the actions and teachings of the [foreign-based religious organization] leader [redacted], the [foreign-based religious organization] is a leading global proponent of interfaith understanding and cooperation, a moderate voice for tolerance, and a beacon for unity and strength within the [religious] community.”¹ The December 1 Letter proposes that [Company A] “share the positive impact of the [foreign-based religious organization]’s programs, actions, and teachings on a larger global stage reaching opinion leaders and influencers (but not including, as further addressed below, officials of any American government),” and that “[t]he services would be aimed as well at building the profiles of [leader] and the [foreign-based religious organization] in the American media as a voice for goodness, community, and modernity in the [religious] community.”²

¹ December 1 Letter at 1.

² *See id.* at 2.

The December 1 Letter also states that the proposed services would “include engagement with US media outlets, reporters, editorial writers and commentators through news-making opportunities.”³ The December 1 Letter represents that the “[foreign-based religious organization] is not a political organization; it does not engage in political outreach on behalf of the government of [foreign country] or any other foreign government or political party,” and that [Company A]’s activities “would not include any government-relations efforts, contact with US government officials regarding any policy or position of the US government, or contact with other government officials or staff regarding legislation or policy.” The December 1 Letter further represents that [Company A]’s activities would not include “media or public relations efforts designed to promote the national interests of any foreign nation or political party.”⁴

The December 1 Letter describes [Company A]’s additional contemplated activities as including “engaging with US-based reporters and others about:

- [redacted];
- Commenting on interfaith news or events;
- Launching interfaith events to coincide with the anniversaries of [redacted] and other religious-based hate crimes;
- Launching events to coincide with [redacted];
- Holding events and setting the conversation on combatting youth extremism, in partnership with US-based NGOs and religious entities;
- Providing cultural education related to interfaith efforts [redacted], and a faith-based focus on diplomacy; and
- Holding events to focus on climate initiatives and how “solarizing” [places of worship] and other religious centers can be accomplished.”⁵

The January 30 Letter explains that [Company A]’s U.S. activities on behalf of the [foreign-based religious organization] will be managed by a Delaware nonprofit corporation called [Company B], which is wholly funded by the [foreign-based religious organization]’s [foreign city B] office. According to the copy of the Scope of Work (“SOW”) for the agreement between [Company B] and [Company A], which you submitted with the January 30 Letter, [Company B] and the [foreign-based religious organization] agreed “to work together to plan and execute events and messaging relating to a delegation from the [foreign-based religious organization] (including the Leader] to the United States in January 2024” and for [Company B] to “engage [Company A] to provide services in support of the [foreign-based religious organization] Delegation.”⁶ The January 30 Letter states that [Company A] will “assist in efforts to facilitate and publicize the visit of the [Leader] and the [foreign-based religious organization] Delegation to the United States by . . .

³ See *id.* at 2.

⁴ See *id.* at 3.

⁵ See *id.* at 2.

⁶ January 30 Letter at 1-2.

assisting in planning, strategy, logistics, messaging, and communications related to that visit.”⁷ In that regard, the SOW describes the following activities:

- (1) Plan and execute meetings for [Leader] with religious organizations and philanthropic leaders who support peaceful humanitarian aid [redacted].
- (2) Plan and implement a discussion forum sponsored and hosted by the Council on Foreign Relations featuring [Leader] and other interfaith leaders.
- (3) Reach out to [religious] Chaplains at the top US universities and within the US military to schedule meetings and informational listening sessions, and plan and execute these meetings.
- (4) Establish a dialogue with victims of recent hate crimes (e.g. [U.S. City and State]) so the [Leader] can show his empathy and compassion and speak out on the importance of stopping [religious intolerance].
- (5) Research and find opportunities for meetings with policy makers to discuss the impact of [religious intolerance], and solutions to be implemented by community leaders to combat the growing problem.
- (6) Conduct research and develop appropriate messaging for the [Leader] when meeting with different audiences and talking about the critical issues. Build message narratives and contribute to talking points, statements, and other public communications during the visit.
- (7) Conduct outreach and engage selected news outlets in [U.S. State] and [U.S. State], including [Redacted] Magazine, to conduct interviews with the [Leader].⁸

The January 30 Letter further discloses that the SOW specifies overarching goals of the effort, which are in accord with your December 1 Letter and provide additional context:

- (1) “Position the [Leader] in the U.S. as an independent, transformative religious leader who can help foster interfaith cooperation among U.S. religious and social institutions and be an outspoken advocate for [religious tolerance].
- (2) Affirm and grow the [Leader]’s position as a leader of the [religious community] in the US and strengthen the [foreign-based religious organization] brand with US based media and other stakeholders.
- (3) Support the efforts of the [religious tolerance] Coalition of Religious Leaders with US opinion leaders.”⁹

You request an advisory opinion on whether the proposed activities would qualify for the exemption set forth in Section 613(e) or require [Company A] to register under FARA.

⁷ See *id.* at 2.

⁸ *Id.*

⁹ *Id.*

FARA Analysis

One of FARA’s purposes is to inform the American public of certain activities performed in the United States by agents of foreign principals. FARA defines the term “foreign principal” to include “a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.”¹⁰ Because the [foreign-based religious organization] is an organization headquartered in [foreign city A], [foreign country], it is a foreign principal under the Act.

A person representing a foreign principal is an “agent of a foreign principal” who must register under FARA if the person (1) acts “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 (2) engages in specified activities within the United States.¹¹ Among other things, those specified activities include engaging in “political activities”¹² and acting as a “publicity agent”¹³ or “information-service employee”¹⁴ for or in the interests of such foreign principal.”¹⁵

As the December 1 Letter establishes, because [Company A]’s U.S. activities on behalf of the [foreign-based religious organization] are managed by [Company B], a [U.S. City] corporation wholly funded by the [foreign-based religious organization]’s [foreign city B] office, [Company A] is acting under the direction and control of “a person [Company B] . . . whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal, the [foreign-based religious organization].”¹⁶ Moreover, we concur

¹⁰ See 22 U.S.C. § 611(b)(3).

¹¹ See 22 U.S.C. § 611(c)(1)(i)-(iv).

¹² FARA defines “political activities” as “any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States 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.” 22 U.S.C. § 611(o).

¹³ The Act defines a “publicity agent” as “any person who engages directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or otherwise.” 22 U.S.C. § 611(h).

¹⁴ FARA defines an “information-service employee” as “any person who is engaged in furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to the political, industrial, employment, economic, . . . or other benefits, advantages, facts, or conditions of any country other than the United States or of any government of a foreign country . . . or of a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in a foreign country.” 22 U.S.C. § 611(i).

¹⁵ See 22 U.S.C. § 611(c)(1)(i) and (ii).

¹⁶ See 22 U.S.C. § 611(c)(1).

with the December 1 Letter’s acknowledgement that the [foreign-based religious organization] is a foreign principal and that [Company A], by engaging in the above-described activities for the [foreign-based religious organization] through [Company B], would be acting as a “publicity agent” and an “information-service employee” under the Act.

As an additional basis supporting an agency determination, we find that many of the above-described activities that [Company A] is engaging in are “political activities” under the Act. For instance, the December 1 Letter proposes, among other things, that [Company A] engage with U.S.-based reporters and others about topics such as [acts of religious intolerance] and how they impact the [Redacted]; launch events to coincide with [ending religious intolerance] and seeking to obtain support for the “[ending religious intolerance] Pledge.” Furthermore, the January 30 Letter states that [Company A] will research and find opportunities for meetings with policy makers to discuss the impact of [religious intolerance] and develop responses to be implemented by community leaders. Any such meeting with policy makers to discuss policy changes intended to combat [religious intolerance] constitute political activities under the Act.

Further, the SOW proposes that [Company A] conduct outreach and engage with selected news outlets in [U.S. City] and [U.S. City], including [Redacted] Magazine, to conduct interviews with the [Leader]. To the extent that such engagement is intended to influence “any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States[,]” it would constitute “political activities” and require registration under FARA.¹⁷ For example, [Company A] reports having worked on a petition with the [foreign-based religious organization] to “call on leaders of all faiths to step up their efforts to urge [redacted].”¹⁸ Although the United States [redacted], as the January 30 Letter notes, the United States’s [redacted] implicates U.S. foreign policy.¹⁹ Accordingly, at least a portion of [Company A]’s activities appear to fall within FARA’s definition of “political activities.”

Thus, we find that the [foreign-based religious organization] is a foreign principal and that [Company A], by engaging in the above-described activities for the [foreign-based religious organization] through [Company B], would acting as a “publicity agent” and an “information-service employee,” and, in addition, would be engaging in “political activities” under the Act. [Company A] therefore qualifies as an “agent of a foreign principal” under FARA and would be required to register unless it qualifies for an exemption.

In your December 1 Letter, you inquired whether [Company A] would qualify for the “religious exemption”²⁰ that applies to “[a]ny person engaging or agreeing to engage only in activities in

¹⁷ 22 U.S.C. § 611(o).

¹⁸ January 30 Letter, Exhibit D, page 2.

¹⁹ [redacted]

²⁰ See 22 U.S.C. § 613(e).

furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts.”²¹ Importantly, the exemption does not apply if the person engages in “political activities . . . for or in the interests of [the] foreign principal.”²² FARA specifies that the burden of establishing an exemption “shall rest upon the person for whose benefit the exemption is claimed.”²³

Relevant to your eligibility for the exemption set forth in Section 613(e), you make the following representations in the December 1 and January 30 Letters:

- (1) that the [foreign-based religious organization] is a religious organization and is “not a political organization; it does not engage in political outreach on behalf of the [Foreign government] or any other foreign government or political party;”²⁴
- (2) that [Company A]’s activities “would not include any government-relations efforts, contact with US government officials regarding any policy or position of the US government, or contact with other government officials or staff regarding legislation or policy;”²⁵
- (3) that [Company A]’s activities would not include “media or public relations efforts designed to promote the national interests of any foreign nation or political party;”²⁶
- (4) that “[Company A]’s work under the current SOW (and the broader proposed work described in the December 1 Letter) includes outreach to the public via digital outlets related to fundamentally *religious* issues but not including an attempt to influence actual *policy* of the US government;”²⁷ and
- (5) that the goals, and services provided by [Company A] in furtherance of the goals, “do not include and are not intended to be, an attempt to influence the U.S. public with regard to the foreign or domestic policies of the U.S. or with regard to any public interest of any foreign nation or political party . . . [and] are in direct furtherance of the religious goals” of the [foreign-based religious organization].²⁸

However, as discussed above, we have determined that many of the activities described in the December 1 and January 30 Letters and the SOW are “political activities” under the Act that extend beyond religious pursuits. In addition, the SOW further reveals that among the overarching goals

²¹ *Id.* (emphasis added).

²² *See* 28 C.F.R. § 5.304(d).

²³ *See* 28 C.F.R. § 5.300.

²⁴ December 1 Letter at page 3.

²⁵ *Id.*

²⁶ *Id.*

²⁷ January 30 Letter at page 4.

²⁸ *Id.* at page 3.

of [Company A]’s undertaking is to “[p]osition the [Leader] in the U.S. as an independent, transformative religious leader who can help foster interfaith cooperation among U.S. religious and social institutions and be an outspoken advocate for [religious tolerance],” as well as “[a]ffirm[ing] and grow[ing] the [Leader]’s position as a leader of the [religious community] in the US and strengthen the [foreign-based religious organization] brand with US based media and other stakeholders.” Thus, [Company A]’s activities are for the public relations purpose of enhancing the [Leader]’s image in the United States, rather than merely in furtherance of religious pursuits. Accordingly, because [Company A]’s activities extend beyond religious pursuits to include “political activities” and public relations, [Company A] is not eligible for the exemption pursuant to Section 613(e) and registration is required.

Because [Company A] has already begun performing its activities²⁹ on behalf of the [Leader] and the [foreign-based religious organization], it must complete its registration within 10 days of the date of this opinion. Useful information and forms may be obtained on the FARA Unit’s website, located at <https://www.justice.gov/nsd-fara>. If you have any questions regarding this matter, please contact the FARA Unit by e-mail at FARA.Public@usdoj.gov or by telephone at (202) 233-0776.

Sincerely,

/s/ Evan N. Turgeon

Evan N. Turgeon

Chief, FARA Unit

²⁹ *Id.* at page 1.