

December 19, 2017

The Hon. Robert Goodlatte, Chairman
The Hon. Jerrold Nadler, Ranking Member
Judiciary Committee
House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515

RE: Support the “Disclosing Foreign Influence Act” (H.R. 4170)

Dear Members of the House Judiciary Committee:

We are writing to encourage all members of the House Judiciary Committee, in bipartisan spirit, to support and co-sponsor the “Disclosing Foreign Influence Act” (H.R. 4170), sponsored by Rep. Michael Johnson (R-LA). This legislation would provide desperately-needed improvement to the Foreign Agents Registration Act (FARA) to strengthen monitoring for compliance and enforcement of the Act.

Our organizations and academics include: Campaign Legal Center, Citizens for Responsibility and Ethics in Washington (CREW), Common Cause, Issue One, Prof. James A. Thurber, Norman J. Ornstein, Project on Government Oversight (POGO), Public Citizen, and the Sunlight Foundation.

A series of recent scandals in which persons lobbying on behalf of foreign governments failed to register and disclose the foreign interests they represented mirrors many of the shortcomings of FARA identified by the Inspector General’s Office of the Department of Justice. In 2016, the Inspector General issued a scathing audit that documented:

- A dramatic reduction in FARA registrants since the mid-1990s, including a 60 percent decline in registered FARA lobbyists and a 73 percent drop in registered foreign principals;
- A general disregard for filing timely and accurate reports among those who have registered;
- An absence of effective tools for the Department of Justice’s FARA Unit to monitor and ensure compliance to the law, specifically the lack of subpoena authority; and
- Few enforcement actions taken by the Department of Justice for violations of FARA, with only seven criminal enforcement actions pursued over the last half century.¹

The Inspector General made 14 recommendations to improve the administration and enforcement of FARA, of which the key recommendations are contained in the “Disclosing Foreign Influence Act.”

¹ Office of the Inspector General, U.S. Department of Justice, “Audit of the National Security Division’s Enforcement of the Foreign Agents Registration Act,” (September 2016), available at: <https://oig.justice.gov/reports/2016/a1624.pdf>

H.R. 4170 proposes to strengthen the ability of the FARA Unit of the Department of Justice to ensure compliance and enforcement of the Act through several improvements to the transparency law. These include:

1. **Eliminating the LDA Loophole.** The Lobbying Disclosure Act of 1995 that established a system of registration and disclosure for domestic lobbyists was also accompanied with a change in the registration requirements for lobbyists of foreign interests: lobbyists representing foreign commercial interests, and even commercial interests of foreign governments and parties, could opt to register under the less stringent disclosure regime of LDA instead of FARA. This resulted in an immediate drop in FARA registrants and has ever since led to confusion and sometimes manipulation of when a representative of a foreign principal should in fact register under FARA. H.R. 4170 would eliminate the LDA exemption for lobbyists of foreign interests.
2. **Granting Civil Investigative Demand Authority to DOJ's FARA Unit.** More than anything else, the absence of any subpoena authority by the FARA Unit has hobbled its ability to conduct timely and thorough investigations. Civil investigative demand (CID) is a tool used by many federal and state agencies to compel individuals and businesses to produce information relevant to an investigation. H.R. 4170 would provide the FARA Unit with CID authority, with appropriate safeguards to prevent abuse of this investigative authority.
3. **Developing a Comprehensive Strategy for Compliance.** The Inspector General's audit noted considerable confusion within the Department of Justice over how best to implement FARA and a lack of coordination between national security agencies to monitor compliance with the disclosure law. H.R. 4170 would direct the Attorney general to develop a comprehensive and unified strategy for administration and enforcement of FARA, including setting standards for timely review of filings and encouraging coordination between national security agencies for improved enforcement of the law.

This legislation would provide the critical tools necessary to the Department of Justice for vastly enhancing the effective administration and enforcement of FARA.

It is important to emphasize that FARA is exclusively a disclosure law. It does not impede or prohibit lobbying activities by foreign principals. The law is only designed to ensure that the public is fairly informed of which foreign interests are attempting to influence American public policy. H.R. 4170 would help make sure that those who are representing foreign interests properly disclose that fact.

There is also a need for additional enhancements of the FARA disclosure database, which are not yet included in this legislation. For example, we would like to see the FARA Unit require electronic filing of all lobbying reports in a digitized format which, in turn, should then make the on-line FARA database fully searchable, sortable and downloadable. These improvements could be added to the legislation as it moves forward.

For these reasons, we urge all Members to support and co-sponsor the “Disclosing Foreign Influence Act” (H.R. 4170).

Respectfully Submitted,

Campaign Legal Center
Citizens for Responsibility and Ethics in Washington (CREW)
Common Cause
Issue One
Prof. James A. Thurber
Norman J. Ornstein
Project on Government Oversight (POGO)
Public Citizen
Sunlight Foundation.