

CLIENT ALERT

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POLITICAL LAW

DOJ UPDATES FARA EFILE SYSTEM – ANOTHER EXAMPLE OF RENEWED FOCUS ON MODERNIZING FARA ENFORCEMENT

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The Foreign Agents Registration Act (FARA) Unit recently [announced](#) an update to its eFile system, “which requires registrants to submit data through a self-guided, web-based questionnaire, rather than uploading PDFs.” This system will standardize the content of filings submitted to the FARA Unit. Historically, registrants registered and submitted periodic reports by filling out and uploading PDFs, which allowed registrants great leeway in terms of completing the forms. Naturally, some registrants provided great detail into their activities for a foreign principal, while others provided vague, high-level responses, or skipped answering certain questions all together. Now, registrants will have to answer each question presented in the electronic platform prior to submitting. Filers are also required to submit a scanned document with a wet signature – electronic signatures are no longer accepted. This update only applies to persons or entities not currently registered with the FARA Unit as an agent of a foreign principal. Until the next phase is complete, all other FARA filings will be submitted using the existing eFile system.

This is yet another example of the FARA Unit’s ramped up enforcement efforts. In 2016, the Department of Justice (DOJ) signaled its renewed focus on enforcing the Foreign Agents Registration Act of 1938 when the Office of the Inspector General issued an [audit report](#) critical of the FARA Unit’s lack of enforcement. Then came the Mueller investigation, which resulted in several high-profile cases, such as the (former White House Counsel and Skadden attorney) Greg Craig and Bijan Kian trials.

The scrutiny of Craig started when federal investigators began investigating Paul Manafort for his work on behalf of a pro-Russian political party in Ukraine. The government argued that Craig intentionally misled DOJ officials in terms of his work performed for the Ukrainian government. After a three-week trial, the jury ultimately acquitted Craig because it was dissatisfied with evidence presented against him supporting the theory that there were direct agreements between foreign agents and their principals.

In late September, a federal judge threw out the conviction of Bijan Kian, a former business partner of former national security adviser Michael Flynn. The judge concluded that even though prosecution had secured a guilty verdict, it had not presented sufficient evidence to sustain charges that Kian lobbied for Turkey.

In light of the lessons learned from recent litigation, and the spring 2019 appointment of Brandon Van Grack as the Chief of the FARA Unit, there

is no doubt we will continue to see changes in the way the government utilizes its FARA enforcement tools in the future. Individuals and organizations representing foreign principals, or contemplating such representation, should ensure they are aware of all recent FARA developments in order to confirm compliance.

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