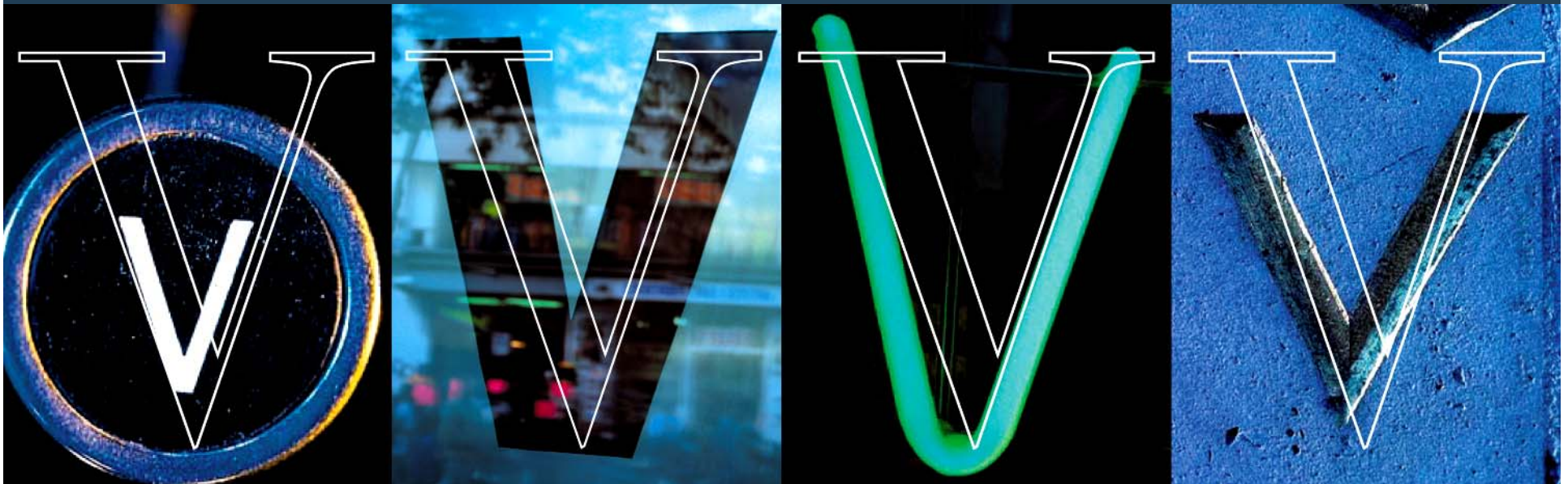


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American League of Lobbyists
Foreign Agents Registration Act and Lobbying

May 11, 2009



Foreign Agents Registration Act (“FARA”)

Agenda for FARA Discussion

- Background
- Coverage
- Registration Requirements
 - LDA v. FARA
- Reporting Requirements
- Federal Agency Oversight



Background of FARA

- Enacted in 1938
- Congress' response to German propaganda agents in U.S.
- Respects Free Speech Rights
- Requires Disclosure of Foreign Principals
- Criminal Statute
- FARA Unit is part of the Counterespionage Section, National Security Division, Department of Justice



FARA Coverage

- Broad Scope
 - Tension between broad language of statute &
 - Requirement that criminal laws be read narrowly
- In general: “Agent of a foreign principal”
 - “Agent”: “any person who acts . . . at the order, request, or under the direction or control of a foreign principal . . .”
 - “Foreign Principal”: Foreign government or political party, a person outside the U.S., or an entity organized outside the U.S.
 - Does not include new or press service, etc.



FARA Coverage: Exemptions

- While engaged in activities recognized by the State Department as being within “official duties”:
 - Diplomats recognized by State Department
 - Foreign Government officials
 - Embassy staff other than p-r, publicity, etc.
- Bona fide trade or commerce activities
- “Other activities not serving predominantly a foreign interest
- Humanitarian aid solicitation
- Religious, scholastic, academic, scientific
- Presidential exception
- Lawyering, so long as in judicial or agency proceedings



FARA: The LDA Exemption

- Registration under LDA exempts an individual or entity from registering under FARA if
 - An individual, resident outside the U.S. and not subject to U.S. jurisdiction, or
 - An entity, organized and having its principle place of business outside the U.S.
- This means that if you are an agent of a foreign government or political party, you must register under FARA, even if you register under LDA.
- Burden of establishing exemption is on person claiming it.



Registration Requirements

- Registration required before any “act” as foreign agent
- Lobbying (or law) firm registers, gets registration number (Form NSD 1)
 - 60-day reach back for money received/paid
- List Foreign Principals
 - Registration Statement (NSD 1)
 - Exhibit A, 1 per foreign principal (NSD 3)
 - Exhibit B, Copy of agreement with foreign principal (NSD 4)
- List Lobbyists on Short Form Registration (NSD 6)



Ancillary Reporting Requirements

- 10-day change notice filed on Amendment to Registration Statement (NSD 5)
- Six month reporting requirement on Supplemental Statement (NSD 2)
 - Changes (new or dropped foreign principals)
 - Activities (“services v. political activities listed separately) conducted (list meetings, phone calls, etc.)
 - Money received & disbursed
 - Short form, Ex. A (foreign principals) & B (representation agreements) changes
- Propaganda (2 person rule) requirements
 - File with FARA Unit, 2 copies, within 48 hours
 - Legend of registration (including websites)



FARA Oversight

- Still a paper-based agency
- Recently began putting filings on line, so use these as forms.
- Audits also used as compliance outreach forums
- Ignore FARA obligations at your peril.



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