DOJ Signals Coming FARA Rule May Expand Commercial Exemption

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August 14, 2026

Companies with foreign parents may soon have more clarity—and potentially more flexibility—under the Foreign Agents Registration Act (FARA).

The Department of Justice (DOJ) has signaled that it is moving forward with a final rule addressing key FARA exemptions, including provisions that are particularly important to U.S. subsidiaries of multinational companies and other businesses with cross-border relationships.

In its newly released 2026 Regulatory Plan, DOJ's National Security Division (NSD) says it has "carefully considered" comments on a January 2025 proposed rule and is "now considering a final rule that adopts many—but not all—of the NPRM's proposals."

Perhaps most importantly, DOJ says the anticipated changes will "expand the availability of exemptions commonly relied upon by corporations and law firms."

For businesses that have been watching the proposed changes to FARA's commercial exemption, that is a notable reversal from the NPRM's original direction.

What's New?

The January 2025 proposal would have substantially revised the exemption in Section 613(d)(2) of FARA, commonly known as the "commercial exemption" or "domestic interest exemption."

The exemption is particularly important for U.S. companies acting on behalf of foreign parent companies or other foreign private entities. Depending on the facts, it can allow a U.S. company to engage in certain political or advocacy activities without registering under FARA.

DOJ's 2025 proposal would have tightened that framework, including through new categorical exclusions and a broader "totality of the circumstances" test for determining whether activities predominantly serve domestic or foreign interests.

While the new rule may soften or abandon some of the exemption-narrowing proposals that drew significant pushback during the comment period, DOJ's announcement also suggests that some less controversial modernization provisions may survive. NSD specifically points to clarifying requirements for labeling digital media as one of the changes anticipated in a final rule.

After the change in administrations, the rulemaking appeared to stall. DOJ moved it to its list of "Long-Term Actions," and there was little public indication that a final rule was forthcoming.

The 2026 Regulatory Plan provides the clearest indication to date that the rulemaking is moving again.

Why it Matters

DOJ has not said exactly which exemptions it plans to expand or which portions of the 2025 proposal it plans to abandon.

But its new statement is notable for two reasons.

First, DOJ expressly says that a final rule is under consideration and that it would adopt only some of the prior proposal.

Second, DOJ is signaling a more deregulatory direction, specifically highlighting expanded exemptions used by corporations.

That could be especially important for U.S. subsidiaries of foreign companies, multinational corporate groups, trade associations, nonprofits, and other organizations whose activities involve foreign private entities, but are not directed by foreign governments.

The precise contours will depend on the final rule. For now, the existing FARA regulations remain in effect, and DOJ has not announced when a final rule will be published.

The Bottom Line

After more than a year of uncertainty, DOJ has now given businesses a meaningful signal: the FARA rulemaking is moving forward, but the final approach to key exemptions may be more permissive than what DOJ proposed in January 2025.

For companies with foreign parents or other significant cross-border relationships, the final rule could materially affect when ordinary corporate, government affairs, and advocacy activity triggers FARA registration obligations.

DOJ has not provided a timetable for final action. The Regulatory Plan says only that NSD is "now considering a final rule," without identifying a target date for publication or finalization.

Venable's Political Law Practice is closely monitoring the rulemaking and will provide updates as additional details emerge. Please contact us with questions about how FARA applies to your organization or how the anticipated changes could affect your activities.

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