



A Special Briefing for U.S. Subsidiary Corporations

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Topics

- Campaign finance law
 - Legal restrictions
 - Legislative developments
- Lobbying law
 - Requirements under the Lobbying Disclosure Act (LDA)
 - Requirements under the Foreign Agents Registration Act (FARA)
 - Legislative developments



Campaign Finance Law

Campaign Finance Law: Legal Restrictions

- Foreign nationals are prohibited from:
 - Making contributions and expenditures in connection with federal, state, and local elections; and
 - Participating in decisions involving election-related activities of a company or PAC, including decisions concerning the administration of a PAC.

Campaign Finance Law: Legal Restrictions

- A “foreign national” is:
 - An individual who is neither
 - a U.S. citizen; nor
 - residing in the U.S. as a lawful permanent resident (i.e., a “green card” holder).
 - An entity that is
 - Organized under the laws of a foreign country; or
 - Has a principal place of business in a foreign country.
- This does not include U.S. subsidiaries that are organized under the laws of a U.S. jurisdiction and have their principal place of business in the U.S.

Campaign Finance Law: Legal Restrictions

- A U.S. subsidiary may make non-federal political contributions – where permitted by state and local law – and administer a PAC provided that the U.S. subsidiary:
 - Has sufficient U.S. revenues to cover the costs; and
 - No individual who is a foreign national participates in the decision-making.

Campaign Finance Law: Legislative Developments

- S. 1585 – Democracy Is Strengthened by Casting Light on Spending in Elections Act of 2017 “DISCLOSE Act.”
 - Sponsored by Sen. Whitehouse (D-RI).
 - 45 co-sponsors, no Rs.
- H.R. 1615 – Get Foreign Money Out of U.S. Elections Act.
 - Sponsored by Rep. Raskin (D-MD).
 - 41 co-sponsors, no Rs.

Campaign Finance Law: Legislative Developments

- Would classify as a foreign national –subject to the foreign national prohibitions – a company that, among other things:
 - Is 20% foreign owned; or
 - Where a foreign national “has the power to direct, dictate, or control the decisionmaking process of the corporation with respect to its interests in the United States.”



Lobbying Law

Lobbying Law: Requirements under the LDA

- A company registered under the LDA must disclose:
 - The name, address, principal place of business, amount of any contribution of more than \$5,000 to the lobbying activities of the registrant, and approximate percentage of equitable ownership in the registrant of any foreign entity that, among other things—
 - holds at least 20 percent equitable ownership; or
 - directly or indirectly, in whole or in major part, plans, supervises, controls, directs, finances, or subsidizes the registrant’s activities.
 - The interest, if any, of the foreign entity in specific lobbying issues.

Lobbying Law: Requirements under the FARA

- A company must register and report under the FARA if it:
 - Engages in public relations, political, lobbying, or other related activities as
 - An “agent” of a foreign principal by, for example, taking direction or funding from a foreign principal.
- A company is not required to register under the FARA if:
 - It engages in “private and nonpolitical activities in furtherance of the bona fide trade or commerce of such foreign principal”; or
 - The foreign principal is not a foreign government or political party, and the company is registered under the LDA.

Lobbying Law: Legislative Developments

- S. 2039 – Disclosing Foreign Influence Act.
 - Sponsored by Sen. Grassley (R-IA).
 - No co-sponsors.
- H.R. 4170 – Disclosing Foreign Influence Act.
 - Sponsored by Rep. Johnson (R-LA).
 - 7 co-sponsors, 5 R, 2 D.

Lobbying Law: Legislative Developments

- Would remove the exception for FARA registration when a company is registered under the LDA.



Questions?