



## U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

July 7, 2023

### **Via Email**

[Requestor]

[Address]

[email address]

Re: Request for Advisory Opinion Pursuant to 28 C.F.R. § 5.2

Dear [Requestor]:

We write in response to your email message of May 3, 2023 (“May 3 Email”), in which you request an advisory opinion, pursuant to 28 C.F.R. § 5.2, concerning your possible obligation to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”) for activities you would engage in pursuant to an agreement with the [Foreign Organization]. After careful consideration of your request, and in light of your representations in the May 3 email, your representations in a supplemental email dated May 17, 2023 (“May 17 Email”), and the sample materials you provided on June 28, 2023, we do not oppose your assertion that your activities qualify for the exemption set forth in Section 613(e) and thus do not require registration under the Act.

### **Background**

According to the May 3 Email and the May 17 Email, you propose to engage in activities supporting two events hosted by the [Foreign Organization]. You describe the [Foreign Organization] as a [foreign city]-based, non-profit religious organization that acts as a voice for interfaith relations with [other religions] and operates in more than 100 countries to provide resources and support to [religious followers]. You represent that the [Foreign Organization] does so by communicating publicly through its own platforms as well as faith-based and general media. You further represent that the “[Foreign Organization] does not advocate policy positions or endorse candidates,” but rather “primarily provide[s] interfaith guidance and explain[s] the tenants of their holy book.”

The first event in which you plan to participate is scheduled for [date] and is hosted by the [Foreign Organization] at [specific location in United States]. You state that the event will focus on an academic theme you describe as [redacted],” and note that you expect [name redacted] to participate. You inform us that the primary target audience is [foreign] dignitaries as well as religious figures from [other religions’ houses of worship], and that the event “explores the role of faith in bridging social divides.” The [Foreign Organization] is also seeking the participation of academics from U.S. institutions, including think tanks, and has invited [name redacted] to provide introductory remarks. The event will be publicized on the [international organization’s] communications network, and you state that journalists will likely attend and may report on the

event. You inform us that your activities will consist of providing logistical support for the event, including managing invitations and RSVPs. In addition, you note that you may help distribute event materials to [international organization's] officials and U.S.-based invitees. At our request, you provided an example of such materials: a media advisory about the [date] event, described as a gathering of diplomats, academics, and religious figures at the [specific U.S. location] "to address growing east-west tensions and how to give peacemakers a new, faith-based tool in the diplomatic kit bag." Although this material appears political in nature, it does not appear to relate to U.S. domestic or foreign policy or to the interests of a foreign government or foreign political party.

Your supplemental May 17 Email informs us of a second event scheduled for [date] in [another U.S. location]: a "private off the record dinner for academics to hear about the [Foreign Organization]'s [specific policy paper]." The academics for this event are to be drawn from religious studies and other university departments. You specifically note that no media will be present, and the event will not be promoted publicly. You represent that your work in furtherance of this event will involve issuing invitations and managing RSVPs, menus, and event logistics.

You request an advisory opinion on whether the proposed activities would require you to register under FARA.

#### FARA Analysis

One of FARA's purposes is to inform the American public of certain activities performed in the United States by agents of foreign principals. FARA defines the term "foreign principal" to include "a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country." 22 U.S.C. § 611(b)(3). Because the [Foreign Organization] is an organization headquartered in [foreign country], it is a foreign principal under the Act.

A person representing a foreign principal is an "agent of a foreign principal" who must register under FARA if the person (1) acts "at the order, request, or under the direction or control of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part" by one, and (2) engages in certain specified activities within the United States. Among other things, those specified activities include acting "as a publicity agent, for or in the interests of such foreign principal." 22 U.S.C. § 611(c)(1)(ii).<sup>1</sup> The Act defines a "publicity agent" as a "person who engages directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or otherwise." 22 U.S.C. §611(h). Similarly, FARA defines an "information-service employee" as "any person who is engaged in furnishing, disseminating,

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<sup>1</sup> As another example, FARA requires registration by agents of foreign principals who engage in "political activities," which the Act defines as "any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party." 22 U.S.C. § 611(o).

or publishing accounts, descriptions, information, or data with respect to the political, industrial, employment, economic, . . . or other benefits, advantages, facts, or conditions of any country other than the United States or of any government of a foreign country . . . or of a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in a foreign country.” 22 U.S.C. § 611(i). Your distribution of event materials on behalf of the [Foreign Organization] would constitute acting as a publicity agent or information-service employee on behalf of the [Foreign Organization]. Accordingly, you would be obligated to register under FARA, absent an exemption.

In your May 3 Email, you inquired whether you qualify for the “religious exemption” set out at 22 U.S.C. § 613(e). This exemption applies to “[a]ny person engaging or agreeing to engage only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts.” *Id.* (emphasis added). Importantly, the exemption does not apply if the person engages in “political activities . . . for or in the interests of [the] foreign principal.” 28 C.F.R. § 5.304(d). FARA specifies that the burden of establishing an exemption “shall rest upon the person for whose benefit the exemption is claimed.” 28 C.F.R. § 5.300.

Relevant to your eligibility for the exemption set forth in Section 613(e), you make the following representations: (1) the [Foreign Organization] is a religious organization that “does not advocate policy positions or endorse candidates,” but instead “primarily provide[s] interfaith guidance and explain[s] the tenants of their holy book;” (2) the [Foreign Organization] does not engage in political advocacy or outreach; and, (3) your activities will consist of providing logistical support for the events, primarily managing invitations and RSVPs and distributing event materials to attendees. Based upon these representations concerning the foreign principal and your activities on its behalf, we do not oppose your assertion that you qualify for the exemption for religious pursuits as set forth in Section 613(e). Please note that this exemption is only available to persons who do not engage in “political activities”<sup>2</sup> on behalf of the foreign principal. *See* 28 C.F.R. § 5.304(d).

Please further note that any change in the facts and circumstances you relayed to us may change your status and you could be required to register. If any such change does occur, such as your activities change to include political activities, you would no longer qualify for the exemption under Section 613(e) and would have an obligation to register. In that event, you should contact us immediately. The present advisory opinion is expressly limited to the facts and conclusions stated herein.

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<sup>2</sup> *See id.*

[Requestor]  
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We will treat your submission in accordance with 28 C.F.R. § 5.2(m). Please contact this office by e-mail to [FARA.Public@usdoj.gov](mailto:FARA.Public@usdoj.gov) or by telephone at (202) 233-0776, if you have any questions.

Sincerely,

*/s/ Jennifer K. Gellie*

Jennifer Kennedy Gellie  
Chief, FARA Unit