

ALERT

# Criminal Indictment Handed Down for Potential FARA Violations Related to 1MDB Scandal

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June 16, 2021

On June 10, 2021, a federal grand jury in the District of Columbia issued an indictment of American entertainer and businessman Prakazrel “Pras” Michel and Malaysian businessman Low Taek Jho on 12 counts, including four for violations of the Foreign Agents Registration Act (FARA). The other counts include conspiracy, concealment of material facts, and witness tampering.

FARA is a disclosure statute designed to promote transparency in the U.S. political, media, and public relations arenas, among others, with respect to foreign influence. Generally, FARA requires every “agent of a foreign principal” engaging in certain political or quasi-political activities in the United States to register as such with the Department of Justice (DOJ) and to periodically – and publicly – disclose certain details of that agency relationship with the foreign principal.

The indictment alleges that from May 2017 to January 2018, the defendants, Michel and Low, facilitated meetings between the Malaysian Prime Minister and Former President Trump with the intent of persuading the U.S. Administration to “drop forfeiture proceedings and related investigations into Low for the embezzlement of billions of dollars from 1Malaysia Development Berhad,” a Malaysian-government-run strategic development company, into his personal bank accounts. Despite their activity rising to the level of covered activity for a foreign principal under the statute, neither Michel nor Low were registered under FARA for this representation.

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The indictment also alleges that the defendants conspired with a Chinese minister to lobby for a Chinese national's removal from the United States and extradition to China in violation of FARA. Specifically, it alleges that Michel and Low acted as unregistered agents for China, and failed to report under FARA their execution of a "back-channel lobbying campaign to convince the Administration" to return a Chinese national to China. Both defendants face a potential penalty of significant jail time if convicted of the FARA violations.

This recent indictment serves as a cautionary tale that knowing and willful violations of FARA can result in substantial criminal and civil penalties. The indictment also underscores the fact that FARA enforcement remains a top priority for DOJ, and that the trend of increasing civil and criminal prosecutions for FARA violations is likely to continue under the Biden Administration.

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