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CONGRESSWOMAN SHEILA JACKSON LEE OF TEXAS
JUDICIARY COMMITTEE MARKUP
STATEMENT OPPOSING
H.R. 4170, THE “DISCLOSING FOREIGN INFLUENCE
ACT”

WEDNESDAY, JANUARY 17, 2018

10:00AM

2141 RAYBURN



- Mr. Chairman I move to strike the last word.
- Though there may have been good intentions behind this bill, I oppose H.R. 4170, the “Disclosing Foreign Influence Act.”
- The House Judiciary Committee has held no legislative hearing on H.R. 4170 or oversight hearing on the Foreign Agents Registration Act (FARA).
- The last time the Committee or one of its Subcommittees held a hearing on FARA appears to have been in 1991.

- This is a complex issue that is impossible to be completely understood in a vacuum.
- The appropriate way to legislate on this issue is to first hear from experts, as we often do in this committee.
- H.R. 4170, the “Disclosing Foreign Influence Act,” amends the Foreign Agents Registration Act of 1938 (FARA) to strengthen the Department of Justice’s (DOJ’s) ability to enforce that Act.
- FARA requires an “agent of a foreign principal” to register with DOJ, disclose copies of informational materials that such agent distributes on behalf of a foreign principal, and maintain records of their activities.
- The bill enhances DOJ’s enforcement authority principally by:
 - (1) eliminating an exemption that excuses an agent of a foreign principal from registering with the DOJ under FARA if he or she is registered under the Lobbying Disclosure Act;
 - (2) authorizing the DOJ to issue civil investigative demands to compel persons or entities suspected of violating FARA to produce documentary materials relevant to the investigation, and interrogatory answers or oral testimony regarding those materials, prior to the commencement of civil or criminal proceedings; and
 - (3) requiring DOJ to develop a comprehensive enforcement strategy.
- There may be merit to strengthening the DOJ’s ability to enforce FARA, particularly in light of revelations that former Trump campaign manager Paul Manafort and former National Security Adviser Michael Flynn failed to register as foreign agents, yet the bill raises a number of issues that have not been vetted through a hearing and that should give Members some pause before supporting H.R. 4170.
- Hiding from the elephant in the room is not the proper way to legislate on this issue.
- Although several prominent “good government” groups support the bill, the American Civil Liberties Union (ACLU) and the Center for Democracy and Technology (CDT) have expressed concern to

Democratic Committee staff that H.R. 4170's civil investigative demand authority provision would permit DOJ to obtain access to information held by third parties without a warrant, essentially doing an end-run around the Fourth Amendment.

- The National Association of Criminal Defense Lawyers (NACDL) likewise shares the Fourth Amendment concern about that provision and also observes that the bill could undermine the right to counsel and the right against self-incrimination in criminal matters.
- Finally, a separate set of concerns was raised by a coalition of non-profit groups including the American Bar Association and the International Center for Not-for-Profit-Law.
- While these groups are not necessarily opposed to enhancing FARA enforcement efforts, they contend that FARA's vague and broad definitions of what constitutes a "foreign principal" and a principal-agent relationship could sweep in many non-profit groups whose work with foreign entities may, therefore, be chilled.
- Their concern is that enhancing the enforcement of FARA without first fixing what they contend are definitional problems with the Act would only exacerbate such concern.
- Their view is that non-profit groups that should not have to register under FARA may nonetheless be swept up in costly inquiries enabled by the enhanced investigative tools provided in H.R. 4170.

FARA and the Special Counsel Investigation into Russian Interference in the 2016 Presidential Election

- Recent interest in FARA has been sparked by events surrounding the 2016 Presidential election and subsequent victory by President Donald Trump.
- Evidence of Russian interference in the election, the lobbying activities of key campaign officials, and the appointment of these individuals to high-ranking cabinet positions has fueled renewed scrutiny of the statute.

- For example, former National Security Advisor Michael Flynn retroactively filed a FARA registration with DOJ that revealed he was paid more than \$530,000 to serve as a lobbyist for the Turkish government while serving as a Trump campaign advisor.
- Through his firm, the Flynn Intel Group, Flynn was hired by the Dutch company Inovo BV, which is owned by prominent Turkish businessman Ekim Apktekin, who has strong ties to the Turkish government.
- Flynn's lawyer also explained that one of his main tasks for Turkey was to extradite Cleric Fethullah Gulen, a political nemesis of Turkish President Recep Tayyip Erdogan, from his home in Pennsylvania—either through legal or illegal means.
- This included a proposed \$15 million plot to kidnap the dissident and fly him to an island prison in Imrali, Turkey in July 2016.
- Days before the 2016 election, Flynn wrote a controversial op-ed that was highly complimentary of President Erdogan and called on the future U.S. president to extradite Mr. Gulen.
- The DOJ denied the Turkish government's request in 2016 for the cleric's extradition, but a request for a new review was made shortly after President Trump's inauguration.
- Another example is former Trump campaign manager Paul Manafort, who registered retroactively as a foreign agent under FARA on June 27, 2017, months after it was revealed he had provided services to Ukraine's pro-Kremlin Party of Regions and to former Ukrainian President Viktor Yanukovich from 2006 to 2015.
- As part of Special Counsel Mueller's investigation into Manafort and his colleague Richard Gates, Manafort was charged with conspiracy to launder money; for failing to register as an agent of a foreign principal; for making false and misleading FARA statements and other false statements; and seven counts of failure to file reports of foreign bank and financial accounts.
- The multi-million dollar campaign on behalf of the Ukrainian government involved lobbying members of Congress as well as

laundering payment for these services through various corporations, goods, services, and offshore accounts.

- Prior to his lobbying activities being disclosed to the public, Manafort and Gates allegedly failed to register their activities with DOJ and filed false information to hide their money laundering activities.
- Finally, the revelation of Russian interference into our elections through social media manipulation has led to greater scrutiny of foreign news operations lobbying efforts.
- RT America was explicitly mentioned in the January 2017 Intelligence Community report on Russian interference in the 2016 presidential election for its strategic messaging efforts on behalf of the Russian government “to influence politics, [and] fuel discontent in the U.S.”
- The report concluded, “The rapid expansion of RT’s operations and budget and recent candid statements by RT’s leadership point to the channel’s importance to the Kremlin as a messaging tool and indicate a Kremlin directed campaign to undermine faith in the U.S. government and fuel political protest.”
- DOJ requested RT and Sputnik, a Russian government owned radio service, register under FARA despite the strong protests of the Russian foreign ministry, which has threatened retaliation against U.S.-backed media outlets through increased restrictions and the passage of a reciprocal law.
- RT has been universally panned as a propaganda arm of the Russian government.

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CONGRESSWOMAN SHEILA JACKSON LEE OF TEXAS
JUDICIARY COMMITTEE MARKUP
STATEMENT
SJL AMENDMENT TO
H.R. 4170, THE “DISCLOSING FOREIGN INFLUENCE
ACT”
(CHANGES THE SHORT TITLE OF THE BILL TO “NO MORE PAUL MANAFORT
OR MICHAEL FLYNN’S ACT”)



- Mr. Chairman I have an amendment at the desk.
- The Jackson Lee amendment is to remind us what could happen when there are loopholes and lack of enforcement mechanisms to important legislative devices such as the Foreign Agents Registration Act (FARA) and the Lobbying Disclosure Act (LDA).
- The House Judiciary Committee has held no legislative hearing on H.R. 4170 or oversight hearing on the Foreign Agents Registration Act (FARA).

- The last time the Committee or one of its Subcommittees held a hearing on FARA appears to have been in 1991.
- This is a complex issue that is impossible to be completely understood in a vacuum.
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- This included a proposed \$15 million plot to kidnap the dissident and fly him to an island prison in Imrali, Turkey in July 2016.
- Days before the 2016 election, Flynn wrote a controversial op-ed that was highly complimentary of President Erdogan and called on the future U.S. president to extradite Mr. Gulen.
- The DOJ denied the Turkish government's request in 2016 for the cleric's extradition, but a request for a new review was made shortly after President Trump's inauguration.
- These various stories about Flynn suggest a couple of tendencies.
- One was an entirely mercenary approach about his business partners, in which he was agnostic about who paid him and apparently avoided due diligence about them.
- Flynn apparently had few reservations about where he was receiving income, as long as he was receiving it.
- Russia is an interesting case.
- Many Americans view Russia as a dangerous geopolitical rival (although the Obama administration attempted a failed "reset" in Russo-American relations), but while it does not explain or excuse failures to disclose under the law, Flynn had apparently decided that Russia was a prospective friend.
- "We have to figure out how to work with Russia instead of making it an enemy," he told The New Yorker's Nicholas Schmidle.
- But in the case of Turkey, Flynn abruptly switched his view on Erdogan, despite his longheld critique of Islamist politicians, when he started getting a paycheck.
- The second tendency is that Flynn has mixed his work in government and his private-sector work, either intentionally or because of sloppiness.

- Perhaps Flynn, as a lifelong military officer, came to believe that as a loyal U.S. soldier, his own interests were inseparable from the national interest.
- But his lobbying on behalf of Turkey and other foreign powers created perhaps irreparable conflicts of interest between his clients' wishes and U.S. government policy, especially given his access to the country's most closely guarded secrets.
- Needless to say, Michael Flynn's appointment as Senior Foreign Policy Advisor to the President of the United States was a mistake, and to prevent other mistakes of this category, there needs to be further examination of FARA reform for this committee to generate comprehensive and informed legislation.
- Another example is former Trump campaign manager Paul Manafort, who registered retroactively as a foreign agent under FARA on June 27, 2017, months after it was revealed he had provided services to Ukraine's pro-Kremlin Party of Regions and to former Ukrainian President Viktor Yanukovich from 2006 to 2015.
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- RT has been universally panned as a propaganda arm of the Russian government.
- In summary, the Jackson Lee amendment is a reminder that our democracy must be carefully protected against foreign intrusion in.
- Thank you.