

FAQs about Letters of Inquiry from the Department of Justice FARA Unit

January 24, 2019

The Department of Justice's FARA Registration Unit regularly issues what are called "Letters of Inquiry" when it believes an individual, company, non-profit, consultancy, or other party may need to register under the Foreign Agents Registration Act ("FARA"). Below are frequently asked questions about FARA Letters of Inquiry.

1. What gives rise to a Letter of Inquiry?

A Letter of Inquiry can be the result of a media article, a complaint or "tip" to the FARA Unit, a referral to the FARA Unit from another governmental body, or a review by the FARA Unit of public records and other information, such as filings made pursuant to the federal Lobbying Disclosure Act. If you have received a Letter of Inquiry, then, someone has likely expressed an opinion to or within the FARA Unit that you should be registered under FARA.

2. What information is contained in a Letter of Inquiry?

A Letter of Inquiry typically contains a brief recitation of the law, an outline of the facts that potentially give rise to a FARA registration obligation, a request for specific information, such as records related to the activities of the recipient and its registration status, and an instruction to preserve all potentially relevant documents. A Letter of Inquiry is typically 2 to 5 pages in length.

3. How many Letters of Inquiry does the FARA Unit send each year?

From 2006 to 2016, the FARA Unit sent an [average](#) of 13 Letters of Inquiry each calendar year. More recent experience suggests that Letters of Inquiry are sent even more frequently now.

4. How long does a Letter of Inquiry recipient have to respond? Are extensions granted?

A Letter of Inquiry usually allows a party 30 calendar days to respond with the requested information and documents. The FARA Unit maintains no formal policy regarding extensions of that 30-day deadline, but has previously granted extensions on an informal and as-needed basis.

5. Is the recipient of a Letter of Inquiry required to respond?

In the normal course, a response to a Letter of Inquiry is not technically required and some parties have chosen in the past not to respond. However, general consensus is now that the FARA Unit is in a more aggressive enforcement posture, and could refer a non-responding party for a criminal investigation or subject a non-responding party to a compliance audit.

6. What happens after a response to a Letter of Inquiry is submitted?

After a Letter of Inquiry is submitted, the FARA Unit decides whether a retroactive registration is necessary

for the representation. This is not a certainty, as official [statistics](#) show that most Letters of Inquiry do not result in a subsequent registration. If the FARA Unit makes such a determination, it typically does so in a formal letter explaining its rationale and demanding a registration filing.

Referral for criminal investigation and enforcement is also a possibility if a failure to register or another violation was committed in a manner that is “willful.”

7. What should you do if you receive a Letter of Inquiry?

You should immediately contact experienced counsel, and work with them to ensure that you preserve all documents and information within your possession, custody, or control that are responsive to the Letter of Inquiry’s request.

Experienced legal counsel can also assist you in assessing any potential registration obligations or the precise reasons why registration is not required in your particular instance. FARA is a complex statute with various exceptions, and the FARA Unit may not be aware of relevant facts demonstrating that a registration exception applies to your particular situation.

Because a Letter of Inquiry can be the initial stage of an investigative process that could result in reputational damage, loss of business, and even criminal penalties, it is important to take the Letter of Inquiry seriously and to be advised by experienced legal counsel before responding to the FARA Unit.

For more information, please contact a member of [Caplin & Drysdale’s Political Law](#) team or visit our blogsite www.FARA.us.

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