

116TH CONGRESS
2D SESSION

H. R. 8464

To amend the Foreign Agents Registration Act of 1938 to clarify the application to informational materials posted on online platforms by agents of foreign principals of the disclaimer requirements applicable under such Act to informational materials transmitted by agents of foreign principals through the United States mails, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 2020

Ms. SPANBERGER (for herself and Mr. KATKO) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To amend the Foreign Agents Registration Act of 1938 to clarify the application to informational materials posted on online platforms by agents of foreign principals of the disclaimer requirements applicable under such Act to informational materials transmitted by agents of foreign principals through the United States mails, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Foreign Agent Dis-
3 claimer Enhancement Act of 2020” or the “FADE Act
4 of 2020”.

5 **SEC. 2. DISCLAIMER REQUIREMENTS FOR MATERIALS**
6 **POSTED ON ONLINE PLATFORMS BY AGENTS**
7 **OF FOREIGN PRINCIPALS ON BEHALF OF CLI-**
8 **ENTS.**

9 (a) METHOD AND FORM OF DISCLAIMER; PRESERVA-
10 TION OF DISCLAIMERS BY CERTAIN SOCIAL MEDIA PLAT-
11 FORMS.—

12 (1) REQUIREMENTS DESCRIBED.—Section 4(b)
13 of the Foreign Agents Registration Act of 1938, as
14 amended (22 U.S.C. 614(b)) is amended—

15 (A) by striking “(b) It shall be unlawful”
16 and inserting “(b)(1) It shall be unlawful”; and
17 (B) by adding at the end the following new
18 paragraph:

19 “(2) In the case of informational materials for or in
20 the interests of a foreign principal which are transmitted
21 or caused to be transmitted by an agent of a foreign prin-
22 cipal by posting on an online platform, the agent shall en-
23 sure that the conspicuous statement required to be placed
24 in such materials under this subsection is placed directly
25 with the material posted on the platform and is not acces-

1 sible only through a hyperlink or other reference to an-
2 other source.

3 “(3) If the Attorney General determines that the ap-
4 plication of paragraph (2) to materials posted on an online
5 platform is not feasible because the length of the con-
6 spicuous statement required to be placed in materials
7 under this subsection makes the inclusion of the entire
8 statement incompatible with the posting of the materials
9 on that platform, an agent may meet the requirements of
10 paragraph (2) by ensuring that an abbreviated version of
11 the statement, stating that the materials are distributed
12 by a foreign agent on behalf of a clearly identified foreign
13 principal, is placed directly with the material posted on
14 the platform.

15 “(4) An online platform on which informational mate-
16 rials described in paragraph (2) are posted shall ensure
17 that the conspicuous statement described in such para-
18 graph (or, if applicable, the abbreviated statement de-
19 scribed in paragraph (3)) is maintained with such mate-
20 rials at all times, including after the material is shared
21 in a social media post on the platform, but only if the
22 platform has 50,000,000 or more unique monthly United
23 States visitors or users for a majority of months during
24 the 12 months preceding the dissemination of the mate-
25 rials.”.

1 (2) EFFECTIVE DATE.—The amendments made
2 by paragraph (1) shall apply with respect to mate-
3 rials disseminated on or after the expiration of the
4 60-day period which begins on the date of the enact-
5 ment of this Act, without regard to whether or not
6 the Attorney General has promulgated regulations to
7 carry out such amendments prior to the expiration
8 of such period.

9 (b) APPLICATION OF REQUIREMENTS TO PERSONS
10 OUTSIDE THE UNITED STATES.—

11 (1) IN GENERAL.—Section 4(b)(1) of such Act
12 (22 U.S.C. 614(b)(1)), as amended by subsection
13 (a), is amended by striking “any person within the
14 United States” and inserting “any person”.

15 (2) EFFECTIVE DATE.—The amendment made
16 by paragraph (1) shall apply with respect to mate-
17 rials disseminated on or after the expiration of the
18 60-day period which begins on the date of the enact-
19 ment of this Act, without regard to whether or not
20 the Attorney General has promulgated regulations to
21 carry out such amendments prior to the expiration
22 of such period.

23 (c) REQUIREMENTS FOR ONLINE PLATFORMS DIS-
24 SEMINATING INFORMATIONAL MATERIALS TRANSMITTED
25 BY AGENTS OF FOREIGN PRINCIPALS.—

1 (1) IN GENERAL.—Section 4 of such Act (22
2 U.S.C. 614) is amended by adding at the end the
3 following new subsection:

4 “(g) If the Attorney General determines that an
5 agent of a foreign principal transmitted or caused to be
6 transmitted informational materials on an online platform
7 for or in the interests of the foreign principal and did not
8 meet the requirements of subsection (b)(2) (relating to the
9 conspicuous statement required to be placed in such mate-
10 rials)—

11 “(1) the Attorney General shall notify the on-
12 line platform; and

13 “(2) the online platform shall remove such ma-
14 terials and use reasonable efforts to inform recipi-
15 ents of such materials that the materials were dis-
16 seminated by a foreign agent on behalf of a foreign
17 principal.”.

18 (2) EFFECTIVE DATE.—The amendment made
19 by paragraph (1) shall apply with respect to mate-
20 rials disseminated on or after the expiration of the
21 60-day period which begins on the date of the enact-
22 ment of this Act.

23 (d) DEFINITION.—Section 1 of such Act (22 U.S.C.
24 611) is amended by inserting after subsection (i) the fol-
25 lowing new subsection:

1 “(j) The term ‘online platform’ means any public-fac-
 2 ing website, web application, or digital application (includ-
 3 ing a social network, ad network, or search engine).”.

4 **SEC. 3. CLARIFICATION OF TREATMENT OF INDIVIDUALS**
 5 **WHO ENGAGE WITH THE UNITED STATES IN**
 6 **POLITICAL ACTIVITIES FOR A FOREIGN PRIN-**
 7 **CIPAL IN ANY PLACE AS AGENTS OF FOREIGN**
 8 **PRINCIPALS.**

9 Section 1(c)(1)(i) of the Foreign Agents Registration
 10 Act of 1938, as amended (22 U.S.C. 611(c)(1)(i)) is
 11 amended by inserting after “United States” the following:
 12 “(whether within or outside of the United States)”.

13 **SEC. 4. ANALYSIS AND REPORT ON CHALLENGES TO EN-**
 14 **FORCEMENT OF FOREIGN AGENTS REG-**
 15 **ISTRATION ACT OF 1938.**

16 (a) ANALYSIS.—The Attorney General shall conduct
 17 an analysis of the legal, policy, and procedural challenges
 18 to the effective enforcement of the Foreign Agents Reg-
 19 istration Act of 1938, as amended (22 U.S.C. 611 et seq.).

20 (b) REPORT.—Not later than 180 days after the date
 21 of the enactment of this Act, the Attorney General shall
 22 submit to Congress a report on the analysis conducted
 23 under subsection (a), and shall include in the report such
 24 recommendations, including recommendations for revi-
 25 sions to the Foreign Agents Registration Act of 1938, as

- 1 the Attorney General considers appropriate to promote the
- 2 effective enforcement of such Act.

