

Political Law Alert

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Proposed Bill Would Expand Political Communications Ban for Foreign Nationals

On June 25, the Preventing Adversaries Internationally from Disbursing Advertising Dollars Act (the bill) was introduced in the U.S. Senate. The bill proposes expansions of existing prohibitions on political activities of foreign nationals in U.S. elections by banning certain communications mentioning legislative issues if made by a foreign government or agent of a foreign government. The measure also proposes expanding the prohibitions on electioneering communications and independent expenditures.

Currently, under the Federal Election Campaign Act of 1971 (FECA), a foreign national may not directly or indirectly (1) make a federal, state or local political contribution; (2) make an independent expenditure (a public communication that expressly advocates for or against a clearly identified candidate or political party); or (3) make a disbursement for an electioneering communication (a broadcast, satellite or cable communication that references a candidate and is distributed within 30 days of a primary or 60 days of a general election and is targeted to the relevant electorate). “Foreign national” is defined as foreign companies, governments and political parties, in addition to foreign individuals.

The bill would expand these prohibitions by first prohibiting a foreign governmental entity or political party from directly or indirectly making a broadcast, cable, satellite or paid online communication that discussed a national legislative issue of public importance in a year in which a regularly scheduled general election for federal office is held, regardless of whether a candidate is mentioned. This ban also would apply to a person who is registered under the Foreign Agents Registration Act on behalf of such foreign government or political party. It is important to note that even private foreign companies owned or controlled by, or otherwise acting in coordination with, a foreign government may be subject to this ban.

The bill also would expand the ban on electioneering communications by any foreign national to include certain paid internet or digital communications. It also would prohibit foreign nationals from making independent expenditures regardless of the presence of express advocacy in the communication.

Lastly, the bill would amend FECA’s existing criminal penalty provisions to provide that, in the case of a knowing and willful violation by a foreign government or its agent, the criminal fines and five-year prison term apply regardless of the size of the contribution, donation or expenditure.

We will continue to monitor further developments.

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