

Brandon Van Grack, Former Mueller Prosecutor and DOJ 'Foreign Agent' Chief, Joins Morrison & Foerster

Van Grack, who led the Foreign Agents Registration Act unit at Main Justice, is joining the firm as co-head of the crisis management practice.

BY C. RYAN BARBER

Brandon Van Grack, a member of former Special Counsel Robert Mueller III's team who more recently led the U.S. Justice Department's crackdown on covert foreign influence campaigns in the U.S., has joined Morrison & Foerster as a partner focused on white-collar defense and national security matters, the law firm said Wednesday.

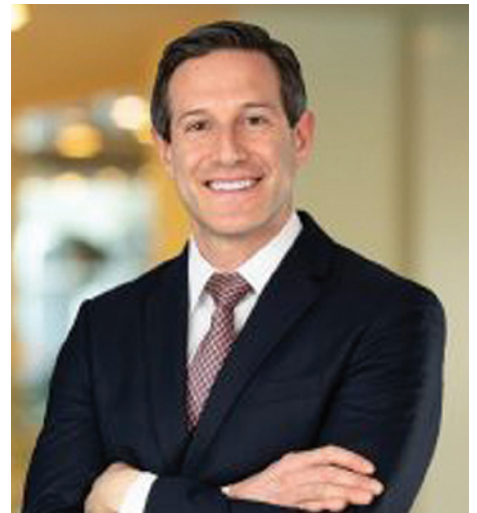
Van Grack's arrival at the firm comes after more than a decade at the U.S. Justice Department, where he played a leading role in the investigation into Russian interference in the 2016 presidential election before heading a unit tasked with enforcing a federal law requiring the disclosure of lobbying and other political activities for foreign powers.

As the chief of that unit, Van Grack presided over a period in which the Justice Department stepped up its enforcement of the Foreign Agents Registration Act, or FARA, a once-obscure law

that **returned** to prominence with cases Mueller brought against allies of President Donald Trump over their work for overseas governments.

His tenure in the special counsel's office was highlighted by the prosecutions of Trump's former campaign chairman, Paul Manafort, who was **convicted** at trial in eastern Virginia federal court on a slate of financial charges before later admitting to separate allegations stemming from his past lobbying work for the Russia-backed government of Ukraine. Van Grack also led the prosecution of Trump's former national security adviser, Michael Flynn, who twice **pleaded guilty** to lying to the FBI about his communications with the Russian ambassador to the U.S.

Flynn later made claims of prosecutorial misconduct as he sought to pull out of his guilty plea. In May, the Justice



Brandon Van Grack

Courtesy photo

Department moved to drop the prosecution following a review commissioned by then-Attorney General William Barr, prompting Van Grack to withdraw and a federal judge to **mount a review** of the unusual abandonment of a case in which a Trump ally twice admitted guilt.

In the waning weeks of Trump's presidency, Manafort and Flynn were among several targets of the Mueller investigation to receive **pardons**.

Van Grack, in an interview, dismissed any notion he left the Justice Department out of frustration, saying he felt in the latter half of last year that it was time for the “next step” in his career. Broadly declining to discuss specific cases, Van Grack said he would let his decision to withdraw from the Flynn case “speak for itself.” He said he was “incredibly proud of the work the special counsel’s office did and my contribution to that office.”

Van Grack said he retained a search firm as he explored opportunities in the private sector and was drawn to Morrison & Foerster as an “industry leader in national security and investigations.”

“On top of that, I worked with folks at Morrison & Foerster over the years, and really respect and admire them,” Van Grack said. Joining the firm, he added, “was actually a very quick process, because it made sense on all those levels.”

Among the former colleagues with ties to Morrison & Foerster is **John Carlin**, a former head of the Justice Department’s national security division who stepped down as a partner at the firm to join the Biden administration as the acting deputy attorney general. Carlin is expected to become the principal deputy to Biden’s pick for the second-ranking Justice Department role, **Lisa Monaco**, an O’Melveny & Myers partner who is awaiting Senate confirmation. Another partner, David Newman, joined



Morrison & Foerster offices. Credit: ALM

the Justice Department as an associate deputy attorney general with a portfolio covering national security and cybersecurity.

Van Grack is joining the firm as co-head of the crisis management practice that Carlin and Newman once headed. He will also be a leader of the firm’s national security practice.

“Brandon’s arrival here at the firm was in the works well before John and David decided to return to public service. In some ways, the fact that we have been talking with Brandon and excited about his arrival, and that it coincided with John and David’s departure, just kind of further validated the wisdom of our decision to vote him into the partnership,” said Morrison & Foerster partner Brad Wine, a co-leader of the firm’s litigation department. “He would have made a phenomenal addition to the practice and, in fact, we made the decision to have Brandon become a partner of the firm with the expectation that

it would be alongside John and David. But, given their decision to go in and be resources for this administration, he plays [an] even more important role today in their absence.”

For Van Grack, the move will mark his first return to private practice in more than 10 years. He was an associate at Baker Botts from 2006 to 2009 before going on to clerk for U.S. District Judge Thomas Hogan in Washington.

Van Grack said he envisions developing a practice drawing on his experience enforcing disclosure laws for foreign influence and background with national security reviews, conducted by the Committee on Foreign Investment in the U.S., or CFIUS, of acquisitions and other investments in U.S. companies. Describing national security as “increasingly complex and intertwined,” Van Grack said, “We’ve reached a point where, in order to service clients in this field, you can’t be an expert in just one [area].”

“CFIUS is now tied to export control. And, in fact, FARA and foreign influence is now an area that is scrutinized with CFIUS and Team Telecom,” Van Grack said, referring to a separate government committee tasked with reviewing foreign investment in the telecommunications industry. “And so, they’re so intertwined now that if you limit yourself to one area, you are likely leaving your client vulnerable to a different area.”

In recent years, Van Grack said, the U.S. government has grown increasingly aware that “foreign influence is now a serious foreign policy and national security issue.” Last year, he said, he was included in CFIUS and Team Telecom reviews “because there was a recognition and realization that there was potentially a sphere of influence concern here, and the matter should be scrutinized.”

In response to Russia’s foreign influence, Van Grack said, the Justice Department and FBI not only better aligned themselves to address the threat “but, when they looked at what tools they had to address it, FARA was one of the best, if not the best, statutes on the books to address it.”

Under Van Grack’s watch, the Justice Department also adopted a more aggressive approach toward disclosures it deemed deficient, ordering registered foreign agents to fill in alleged gaps in their filings or face the threat of a civil lawsuit. In one

civil case, a federal judge in Florida ordered RM Broadcasting in 2019 to register as a foreign agent of Russia after the Justice Department filed a countersuit against the company. It marked the first civil enforcement action brought under FARA in almost three decades, the Justice Department said.

Van Grack said he expects criminal and civil enforcement of FARA to only rise in the coming year.

“These are white-collar cases, so they take time to develop. But I think this year you’re going to see more FARA criminal cases being brought,” Van Grack said. “And that’s a reflection of how, across the country in U.S. attorney’s offices and FBI field offices, these are white-collar crimes that are being examined and prioritized.”

Van Grack pointed to a case the Justice Department brought in January accusing an Iranian academic of covertly collecting a salary from Iran and advancing the country’s interests as he held himself out as a neutral Middle East expert.

Van Grack said the Justice Department has also devoted resources to bring more civil cases to spur disclosure, while stopping short of raising the specter of prison time, under FARA. As the Justice Department’s enforcement efforts have expanded, he added, “it is now butting up against companies and entities that have more of an appetite to litigate and fight.”

“The purpose of FARA isn’t to litigate. Enforcement is a tool of compliance. But I think you’re going to see more civil litigation this year,” he said.

Van Grack has been succeeded by **Jennifer Kennedy Gellie**, a career trial attorney in the Justice Department’s national security division who has prosecuted a former CIA agent who was found guilty of conspiring to hand over defense secrets to China and a former Pentagon counterintelligence analyst who pleaded guilty to leaking national security information to a pair of reporters.

“I’m leaving the Justice Department and the FARA unit in great hands,” Van Grack said. “It is as well-positioned as it has been during my time at the department. In that sense, it actually is a very logical time to pass the baton.”

Asked about the pardons to Flynn and Manafort, Van Grack declined to comment on specific cases. But he noted that their pardons, along with those to the prominent Republican fundraiser Elliot Broidy and former Republican Rep. Mark Siljander, came in cases that involved FARA allegations.

“I think what that shows you is how much of a priority FARA enforcement has become for the department,” he said.

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