

ALERT

Now Effective – The FCC’s New Framework for Public Companies to Assess Foreign Ownership Compliance

April 20, 2017

With the publication of an announcement in the Federal Register on April 20, 2017, the FCC’s new foreign ownership rules, originally adopted on September 30, 2016, are now effective. As we have explained, the FCC’s September 2016 order reformed the methodology for publicly traded companies, including common carriers, to assess compliance with the statutory foreign ownership limits set forth in Sections 310(b)(3) and 310(b)(4) of the Communications Act. The FCC also made clear that private companies are expected to have full knowledge of the extent of their foreign ownership.

Although the new methodology applicable to public companies provides increased transparency regarding the steps that the FCC expects public companies to take, it also heightens the need for such companies to exercise due diligence by monitoring foreign investments consistent with the new requirements. In particular, in a significant change from a prior practice that had been approved in the common carrier context, the FCC concluded that a licensee may not rely on the “address of record” of a shareholder to serve as a proxy for that shareholder’s nationality. Instead, public companies subject to the foreign ownership rules are expected to regularly monitor filings with the Securities and Exchange Commission and consider additional sources of information to determine their compliance with the foreign ownership limits.

If you have any questions about the new methodology for assessing compliance, please contact us.

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