
THE GLOBAL REGULATORY DEVELOPMENTS JOURNAL

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Foreign Ownership Rules and Filing Processes for Petitions for Declaratory Ruling Reformed by U.S. Federal Communications Commission

Eve Klindera Reed, Wayne D. Johnsen, Daniel P. Brooks, Edgar Class, Stephen J. Conley, and Anthony M. Paranzino*

In this article, the authors provide background on a recent rulemaking by the U.S. Federal Communications Commission and summarize the key aspects of its order.

The U.S. Federal Communications Commission (FCC) has adopted a Report and Order (Order)¹ codifying definitions and procedures that govern the disclosure and approval processes for foreign ownership of entities that hold FCC licenses and authorizations. According to the Order, these changes are intended to “promote efficient and shorter processing times of Section 310(b) petitions.”²

The Order took effect on May 11, 2026, which was 30 days after publication in the Federal Register, although the effective date of certain rules adopted in the Order is delayed indefinitely pending Office of Management and Budget review and approval. This article provides background on this rulemaking and summarizes the key aspects of the Order.

The Order Codifies Certain FCC Policies and Procedures for Processing Applications Seeking Foreign Ownership Approval

Under Section 310(b)(4) of the Communications Act of 1934, foreign entities may not hold more than 25 percent of the equity or voting interests in a U.S.-organized entity that controls an FCC-issued license unless the FCC determines that the foreign

ownership arrangement would serve the “public interest.” To obtain such approval, licensees must file a petition for declaratory ruling with the FCC.

Over the years, the FCC has developed procedures and standards for evaluating petitions for declaratory ruling through individual adjudications and policy guidance documents. The Order formally codifies certain definitions and processes into the FCC’s regulations after the FCC sought comment on these codifications in an April 2025 Notice of Proposed Rulemaking.³

Rule Changes Impacting Both Common Carrier and Broadcast Licensees

Controlling U.S. Parent

The Order defines a “controlling U.S. parent” for foreign ownership purposes as “the first controlling entity organized in the United States that is above the licensee(s) in the vertical chain of control and does not itself hold a license subject to [S]ection 310(b).”⁴

Deemed Voting and Advance Approval

Under the FCC’s methodology for determining voting interests, the FCC will, in certain cases, “deem” a limited partner or a member of a limited liability company (LLC) to have a voting interest that exceeds its actual voting interest. For example, an unincorporated member holding a 10 percent interest in an LLC that holds an indirect 100 percent voting interest in the licensee will itself be deemed to hold the entire 100 percent voting interest held by the LLC. The Order explicitly states that “a finding of deemed voting interest of 50 percent or more is not a finding of control in and of itself.”⁵ Consistent with existing staff practice, the Order therefore amends the advance approval rule to state that “a foreign individual or entity that has a deemed voting interest of 50% or greater in the controlling U.S. parent, but that does not have de jure or de facto control of the controlling U.S. parent, may request advance approval for the foreign individual or entity to increase its interests, at some future time, up to any non-controlling amount not to exceed 49.99% equity and/or voting interest.”⁶

Trust and Trustee Requirements

The Order codifies the FCC's existing policy that a petition for declaratory ruling must not only identify trusts that hold interests but must also include the identity of individual trustees whenever disclosing the equity and/or voting interests of trusts as required by FCC rules.⁷

Extension of the Remedial Petition for Declaratory Ruling Process to Privately Held Entities

The Order allows privately held companies to use the FCC's remedial process for inadvertent noncompliance with foreign ownership rules, a process that was previously available only to U.S. public companies.⁸ Privately held companies must adhere to the same filing requirements as publicly held companies.⁹ The Order further clarifies that privately held companies may already, on a case-by-case basis, use the methodology for calculating foreign ownership used by publicly held companies. For example, this situation might arise where a private entity faces significant impediments that would prevent a thorough analysis of indirect interest holders, such as for interests held by remote, insulated investors.¹⁰

Contents of Remedial Petitions

The Order formally clarifies that remedial petitions “must contain all of the information required for an initial petition for declaratory ruling and not just the information related to the newly discovered non-compliant interest(s).”¹¹

Amendments as a Complete Restatement for a Petition

The Order codifies that, when submitting substantial changes to a pending petition for declaratory ruling, an amendment must be filed as a complete restatement of the initial petition with a cover letter providing a narrative description of the substantial change.¹² Amendments containing only ministerial changes do not require such a complete restatement.¹³ Ministerial changes are not explicitly defined, but the FCC provides four non-exhaustive examples:

1. removal of duplicate entries from lists of attributable interest holders,
2. revisions to such attributable interest holder lists to revise identifying information,
3. correcting equity and voting interests to reflect any changes to entities or individuals that have already been disclosed, and
4. correcting misspellings or incorrect addresses.¹⁴

U.S. Residency Requirements

The Order clarifies that there is no FCC requirement that foreign investors seeking a petition for declaratory ruling must reside within the United States.¹⁵ The FCC also reiterates that a foreign investor's lack of a U.S. residence is not a factor in its assessment of whether a petition is in the public interest.¹⁶

Rule Changes Impacting Broadcast Applicants Only

Media Bureau to Develop Guidelines for Processing Broadcast License Applications During Remedial Process

The Order directs the Media Bureau to specify guidelines to govern the processing of applications, such as applications to acquire an additional station, filed by a broadcast licensee that is awaiting FCC determination on a pending remedial petition.¹⁷ The FCC determined that guidelines, as opposed to formal rules, "will provide the necessary flexibility" for this purpose.¹⁸

NCE/LPFM Station Ownership Evaluation

The Order clarifies that the FCC will evaluate the composition of the governing boards or other governing entities of noncommercial educational (NCE) stations and low power FM (LPFM) stations that seek foreign ownership approval in analogous fashion to commercial broadcasters.¹⁹ As an example, the FCC will deem each board member of an NCE or LPFM applicant with a five-member governing board to hold a 20 percent voting interest in

the applicant, barring bylaws or governance documents that state otherwise.²⁰ As with broadcast ownership, the FCC will evaluate arrangements where governing boards cede decision-making authority on a case-by-case basis.²¹

NCE/LPFM Station Application Processing

The Order codifies that entities with foreign ownership that exceeds statutory benchmarks and that do not have an existing declaratory ruling are permitted to participate in an NCE/LPFM filing window, so long as the entities file a petition seeking approval at the same time they file an application for participation in the filing window.²² The FCC will apply the same processing guidelines used in the commercial context for applications that include petitions for declaratory rulings.²³

The FCC declined to adopt proposals by commenters aimed at further reducing regulatory burdens, but emphasized that the codifications and clarifications in the Order will reduce uncertainty and regulatory burdens for applicants.²⁴

Notes

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1. <https://docs.fcc.gov/public/attachments/FCC-26-3A1.pdf>.
2. ¶ 1.
3. <https://docs.fcc.gov/public/attachments/FCC-25-26A1.pdf>.
4. ¶ 8.
5. ¶ 12.
6. ¶ 12.
7. ¶ 14.
8. ¶ 15-16.
9. ¶ 16.
10. ¶ 17.
11. ¶ 20.
12. ¶ 23.
13. ¶ 23.
14. ¶ 23.
15. ¶ 24.
16. ¶ 24.

17. ¶ 29.
18. ¶ 29.
19. ¶ 32.
20. ¶ 32.
21. ¶ 33.
22. ¶ 35.
23. ¶ 35.
24. ¶ 36.