

ALERT

FCC Provides Guidance on International Section 214 Information Collection

August 30, 2023

The Federal Communications Commission's (FCC or Commission) Office of International Affairs (OIA) recently released an Order in the agency's ongoing proceeding related to its adoption of an Order and Notice of Proposed Rulemaking on international Section 214 authorizations (the Order and NPRM). The Order denies a motion for extension of time for the comment and reply comment deadlines in the NPRM and provides guidance on the FCC's one-time collection of foreign ownership information from international Section 214 authorization holders (One-Time Information Collection). Although the FCC has yet to establish a date for its One-Time Information Collection, the Order provides important guidance on the framework that will govern its execution.

Background on the FCC's One-Time Information Collection

As explained in Wiley's April 27, 2023, Client Alert, the FCC's One-Time Information Collection stems from the agency's adoption of its Order and NPRM. Although the FCC has not yet established the filing deadline for the One-Time Information Collection, authorization holders will be required to identify their 10% or greater direct or indirect foreign interest holders as of 30 days prior to the filing deadline. The FCC's NPRM also proposes to cancel the authorizations of any holders that do not respond to the One-Time Information Collection and indicates that the FCC may also take enforcement action against them.

Once the filing deadline is established, authorization holders will be required to submit information based on the following categories:

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Practice Areas

Cybersecurity
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- **Reportable Foreign Ownership – Foreign Adversary – China (including Hong Kong), Cuba, Iran, North Korea, Russia, Maduro Regime.** Where there are interest holders that are entities and individuals that are government organizations or citizens of “foreign adversary” countries (listed above), an authorization holder must identify its 10% or greater direct or indirect foreign interest holders, as well as any additional 10% or greater direct or indirect foreign interest holders, aside from the foreign adversaries.
- **Reportable Foreign Ownership – No Foreign Adversary.** Where there are no interest holders that are foreign adversaries or citizens of any foreign adversary country, an authorization holder must identify its 10% or greater direct or indirect foreign interest holders.
- **No Reportable Foreign Ownership.** An authorization holder that has no reportable foreign ownership must so indicate.

Authorization holders must also certify that the information provided is accurate.

The Order Provides a Limited Exception to the One-Time Information Collection

The Order established an exemption for certain authorization holders from the One-Time Information Collection. Specifically, qualifying authorization holders are exempt from answering questions in the One-Time Information Collection regarding the “identities, specific equity and voting interests, and description of controlling interests, of their Reportable Foreign Interest Holders.” Authorization holders that qualify for the exemption instead will be required to “identify, on an aggregated basis, all of the citizenship(s) or place(s) of organization of their Reportable Foreign Interest Holders.” Authorization holders must supply the File Number of the application that fulfills the exemption requirements. There are two criteria to qualify for the exemption:

- The authorization holder must have filed an application for an initial International Section 214 Authorization, modification, or substantial (not a *pro forma* filing) assignment or transfer of control of the authorization that was reviewed by the Executive Branch agencies and was granted by the Commission after the date that is 3 years before the filing deadline; and
- There are no reportable foreign interest holders of the authorization holder other than those disclosed in the application (including any amendment), and there are no changes to the Reportable Foreign Interest Holders disclosed in the application (including any amendment) as of the date that is 30 days prior to the filing deadline.

In addition, entities that are not providing services that require an international Section 214 authorization may choose to surrender their authorizations and will not be required to respond to the One-Time Information Collection.

The Order Reminds Authorization Holders About Important Administrative Requirements

The Order also reminds authorization holders that they must have an FCC Registration Number (FRN) to file their responses to the One-Time Information Collection. An FRN is the 10-digit number assigned to all individuals and entities that transact business with the FCC, and it must be provided any time an authorization

holder submits an application through the agency's International Communications Filing System (ICFS).

The Order further notes that many international section 214 authorizations were granted to entities prior to the Commission requiring an FRN in 2001. As a result, such authorization holders will need to obtain an FRN prior to filing their response to the One-Time Information Collection.

The Order Outlines Timing for the One-Time Information Collection Filing Deadline

Although the FCC has not yet announced the filing deadline for the One-Time Information Collection, the Order provides an overview of how the deadline will be determined. Specifically, the Order notes that since OIA will conduct the One-Time Information Collection, it will be responsible for creating the associated forms. OIA will then submit the information collection for Office of Management and Budget (OMB) review and, following OMB review, publish notice of the effective date of the One-Time Information Collection and the filing deadline in the Federal Register. OIA will also issue a separate Public Notice announcing the deadline and will provide instructions for filing this information with the Commission.

As noted in the Order, however, OMB approved OIA's information collection on June 6, 2023. This means that the only step remaining is for OIA to publish notice of the effective date of the One-Time Information Collection and the filing deadline in the Federal Register.

Preparation Time Will be Critical for Responding to the One-Time Information Collection

The FCC's One-Time Information Collection will be a detailed and comprehensive undertaking for all holders of international section 214 authorizations and their owners. The scope of entities affected by the One-Time Information Collection include not only international telecommunications providers but also certain satellite and wireless providers, as well as private equity firms and others investing capital in such entities. Preparation time will be critical for such entities to fully comply with the One-Time Information Collection, and we recommend that affected entities begin the process of gathering relevant information as soon as possible even though the FCC has not yet set the deadline for submission. Wiley's Telecom, Media & Technology, National Security, and Cybersecurity practitioners can help impacted entities navigate this complex undertaking.