

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Applications of LightSquared Subsidiary LLC,
Debtor-in-Possession, and LightSquared Subsidiary
LLC
For Consent to Assign and Transfer Licenses and
Other Authorizations and
Request for Declaratory Ruling on Foreign
Ownership
IB Docket No. 15-126

MEMORANDUM OPINION AND ORDER AND DECLARATORY RULING

Adopted: December 3, 2015

Released: December 4, 2015

By the Commission: Commissioner Pai approving in part, concurring in part and issuing a statement;
Commissioner O’Rielly issuing a statement.

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I. INTRODUCTION

1. In this proceeding we approve, subject to conditions, the assignment of licenses and international section 214 authorizations and the transfer of domestic section 214 authority from LightSquared Subsidiary LLC, Debtor-in-Possession (“LightSquared Sub DIP”) to LightSquared Subsidiary LLC (“LightSquared Sub”), pursuant to sections 310(d) and 214(a) of the Communications Act of 1934, as amended (“Act”).<sup>1</sup> We also issue a declaratory ruling to permit foreign ownership of

<sup>1</sup> See 47 U.S.C. §§ 214, 310(d); Applications for Consent to Assign Licenses and Authorizations from LightSquared Subsidiary LLC, Debtor-in-Possession, to Reorganized LightSquared Subsidiary, LLC (filed Apr. 6, 2015) (“Application”). Page citations to the Application refer to the public interest statement submitted in the assignment (continued....)

LightSquared Sub's controlling U.S. parent, New LightSquared, to exceed the 25% benchmark for foreign ownership in section 310(b)(4) of the Act subject to specific terms and conditions.<sup>2</sup> If consummated, the proposed transaction will allow LightSquared entities to emerge from over three years of bankruptcy proceedings and will result in relinquishment of control by Philip A. Falcone ("Falcone"), through Harbinger Capital Partners Funds ("Harbinger"), of the Commission authorizations held by LightSquared Sub DIP.<sup>3</sup> Following consummation of the transaction, Harbinger, JPMorgan Chase & Co. ("JPMorgan"), Fortress Investment Group LLC ("Fortress"), and Jeffrey Aronson ("Aronson") and Mark Gallogly ("Gallogly"), through Centerbridge Partners, L.P. ("Centerbridge"), will hold substantial interests in New LightSquared, the parent of the reorganized LightSquared Sub. Grant of the Application serves the public interest by enabling LightSquared entities to emerge from bankruptcy with access to significant new capital, furthering the viability of their service offerings.

## II. BACKGROUND

### A. The Applicants

2. LightSquared Sub DIP provides L-band<sup>4</sup> mobile-satellite service ("MSS") throughout North America using the U.S.-licensed SkyTerra-1 and MSAT-2 geostationary space stations and fixed and mobile earth stations.<sup>5</sup> An affiliated entity, One Dot Six DIP, is the lessee under a *de facto* transfer leasing arrangement in connection with a nationwide license issued to OP LLC for terrestrial operations in the 1670-1675 MHz frequency band.

3. LightSquared Sub DIP is a wholly owned direct subsidiary of LightSquared LP, Debtor-in-Possession, which in turn is a wholly owned indirect subsidiary of LightSquared Inc., Debtor-in-Possession.<sup>6</sup> One Dot Six DIP is a wholly owned subsidiary of LightSquared Inc., Debtor-in-Possession.<sup>7</sup> Falcone, through the private investment firm Harbinger, ultimately controls LightSquared Sub DIP and One Dot Six DIP.<sup>8</sup>

(Continued from previous page) \_\_\_\_\_  
applications filed under section 310(d) of the Act. *See, e.g.*, IBFS File No. SAT-ASG-20150406-00017. We also approve the assignment of authority for a *de facto* transfer lease from One Dot Six Corp., Debtor-in-Possession ("One Dot Six DIP"), to One Dot Six LLC ("One Dot Six"). We refer to LightSquared Sub DIP, LightSquared Sub, One Dot Six DIP, and One Dot Six collectively as the "Applicants."

<sup>2</sup> 47 U.S.C. § 310(b)(4); *LightSquared Subsidiary, LLC; Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934*, ISP-PDR-20150406-00002 (filed Apr. 6, 2015, and refiled May 22, 2015) ("Petition"). Page citations to the Petition refer to the Petition for Declaratory Ruling filed May 22, 2015.

<sup>3</sup> *See SkyTerra Communications, Inc., Transferor, and Harbinger Capital Partners Funds, Transferee, Applications for Consent to Transfer of Control of SkyTerra Subsidiary, LLC*, IB Docket No. 08-184, Memorandum Opinion and Order and Declaratory Ruling, 24 FCC Rcd 3059 (IB, OET, and WTB 2010) ("*Harbinger Transfer Order*").

<sup>4</sup> The "L band" is a general designation for frequencies from 1 to 2 GHz. In the United States, the Commission has allocated L-band spectrum for mobile-satellite-service downlinks (space-to-Earth transmissions) in the 1525-1544 MHz and 1545-1559 MHz bands and for mobile-satellite-service uplinks (Earth-to-space transmissions) in the 1626.5-1645.5 MHz and 1646.5-1660.5 MHz bands. *See* 47 C.F.R. § 2.106.

<sup>5</sup> LightSquared Sub DIP also provides MSS in the United States via the Canadian-licensed MSAT-1 space station, and holds a conditional authorization to deploy an ancillary terrestrial component of its MSS satellite networks. In addition to its satellite-service licenses, LightSquared Sub DIP also holds Commission authorizations for terrestrial communications facilities, as well as domestic section 214 authority and international section 214 authorizations.

<sup>6</sup> *See* Application at 3, Attach. B.

<sup>7</sup> *See id.*, Attach. B.

<sup>8</sup> *See Harbinger Transfer Order*, 24 FCC Rcd 3059; Letter from Jeffrey J. Carlisle, Executive Vice President, Regulatory Affairs and Public Policy, LightSquared GP Inc., to Marlene H. Dortch, Secretary, FCC, IBFS File No. SES-T/C-20080822-01088 (filed July 20, 2010) (noting corporate name changes from SkyTerra to LightSquared).

4. Following consummation of the transaction described below, the Commission authorizations held by LightSquared Sub DIP and One Dot Six DIP will be assigned and transferred to LightSquared Sub and One Dot Six,<sup>9</sup> respectively, as the reorganized entities emerging from bankruptcy. JPMorgan, Fortress, Aronson and Gallogly, through Centerbridge, and Harbinger, will each hold indirect interests in LightSquared Sub and One Dot Six. JPMorgan is a widely traded, publicly held financial services firm.<sup>10</sup> Fortress is a publicly traded investment management firm.<sup>11</sup> Centerbridge is a private investment firm. Aronson and Gallogly each hold 50% of the voting interests in Centerbridge and together control the company.<sup>12</sup> The Applicants represent that none of JPMorgan, Fortress, Centerbridge, or Harbinger holds a 10% or greater interest in any satellite or other wireless telecommunications provider.<sup>13</sup>

#### **B. The Proposed Transaction**

5. The proposed reorganization is a result of the Chapter 11 bankruptcy proceeding of LightSquared Sub DIP, One Dot Six DIP, and affiliated entities that began in May 2012.<sup>14</sup> In March 2015, the bankruptcy court confirmed a plan of reorganization that would allow the LightSquared debtor entities to emerge from bankruptcy under new ownership.<sup>15</sup>

6. Under the proposed transaction, LightSquared Sub DIP will be reorganized as LightSquared Sub, and One Dot Six DIP will be reorganized as One Dot Six. Both LightSquared Sub and One Dot Six will be wholly owned direct subsidiaries of the reconstituted LightSquared LP, “New LightSquared,” a Delaware limited liability company.<sup>16</sup> All of the common units and most of the equity in New LightSquared will be held by JPMorgan, Fortress, Centerbridge, Harbinger, or their affiliates.<sup>17</sup>

7. JPMorgan will hold its interests through a wholly owned indirect subsidiary, described as the “Reorganized LightSquared Inc.” (“RLI”).<sup>18</sup> RLI will hold, indirectly,<sup>19</sup> approximately 21.25% of the

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<sup>9</sup> Upon its emergence from bankruptcy, One Dot Six will be converted to a limited liability company. Letter from Gerard J. Waldron, Counsel, LightSquared Subsidiary LLC, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 15-126, at 5 (filed Sept. 9, 2015) (“September Supplement”).

<sup>10</sup> Application at 8. *See also* September Supplement at 2.

<sup>11</sup> Fortress has two classes of shares. Class A shares, representing approximately 48% of the Fortress interests, are publicly traded. The vast majority of Class B shares, which represent the remaining 52% of the equity in Fortress, are held by four U.S. citizens: Wesley Edens, Randal Nardone, Peter L. Briger, Jr., and Michael Novogratz. *See* Application at 9; September Supplement at 2; Letter from Gerard J. Waldron, Counsel, LightSquared Subsidiary LLC, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 15-126, at 2 (filed Oct. 28, 2015) (“October Supplement”).

<sup>12</sup> *See* Letter from Gerard J. Waldron, Counsel, LightSquared Subsidiary LLC, to Marlene H. Dortch, Secretary, FCC, IBFS File No. SAT-ASG-20150406-00017, at 3 (filed May 22, 2015) (“May Supplement”).

<sup>13</sup> *See* Application at 16-17; May Supplement at 7.

<sup>14</sup> *See In re LightSquared Inc., et al.*, Case No. 12-12080 (Bankr. S.D.N.Y.); *see also* 11 U.S.C. §§ 101 *et seq.*

<sup>15</sup> *See* Application at 3, Attach. D.

<sup>16</sup> *See id.* at 4-5, May Supplement, Chart C-1.

<sup>17</sup> *See* Application at 6, 8-12; May Supplement at 8; September Supplement, Attach. 3. These investors will own equity in New LightSquared through both common and preferred unit holdings. The Applicants state that other entities will own small amounts of preferred unit holdings in New LightSquared but that none of these entities will hold a 10% or greater interest and all such interests will be insulated in accordance with section 1.993 of the rules. *See* Petition at 7 n.12; *see also id.* at 21 n.35.

<sup>18</sup> *See* Application at 8; September Supplement at 3. JPMorgan will hold its interest in RLI through a wholly owned subsidiary, SIG Holdings, Inc. September Supplement at 3.

<sup>19</sup> *See* September Supplement at 3.

New LightSquared Common Units,<sup>20</sup> and will control the appointment of one member of the seven-member New LightSquared governing board.<sup>21</sup> Fortress ultimately controls LSQ Acquisition Co. LLC (“LSQ”),<sup>22</sup> which will hold approximately 26.2% of the New LightSquared Common Units<sup>23</sup> and the right to appoint two members of the New LightSquared Board.<sup>24</sup> Aronson and Gallogly, through Centerbridge, will control the right to appoint one member of the New LightSquared Board.<sup>25</sup> Two other Board members will be nominated and elected by a majority vote of these four Board members. The Chief Executive Officer of New LightSquared will serve as the seventh Board member.<sup>26</sup> Aronson and Gallogly also ultimately control two Centerbridge affiliates, CCP II AIV II, L.P. (“CCP II AIV II”) and Centerbridge Capital Partners SBS II, L.P. (“CCP SBS II”), which together will hold approximately 8.1% of the New LightSquared Common Units.<sup>27</sup> Finally, Harbinger, through HGW US Holding Company,

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<sup>20</sup> Application at 8. RLI will also indirectly hold 53.6% of the New LightSquared Series A-1 Preferred Units, 14.23% of the Series A-2 Preferred Units, 31.42% of the Series B Preferred Units, and 25.63% of the Series C Preferred Units. *Id.*; *see also id.* at 7-8 nn.12-13 (noting the assumptions used to calculate percentages of preferred unit holdings), Attach. D at 19-20 (defining New LightSquared Common and Preferred interests); September Supplement, Attach. 3. Depending on the value ascribed to the various classes of interests, these common and preferred unit holdings will equate to equity interests in New LightSquared ranging between 21.25% and 40.91%. Application at 8. The ranges of equity ownership in New LightSquared provided by the Applicants are based on alternative assumptions that Preferred or Common Units reflect 100% of the value of New LightSquared. May Supplement at 4 n.5; Petition at 8 n.17.

<sup>21</sup> *Id.* at 7, Attach. D at 61; September Supplement, Attach. 5 at 73, Section 8.2(a)(i). Membership of the New LightSquared Board will be governed by the operating agreement of New LightSquared. *See id.*, Attach. D at 60-61 (describing the composition of the New LightSquared Board under the New LightSquared Interest Holders Agreement); *see also* September Supplement, Attach. 5. According to the Applicants, the New LightSquared Board will exercise the power to appoint the members of the Board of Managers of LightSquared Sub. Application at 6. On November 30, 2015, LightSquared filed a further Supplement providing a revised version of the New LightSquared Operating Agreement reflecting the JPMorgan Proxy Agreement discussed herein. Letter from Gerard J. Waldron, Counsel, LightSquared Subsidiary LLC, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 15-126, at 2 (filed Nov. 30, 2015).

<sup>22</sup> LSQ will be controlled by a non-member manager, Fortress Credit Advisors LLC, which in turn is ultimately controlled by Fortress. *See id.* at 9. The Applicants state that LSQ may be structured as a series limited liability company, but that this structure, if implemented, will not have a material effect on the ownership or control of New LightSquared by Fortress. *See* September Supplement at 2 n.3.

<sup>23</sup> Application at 8-9. LSQ will also hold 14.23% of the New LightSquared Series A-2 Preferred Units and 52.41% of the Series B Preferred Units. *Id.*; *see also* September Supplement, Attach. 3. In addition, another entity ultimately controlled by Fortress, CF LSQ C Holdings LLC, will hold 43.53% of the New LightSquared Series C Preferred Units. Application at 9 n.15; *see also* September Supplement, Attach. 3. Depending on the value ascribed to the various classes of interests, these holdings of Fortress-controlled entities together will equate to equity interests in New LightSquared ranging between 16.29% and 26.2%. *See* May Supplement at 2. Fortress, however, will hold indirectly less than 1% equity interest in New LightSquared. *See* Petition at 10.

<sup>24</sup> *See* Application at 7, Attach. D at 61; September Supplement, Attach. 5 at 73, Section 8.2(a)(i).

<sup>25</sup> May Supplement at 3; *see also* Application at 7, Attach. D at 61; September Supplement, Attach. 5 at 73, Section 8.2(a)(i).

<sup>26</sup> *See* Application at 7, Attach. D at 61; Petition at 7; September Supplement, Attach. 5 at 73, Section 8.2(a)(i).

<sup>27</sup> *See* Application at 10; May Supplement at 3. CCP II AIV II, L.P. and Centerbridge Capital Partners SBS II, L.P. together will also directly hold 14.2% of the New LightSquared Series A-2 Preferred Units, 16.2% of the Series B Preferred Units, and 0.3% of the Series C Preferred Units. *See* Application at 10; May Supplement at 3; September Supplement, Attach. 3. Depending on the value ascribed to the various classes of interests, these common and preferred unit holdings will equate to equity interests in New LightSquared ranging between 3.2% and 8.1%. *See* Application at 10; May Supplement at 3.

L.P. (“HGW US”),<sup>28</sup> will hold approximately 44.45% of the New LightSquared Common Units.<sup>29</sup> Harbinger’s interest, however, will not entitle it to appoint any members of the New LightSquared Board.<sup>30</sup>

### C. Application and Review Process

8. The Application and Petition were placed on Public Notice on June 1, 2015.<sup>31</sup> On June 30, 2015, the Commission received a submission from the Department of Justice (“DOJ”), including the Federal Bureau of Investigation, the Department of Homeland Security (“DHS”), and the Department of Defense (“DOD”).<sup>32</sup> In that filing, the DOJ, DHS, and DOD requested that the Commission defer action on the Application and Petition until they had completed their review of any national security, law enforcement, or public safety implications. Subsequently, on September 25, 2015, the DOJ submitted a Petition to Adopt Conditions.<sup>33</sup> The filing states that the DOJ has no objection to grant of the Application and Petition provided that the Commission conditions its approval on the compliance by LightSquared Sub and One Dot Six with an agreement entered into with the Applicants on September 24, 2015 to address national security, law enforcement and public safety issues.<sup>34</sup> In addition, the National Association of Broadcasters submitted comments urging the Commission to reform its foreign ownership policies in the broadcast context, but taking no position on the Application or Petition.<sup>35</sup>

## III. DISCUSSION

### A. Framework

9. The legal standards that govern our public interest analysis for the assignment or transfer of licenses and other authorizations under sections 214(a) and 310(d) of the Act require that we weigh the potential public interest harms against the potential public interest benefits to ensure that, on balance, the proposed transaction will serve the public interest, convenience, and necessity.<sup>36</sup> Our analysis begins with

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<sup>28</sup> See Application at 10-12; September Supplement at 4-5. The Applicants state that Falcone, a U.S. citizen, ultimately controls HGW US as well as four Harbinger funds that indirectly hold a 100% equity interest in HGW US. See Application at 10-11; September Supplement at 4-5.

<sup>29</sup> Application at 10-12. HGW US will also directly hold 46.4% of the New LightSquared Series A-1 Preferred Units and 0.59% of the Series C Preferred Units. *Id.* at 10; see also September Supplement, Attach. 3. Depending on the value ascribed to the various classes of interests, the HGW US holdings will equate to equity interests in New LightSquared ranging between 26.64% and 44.45%. Application at 10.

<sup>30</sup> *Id.* at 7. In addition, the Applicants state that Harbinger’s interest will not entitle it to exercise voting power over New LightSquared other than with respect to certain extraordinary matters. *Id.*; see also September Supplement, Attachment 5 at 55-56, Section 5.5.

<sup>31</sup> *Pleading Cycle Established for Applications Filed by LightSquared Subsidiary LLC, Debtor-in-Possession, and LightSquared Subsidiary, LLC, for FCC Consent to Assign Licenses and other Authorizations and Request for Declaratory Ruling on Foreign Ownership*, IB Docket No. 15-126, Public Notice, DA 15-653, 30 FCC Rcd 6036 (rel. June 1, 2015).

<sup>32</sup> Letter from Mark G. McConnell, Attorney, DOJ, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 15-126 (filed June 30, 2015).

<sup>33</sup> Petition to Adopt Conditions to Authorizations and Licenses of the U.S. Department of Justice, IB Docket No. 15-126 (filed Sept. 25, 2015).

<sup>34</sup> See Agreement between LightSquared Subsidiary LLC and One Dot Six Corp. and the U.S. Department of Justice, including the Federal Bureau of Investigation, IB Docket No. 15-126 (filed Sept. 25, 2015), available at <http://apps.fcc.gov/ecfs/document/view?id=60001325219> (“DOJ Agreement”).

<sup>35</sup> Comments of the National Association of Broadcasters, IB Docket No. 15-126 (filed July 1, 2015).

<sup>36</sup> See, e.g., *Applications of Sprint Nextel Corp. and SoftBank Corp. and Starburst II, Inc. for Consent to Transfer Control of Licenses and Authorizations*, IB Docket No. 12-343, Memorandum Opinion and Order, Declaratory Ruling, and Order on Reconsideration, 28 FCC Rcd 9642, 9650-51, ¶ 23 (2013) (“*SoftBank-Sprint Order*”).

an examination of whether the Applicants are qualified to hold Commission licenses. Next, we consider the Applicants' request for a declaratory ruling on foreign ownership. Then we consider whether the proposed assignments and transfer raise competitive concerns. Finally, we consider issues related to national security, law enforcement, foreign policy, and trade policy.

## B. Character Qualifications

10. As a threshold matter, we must determine whether the Applicants meet the requisite citizenship, character, financial, technical and other qualifications to hold licenses under sections 308(b) and 310(d) of the Act and the Commission's rules.<sup>37</sup> The focus of our review of an applicant's character qualifications is misconduct that demonstrates the applicant's proclivity to deal truthfully with the Commission and to comply with our rules and policies.<sup>38</sup> We consider certain violations of the Act or of the Commission's rules or policies, as well as certain types of adjudicated, non-Commission-related misconduct, including felony convictions and violations of antitrust laws.<sup>39</sup> Where misconduct calls into question an applicant's character qualifications, we also consider certain "mitigating factors."<sup>40</sup> These include the frequency of the misconduct; the nature of the participation, if any, of the managers and owners; any remedial action taken to curb the conduct and/or dismiss the perpetrator; and the applicant's past record of compliance with Commission rules and policies.<sup>41</sup>

11. No party challenges the qualifications of the Applicants, and except as noted below, we find no reason to reevaluate or further discuss the requisite qualifications of LightSquared Sub DIP, One Dot Six DIP, and Harbinger,<sup>42</sup> or of New LightSquared, LightSquared Sub, One Dot Six, Fortress, or Centerbridge. With regard to the matter of the character qualifications of JPMorgan, we condition the grant on JPMorgan entering into the proxy agreement, as discussed below, as an interim step until the Commission can resolve that matter following the District Court's resolution of the charges brought against JPMorgan by the United States.

12. JPMorgan disclosed to the Commission on July 1, 2015, that it had entered into a Plea Agreement with the United States Department of Justice, pursuant to which it had also entered a plea of guilty to a felony antitrust violation and had agreed to a \$550 million fine and a three-year period of probation, during which it would be subject to certain ongoing obligations.<sup>43</sup> The criminal conduct

<sup>37</sup> See 47 U.S.C. §§ 308(b), 310(d); see also, e.g., *SoftBank-Sprint Order*, 28 FCC Rcd at 9652-53, ¶ 26.

<sup>38</sup> See *Policy Regarding Character Qualifications in Broadcast Licensing*, Gen. Docket No. 81-500, Report, Order and Policy Statement, 102 FCC 2d 1179, 1190-91, ¶ 23 (1986) ("*1986 Character Policy Statement*"). We look to the Commission's character policy initially developed in the broadcast area as guidance in resolving similar questions in common carrier license assignment proceedings. See, e.g., *Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Manager and de facto Transfer Leasing Arrangements*, WT Docket No. 08-95, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd 17444, 17464, ¶ 32 (2008) ("*Verizon Wireless-ALLTEL Order*").

<sup>39</sup> See, e.g., *Verizon Wireless-ALLTEL Order*, 23 FCC Rcd at 17464-65, ¶ 32.

<sup>40</sup> See *Policy Regarding Character Qualifications in Broadcast Licensing*, Policy Statement and Order, 5 FCC Rcd 3252, 3252, ¶ 5 (1990) ("*1990 Character Policy Statement*"), and, along with the *1986 Character Policy Statement*, "*Character Policy Statement*").

<sup>41</sup> See *1986 Character Policy Statement*, 102 FCC 2d at 1227-28, ¶ 102.

<sup>42</sup> We generally do not reevaluate the qualifications of assignors unless issues related to basic qualifications have been sufficiently raised in petitions to warrant designation for hearing, which is not the case here. See, e.g., *SoftBank-Sprint Order*, 28 FCC Rcd at 9653, ¶ 27.

<sup>43</sup> Letter from Wayne D. Johnsen, Counsel for JPMorgan, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 15-126, at 1 (filed July 1, 2015) ("*JPMorgan July Letter*"); see also *United States v. JPMorgan Chase & Co.*, Criminal No. 3:15-CR-79 (SRU), Plea Agreement (D. Conn. May 20, 2015) ("*Plea Agreement*"), available at <http://www.justice.gov/file/440491/download>. JPMorgan entered a plea of guilty to a one-count violation of the Sherman Antitrust Act, 15 U.S.C. § 1. The District Court has not yet acted on the plea. September Supplement at 4.

disclosed in the Plea Agreement relates to participation in a conspiracy to manipulate the price of the euro/U.S. dollar currency pair exchanged in the foreign exchange market.<sup>44</sup> Members of the corporate conspiracy, all financial services firms acting as dealers in the foreign exchange market, coordinated their trading of the euro/U.S. dollar currency pair to manipulate daily benchmark exchange rates and to protect co-conspirators with open risk positions.<sup>45</sup> JPMorgan has admitted in the Plea Agreement that it participated in the conspiracy between at least July 2010 and January 2013.<sup>46</sup>

13. JPMorgan states that it has dismissed the trader principally involved in the conspiracy that led to its felony antitrust guilty plea, and has implemented heightened controls to protect against such misconduct in the future.<sup>47</sup> JPMorgan argues that its past compliance with the Commission's rules, cooperation with the DOJ in its antitrust investigation, and remedial actions taken to prevent future misconduct demonstrate that JPMorgan is willing and able to deal truthfully with the Commission and comply with our rules and policies.<sup>48</sup> However, various administrative and judicial proceedings remain pending with respect to this matter, and JPMorgan is not yet in a position to fully address each of the factors relevant to this inquiry by the Commission under the *Character Policy Statement*.

14. We ordinarily refrain from evaluating an applicant's character based on mere allegations of relevant non-FCC misconduct, even where those allegations have resulted in an indictment or are otherwise being adjudicated by another agency or court. We, however, are confronted here with a unique situation, a pending Plea Agreement premised on an admission of guilt, which Plea Agreement, under its terms, would result in a judgment imposing a felony conviction unless the Court rejects the recommended sentence specified in the Plea Agreement.<sup>49</sup> Although the Plea Agreement has been executed by the parties and JPMorgan has entered a plea of guilty, the Agreement awaits review and action by the Court. In fact, JPMorgan has reserved its right to withdraw its guilty plea in the event that the court does not accept the recommended sentence specified in the Plea Agreement, rendering that Agreement void.<sup>50</sup>

15. Under these circumstances, and in light of JPMorgan's admissions of liability in the Plea Agreement and in its proffered guilty plea, we could refrain from acting on the subject applications until the Court has approved the Plea Agreement and accepted the recommended sentence therein or otherwise convicted JPMorgan of the felony in question, and we could then determine the impact of such a conviction, if any, on our public interest analysis and JPMorgan's character qualifications to hold its proposed interest in New LightSquared.<sup>51</sup> At that time, we would consider the effect of such a conviction on JPMorgan's and, consequently New LightSquared's, anticipated proclivity to deal truthfully with the Commission and to comply with the Act and our rules and policies. However, in this case, the United

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<sup>44</sup> See Plea Agreement at 5-6, ¶¶ 4(g)-(i). The foreign exchange market is a global market in which currencies are traded against one another in pairs. The euro/U.S. dollar currency pair is the most traded currency pair by volume. During the time of the conspiracy, JPMorgan acted as a dealer for currency traded in the foreign exchange market. See *id.* at 3-4, ¶¶ 4(b)-(d).

<sup>45</sup> See *id.* at 6, ¶ 4(i).

<sup>46</sup> See *id.* at 5, ¶ 4(g).

<sup>47</sup> JPMorgan July Letter at 3; see also Plea Agreement at 10-11, ¶¶ 9(c)(iii)-(iv); Letter from Wayne D. Johnsen, Counsel for JPMorgan, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 15-126, at 5-8 (filed Oct. 6, 2015) ("JPMorgan October Letter").

<sup>48</sup> See JPMorgan July Letter at 3; see also JPMorgan October Letter at 6-8.

<sup>49</sup> See Plea Agreement at 16, ¶ 12(a); *United States v. Barclays PLC, et al.*, Nos. 3:15-CR-77 (SRU), *et al.* at 18 (D. Conn. May 20, 2015) ("Tr.").

<sup>50</sup> See Plea Agreement at 16, ¶ 12(b); Tr. at 18.

<sup>51</sup> We retain discretion to condition license grants on the outcome of proceedings involving non-FCC misconduct. See *1986 Character Policy Statement*, 102 FCC 2d at 1204-05; *1990 Character Policy Statement*, 5 FCC Rcd at 3252-23.

States has agreed in the Plea Agreement to support a motion by JPMorgan to adjourn sentencing until the Department of Labor has issued a ruling on JPMorgan's request for a prohibited transaction exception to permit it to continue as a qualified professional asset manager pursuant to Prohibited Transactions Exemption 84-14.<sup>52</sup> Moreover, there are private civil actions pending in other courts that relate to the same underlying conduct, including a recently filed motion by class plaintiffs for preliminary approval of settlement agreements with JPMorgan and certain other defendants, proposing payment of damages to class plaintiffs and members of the settlement classes.<sup>53</sup> To the extent that these civil actions address "the efforts to remedy the wrong," if and when they are adjudicated, they will relate directly to the Commission's consideration of character qualifications.<sup>54</sup> Because we understand that resolution of these matters is not imminent, we also must consider the potential impact of such a delay in our action on the financial viability of LightSquared and the pendency of the bankruptcy proceeding. In considering such a bankruptcy situation, "in recognition of the public interest in protecting innocent creditors, the Commission will approve the sale and assignment of the bankrupt's license when the transaction will not unduly interfere with the FCC mandate to insure that [Commission] licenses are used and transferred consistently with the Communications Act."<sup>55</sup>

16. In the *1986 Character Policy Statement*, the Commission noted that, even "prior to adjudication" as to alleged non-FCC misconduct, it retains "discretion to condition the grant of a license or permit on the outcome of related court or government agency proceedings, where such action is deemed appropriate."<sup>56</sup> Given the pendency of such proceedings as described above, we believe a similar approach is appropriate here. Serious allegations of misconduct have been raised against JPMorgan in connection with manipulation of foreign currency exchange rates, and in that case those allegations have now proceeded not just to the filing of an information or indictment but to the entry of a felony guilty plea, albeit a conditional one that is subject to withdrawal. We believe that these allegations must be addressed by the Commission before JPMorgan is permitted to acquire any interest in New LightSquared that would be cognizable under the attribution rules applied in the *Character Policy Statement*. Such a Commission inquiry would include an analysis of the frequency of the misconduct; the nature of the participation, if any, of the managers and owners; any remedial action taken to curb the conduct and/or dismiss the perpetrator; and the applicant's past record of compliance with Commission rules and policies.<sup>57</sup> As noted above, JPMorgan is not currently in a position to provide complete responses with respect to all of these relevant factors.

17. Accordingly, and in light of these unique circumstances, as an interim mechanism until the Commission can rule on its character following the District Court's resolution of the charges brought

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<sup>52</sup> Plea Agreement at 13, ¶ 9(e). *See also* Tr. at 37 ("need for regulatory waiver and...provisional plea agreement that calls for the potential continuance of any sentencing until a later date").

<sup>53</sup> *See In re Foreign Exchange Benchmark Rates Antitrust Litigation*, Class Plaintiffs' Memorandum of Law in Support of Motion for Preliminary Approval of Settlement Agreements with Bank of America, Barclays, BNP Paribas, Citigroup, Goldman Sachs, HSBC, JPMorgan, RBS, and UBS, No. 1:13-cv-07789-LGS (S.D.N.Y. filed Oct. 22, 2015) (Motion for Preliminary Approval). *See also* JPMorgan Chase & Co., SEC Form 10-Q (Nov. 2, 2015), at 166 (reporting filing in September 2015 of two class actions in Canada).

<sup>54</sup> *1986 Character Policy Statement*, 102 FCC 2d at 1228 ¶ 102. The proposed settlement currently pending, for example, contemplates cash payments by JPMorgan totaling \$104,500,000. Motion for Preliminary Approval, Declaration of Christopher M. Burke and Michael D. Hausfeld ¶ 62. According to the DOJ, the Plea Agreement in the criminal case includes no order of restitution "[i]n light of the availability of civil causes of action which potentially provide up to treble damages." Tr. at 22.

<sup>55</sup> *LaRose v. FCC*, 494 F.2d 1145, 1148 (D.C. Cir. 1974), *citing Shell Broadcasting, Inc.*, 38 FCC 2d 929, 931 (1973).

<sup>56</sup> *1986 Character Policy Statement*, 102 FCC 2d at 1204-05, 1206 n.66.

<sup>57</sup> *See supra* ¶ 10.

by the United States, JPMorgan has agreed to a Proxy Agreement by which it will be prohibited from having any involvement in the management or operation of New LightSquared, and thus from any role in New LightSquared's "dealings with the Commission," or influence on whether New LightSquared's operations will be "consistent with the requirements of the Communications Act and the Commission's rules and policies."<sup>58</sup> Under the terms of this Proxy Agreement, JPMorgan will grant to an independent proxy holder (the "Holder"), the selection of which will be approved by the Commission, sole and exclusive authority to exercise all management rights with respect to its ownership interest in New LightSquared.<sup>59</sup> These include the exercise of any voting, director appointment, consent, approval or management rights arising under the New LightSquared Operating Agreement.<sup>60</sup> Most significantly, JPMorgan has further agreed that it will not communicate with the Holder, management of New LightSquared, or the Holder's appointed director regarding the management of the company. The Proxy Agreement provides that the Holder's proxy shall be irrevocable, and will terminate only upon a Commission finding that JPMorgan possesses the requisite qualifications, including those of character, to hold its New LightSquared interest without such restrictions on its permitted voice in the company's affairs, or otherwise with the Commission's approval.<sup>61</sup>

18. In these circumstances, as noted above, the Proxy Agreement will ensure that JPMorgan will have no role in New LightSquared that is relevant to the dual goals underlying the Commission's character policy:<sup>62</sup> proclivity of the licensee to deal truthfully with the Commission and to comply with its rules and policies.<sup>63</sup> We nevertheless will condition our approval of the application on the requirements that, prior to or contemporaneous with the consummation of the transactions approved herein, JPMorgan and the other parties to the Proxy Agreement will fully execute the Proxy Agreement in the form provided in JPMorgan's November 30, 2015 Supplement to the Application and thereafter shall at all times remain in compliance with the Proxy Agreement, including any amendment thereto subsequently approved by the Commission, until it is terminated following Commission approval. Within ten (10) days after the release of this Order, JPMorgan shall file with the Commission such fully executed Proxy Agreement.

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<sup>58</sup> See *1986 Character Policy Statement*, 102 FCC 2d at 1189, ¶ 21; see also *1990 Character Policy Statement*, 5 FCC Rcd at 3252, ¶ 3.

<sup>59</sup> On November 6, 2015, JPMorgan further supplemented the Application to provide a copy of the form of the Proxy Agreement and JPMorgan's commitment to comply with its terms. Letter from Wayne D. Johnsen, Counsel for JPMorgan, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 15-126, at 1 (filed Nov. 6, 2015). On the same day, it filed another supplement to provide information regarding Julian Markby, JPMorgan's proposed Holder pursuant to that Agreement. Letter from Wayne D. Johnsen, Counsel for JPMorgan, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 15-126, at 1 (filed Nov. 6, 2015). On November 9, it filed a further supplement regarding Mr. Markby's citizenship. Letter from Wayne D. Johnsen, Counsel for JPMorgan, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 15-126, at 1 (filed Nov. 9, 2015). On November 30, it filed another supplement, providing a revised version of the form of the Proxy Agreement and a re-confirmation of JPMorgan's commitment to comply with its terms. Letter from Wayne D. Johnsen, Counsel for JPMorgan, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 15-126, at 1 (filed Nov. 30, 2015). In reliance on the materials so provided, we conclude that Mr. Markby is sufficiently independent of JPMorgan and otherwise qualified under our rules and policies to so serve.

<sup>60</sup> With regard to JPMorgan's current right to appoint a director, although JPMorgan may recommend three possible nominees independent of it to the Holder, the Holder will have the right to reject those individuals, and any others that JPMorgan may nominate until the Holder identifies and appoints a candidate that is acceptable to the Holder. Such director shall have no special fiduciary obligation to JPMorgan, but shall owe fiduciary duties that are customary of any other directors serving on the board of a limited liability company. Proxy Agreement, Section 3.2.

<sup>61</sup> See *id.*, Section 5.1.

<sup>62</sup> See *1986 Character Policy Statement*, 102 FCC 2d 1179, 1205-06, ¶ 48 (limiting character inquiry to interests "recognized and attributed under the multiple ownership rules.").

<sup>63</sup> See *id.* at 1190-91, ¶ 23.

Moreover, within thirty (30) days of either the docketing of the judgment in *United States of America v. JPMorgan Chase & Co.*, Criminal No. 3:15-CR-79 (SRU) (D. Conn.) in connection with the DOJ Plea Agreement, or other resolution by the District Court of the charges brought by the United States in such action (either such event, the “Court Action”), JPMorgan will provide written notice to the Commission regarding such Court Action. As soon thereafter as is reasonably practicable in light of the status of then-pending judicial or other governmental proceedings, including enforcement actions, related to JPMorgan’s trading activities in the foreign currency exchange market, but in no event more than three (3) years after the Court Action, JPMorgan shall make a filing with the Commission stating, in light of that Court Action, under what terms JPMorgan proposes to hold its interest in New LightSquared and provide the Commission with information that JPMorgan believes to be relevant to a determination by the Commission, applying as guidance its *1986 Character Policy Statement* and *1990 Character Policy Statement* and pertinent precedent, of whether JPMorgan has the requisite character to hold its interest in New LightSquared.<sup>64</sup> The Commission will then decide what action is appropriate with respect to such equity interest. In this manner, we may act expeditiously to protect LightSquared’s other creditors, yet ensure that JPMorgan will have no role in its management until we have resolved the matter of its character, and the question whether it has the requisite character qualifications to continue to hold its interests in LightSquared conditionally approved herein. We conclude that our acceptance of JPMorgan’s proposal is in the public interest in light of the unique situation presented to us here by the status of the pending proceedings involving JPMorgan, the absence of any concerns about the impact of JPMorgan’s equity investment on competition in the provision of communications services to be offered by New LightSquared, the goal of facilitating New LightSquared’s exit from the long-pending bankruptcy proceeding, and the positive impact of expeditious action on the significant interests of LightSquared’s creditors.

### C. Foreign Ownership

19. LightSquared Sub requests a declaratory ruling, pursuant to section 310(b)(4) of the Act and section 1.990(a)(1) of the Commission’s rules,<sup>65</sup> to permit foreign ownership of its reconstituted controlling U.S.-organized parent, New LightSquared, to exceed the 25% benchmark in section 310(b)(4).<sup>66</sup> According to LightSquared Sub, entities deemed to be foreign would hold an aggregate equity interest in New LightSquared of between approximately 40% and 70% through Fortress, Harbinger, JPMorgan, and Centerbridge, and their respective subsidiaries and affiliates.<sup>67</sup>

20. Section 1.991(i) of the Commission’s rules requires that LightSquared Sub seek specific approval for any foreign investor, or “group” of foreign investors as defined in the rules, that would hold directly and/or indirectly more than 5% (or 10% in certain circumstances) of the equity and/or voting interests, or a controlling interest, in LightSquared Sub’s controlling U.S. parent, New LightSquared.<sup>68</sup> According to LightSquared Sub, there are no foreign investors that will hold interests in New

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<sup>64</sup> See 47 U.S.C. §§ 308(b), 310(d); *Verizon Wireless-ALLTEL Order*, 23 FCC Rcd at 17464, ¶ 32; *1986 Character Policy Statement*, 102 FCC 2d 1179; *1990 Character Policy Statement*, 5 FCC Rcd 3252.

<sup>65</sup> 47 C.F.R. § 1.990(a)(1).

<sup>66</sup> The rules applicable to foreign ownership of common carrier licensees and spectrum lessees are set forth in sections 1.990 through 1.994 of the Commission’s rules, 47 C.F.R. §§ 1.990-1.994. See also *Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act of 1934, as Amended*, IB Docket No. 11-133, Second Report and Order, FCC 13-50, 28 FCC Rcd 5741 (2013) (“*2013 Foreign Ownership Second Report and Order*”).

<sup>67</sup> See Petition at 8. The Petition states that foreign ownership interests would be held in New LightSquared through Fortress (at 8-12), JPMorgan (at 12-14), Centerbridge (at 14-17), and Harbinger (at 17-22); and provides illustrative ownership diagrams for New LightSquared and the relevant investing entities.

<sup>68</sup> 47 C.F.R. § 1.991(i).

LightSquared through JPMorgan that require specific approval under section 1.991(i) of the rules.<sup>69</sup> Foreign investment in Harbinger, Fortress and Centerbridge is discussed below. In addition to its four principal investors, certain other entities will own interests in New LightSquared, but LightSquared Sub states that none of these “will hold directly a 10% or greater equity interest in New LightSquared.”<sup>70</sup> LightSquared Sub has certified that, to the best of its knowledge and belief, no individual, entity, or group other than those identified in the Petition will hold an equity and/or voting interest in New LightSquared upon consummation of the reorganization requiring specific approval under the Commission’s foreign ownership rules.<sup>71</sup>

21. *Harbinger.* With respect to Harbinger’s investment, and pursuant to section 1.991(i) of the rules, LightSquared Sub requests that the Commission specifically approve foreign equity and voting interests that would be held indirectly in New LightSquared through HGW US, a Delaware limited partnership whose principal business is acting as a holding company.<sup>72</sup> For purposes of calculating New LightSquared’s foreign voting interests under section 1.991 of the rules, LightSquared Sub has treated HGW US as if it were an uninsulated member of New LightSquared that is deemed to hold a 100% voting interest.<sup>73</sup> This approach results in the following calculations of foreign equity and voting interests that

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<sup>69</sup> Based on JPMorgan’s most recent proxy statement, LightSquared Sub states that only two Delaware corporations hold a 5% or greater equity or voting interest in JPMorgan: BlackRock, Inc. and The Vanguard Group. *See* September Supplement at 2.

<sup>70</sup> Petition at 4 n.7. According to the Petition, these other direct interest holders will be insulated in accordance with section 1.993 of the rules. *See id.* at 7 n.12; *see also id.* at 21 n.35. Alford Investment Strategies Ltd. (“Alford”), a Cayman Islands Exempted Company whose principal business is acting as a holding company, will hold direct and indirect interests in New LightSquared. *Id.* at 21 n.35. Alford is wholly owned by the Abu Dhabi Investment Council (“ADIC”). ADIC is a government institution of Abu Dhabi, an emirate of the U.A.E. *Id.* at 6 n.11; *see also id.* at 21-22. Alford will directly hold insulated New LightSquared Series C Preferred Units constituting 6.25% of the New LightSquared Preferred Units and 0% of the New LightSquared Common Units. *Id.* at 21 n.35. Alford will also indirectly hold, through funds controlled by Harbinger, 2.69% to 4.49% of New LightSquared’s equity and 23.37% of its voting interests. *Id.* at 21. Thus, Alford will hold direct and indirect voting interests in New LightSquared of 29.62%. *Id.* at 21, n.35. Due to the potential range of equity investment depending on the relative values of New LightSquared’s Common and Preferred Units, Alford will hold an aggregate direct and indirect equity investment in New LightSquared of 4.49% to 8.94%. *See id.* at 21 n.35; *see also supra* n.20 (range of equity interests).

<sup>71</sup> *See* October Supplement, Attach. 4. LightSquared Sub’s certification is based on the assumption that the Commission will find Fortress is properly treated as a corporation for purposes of calculating foreign voting interests held in New LightSquared, and that the foreign limited partners of Centerbridge affiliate CCP SBS II are insulated under the Commission’s rules. *Id.*

<sup>72</sup> *See* Petition at 18-23.

<sup>73</sup> Sections 1.992 and 1.993 of the Commission’s rules specify the methodology for calculating the foreign equity and voting interests in the controlling U.S. parent of a common carrier licensee that require specific approval under section 1.991(i) of the rules. Equity interests held indirectly in the controlling U.S. parent are calculated using a “multiplier” to dilute the percentage of each investor’s equity interest when those interests are held through intervening companies. *See* 47 C.F.R. § 1.992(b)(1); *2013 Foreign Ownership Second Report and Order*, 28 FCC Rcd at 5803, ¶ 118. For purposes of calculating the percentage of foreign voting interests held indirectly in the controlling U.S. parent through one or more intervening partnerships or limited liability companies (“LLCs”), a general partner, uninsulated limited partner or uninsulated LLC interest holder (including a non-member manager) is considered to hold the same voting interest as the partnership or LLC holds in the company situated in the next lower tier of the vertical ownership chain. *Id.* at 5803-04, ¶ 119, 5806, ¶ 124. Similarly, where the U.S. parent is itself organized as a partnership or LLC (as is the case here), a general partner or other uninsulated interest holder is considered to hold a controlling (100%) voting interest in the U.S. parent. *Id.* For purposes of calculating voting interests held directly or indirectly in New LightSquared, the Petition also properly ascribes a 100% voting interest in New LightSquared to each entity affiliated with Fortress, JPMorgan, and Centerbridge that would hold a membership interest in New LightSquared. The Petition does not assert that any of these entities is insulated within the meaning of section 1.993 of the Commission’s rules.

would be held directly and/or indirectly in New LightSquared in connection with Harbinger's investment that require specific approval under section 1.991(i).<sup>74</sup>

HGW Holding Company, L.P. (100% voting and 9.38-15.65% equity interest);

HGW GP, Ltd. (100% voting and less than 0.1% equity interest);

Harbinger Capital Partners Master Fund I, Ltd. (70.1% voting and 18.66-31.33% equity interest);

Harbinger Class PE Holdings (Cayman), Ltd. (16.73% voting and 4.46-7.44% equity interest);

Harbinger Capital Partners Intermediate Fund I, Ltd. (70.1% voting and 9.49-15.84% equity interest);

Harbinger Capital Partners Offshore Fund I, Ltd. (70.1% voting and 8.01-13.36% equity interest);

Alford Investment Strategies Ltd. (29.62% voting and 4.49-8.94% equity interest);

Abu Dhabi Investment Council (29.62% voting and 4.49-8.94% equity interest); and

Harbinger Capital Partners Special Situations Offshore Fund, L.P. (16.02% voting and 4.27-7.12% equity interest).

22. The Petition also requests advance approval, under section 1.991(k)(2) of the Commission's rules,<sup>75</sup> for the foregoing entities to increase their interests in New LightSquared up to and including a non-controlling 49.99% equity and/or voting interest.<sup>76</sup> Advance approval is also requested for these entities to increase their respective interests up to and including a 100% direct or indirect equity and/or voting interest in HGW US<sup>77</sup> which, as discussed above, will hold a minority interest in New LightSquared.

23. *Fortress*. The Petition requests that Fortress, as a widely-held, publicly traded limited liability company ("LLC"), be treated in the same manner as a corporation for purposes of calculating foreign voting interests that would be held indirectly in New LightSquared through Fortress.<sup>78</sup> Fortress will hold indirectly less than 1% equity interest in New LightSquared. As an unincorporated member of New LightSquared, however, Fortress is deemed to hold a 100% voting interest in New LightSquared under section 1.992 of the rules.<sup>79</sup> The public shareholders of Fortress (who are members of Fortress under its LLC agreement) are also unincorporated and, as such, each foreign shareholder of Fortress is deemed to hold a 100% voting interest in New LightSquared under section 1.992 and requires specific approval under

<sup>74</sup> The equity percentages for HGW Holding Company, L.P. and HGW GP Ltd. are lower than in the Petition due to a subsequent internal reorganization of the Harbinger entities. September Supplement at 4-5.

<sup>75</sup> 47 C.F.R. § 1.991(k)(2).

<sup>76</sup> Petition at 23.

<sup>77</sup> *Id.*

<sup>78</sup> Petition at 10-11.

<sup>79</sup> Where the controlling U.S. parent of a licensee is itself organized as a partnership or LLC (as is the case here), a general partner or other unincorporated interest holder is considered to hold a controlling (100%) voting interest in the U.S. parent. The Commission's treatment of unincorporated interests in a limited liability company (as in a limited partnership) is based on the concern that the partners in a limited partnership or members of a limited liability company, through contractual arrangements, largely have the power themselves to determine the rights of the limited partners or members. See *2013 Foreign Ownership Second Report and Order*, 28 FCC Rcd at 5804, ¶ 119 n.317 (citing *Reexamination of the Commission's Rules and Policies Regarding the Attribution of Ownership Interests in Broadcast, Cable Television and Newspaper Entities*, Memorandum Opinion and Order, MM Docket No. 83-46, 1 FCC Rcd 802, 803-04, ¶ 9 (1986) (footnotes omitted)). Thus, unlike the powers of a voting stockholder, the powers of a limited partner or LLC member are not necessarily dependent upon the extent of the partner's or member's equity holdings. *Id.* at 804, ¶ 10.

section 1.991(i). By contrast, if the Commission were to find that Fortress is governed in a manner similar to a corporation, Fortress' public shareholders would be deemed to hold a voting interest in New LightSquared that is equal to their respective voting interests in Fortress.<sup>80</sup> And, according to the Petition, no public shareholder of Fortress holds 5% or more of the total voting shares (or equity) of Fortress.<sup>81</sup>

24. In adopting rules applicable to foreign ownership of common carrier licensees, the Commission stated in the *2013 Foreign Ownership Second Report and Order* that it would entertain requests filed in the context of a section 310(b) petition to treat a particular limited liability company in the petitioner's chain of ownership in the same manner as a corporation for purposes of calculating foreign voting interests held directly and/or indirectly in the petitioning licensee or its controlling U.S. parent.<sup>82</sup> The Commission stated that the petition must demonstrate that the LLC is governed in a manner similar to a corporation and must be accompanied by copies of the LLC's governance documents as well as a description of the LLC members' respective voting rights and roles in managing the affairs of the company.<sup>83</sup> We address New LightSquared's showing below.

25. Fortress is a limited liability company that is publicly traded.<sup>84</sup> Fortress has two classes of shares: Class A shares which are publicly traded, and Class B shares, which are privately held.<sup>85</sup> According to the Petition, the Class A and Class B shares vote together as a single class and are each entitled to one vote per share.<sup>86</sup> The vast majority of Class B shares are held by four U.S. citizens who, together, hold a 51.98% equity and voting interest in Fortress.<sup>87</sup> The Class A shares represent 48.02% of the interests in Fortress. There are approximately 215,673,299 such Class A shares.<sup>88</sup> Like a corporation, the Fortress LLC Agreement provides that "the business and affairs of the Company shall be managed by or under the direction of a board of directors."<sup>89</sup> Under Section 5.22 of the Fortress LLC Agreement, "the

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<sup>80</sup> As discussed herein, Fortress shareholders vote together as a single class and are each entitled to one vote per share. Thus, a shareholder's voting interest is equal to its equity interest in Fortress. Based on the particular ownership and control structure that Fortress has used to invest in New LightSquared, the respective voting interests of Fortress' public shareholders would flow through in their entirety to New LightSquared, because Fortress is deemed to hold a 100% voting interest in New LightSquared. See *2013 Foreign Ownership Second Report and Order*, 28 FCC Rcd at 5803, ¶ 119 ("[I]n calculating foreign voting interests, the multiplier is not applied to any link in the vertical ownership chain that constitutes a controlling interest in the company positioned in the next lower tier.").

<sup>81</sup> See September Supplement at 2 n.5.

<sup>82</sup> See *2013 Foreign Ownership Second Report and Order*, 28 FCC Rcd at 5807 n.331.

<sup>83</sup> *Id.*

<sup>84</sup> May Supplement at 10.

<sup>85</sup> September Supplement at 2. Fortress had approximately 215,673,299 Class A shares outstanding as of July 24, 2015. See October Supplement at 2.

<sup>86</sup> October Supplement at 2, n.8 (citing Petition at Att. E (Fourth Amended and Restated Limited Liability Company Agreement of Fortress Investment Group LLC, § 11.6(b)), "Each Outstanding Class A Share and each Outstanding Class B Share shall be entitled to one vote per Share on all matters submitted to Members for approval and in the election of Directors."). Under Section 11.6(d) of the Fortress Operating Agreement, directors are elected by a plurality of the votes cast for a particular position.

<sup>87</sup> Petition at 11; May Supplement at Chart C-3. Less than 1% of Class B shares are held by Adam J. Levinson, a U.S. citizen who also holds Class A shares, but, in the aggregate, holds less than 5% of the total equity and voting interests in Fortress. See October Supplement at 2 n.6.

<sup>88</sup> October Supplement at 2.

<sup>89</sup> See October Supplement at 2-3 n.9 (citing Petition at Attach. E (Fourth Amended and Restated Limited Liability Company Agreement of Fortress Investment Group LLC, § 5.1). The operative Shareholders Agreement, which is referenced in the Fortress LLC Agreement, outlines the responsibilities and rights of Mr. Edens, Mr. Nardone, Mr. Briger, and Mr. Novogratz, as holders of the vast majority of Class B shares of Fortress. In particular, this

(continued....)

Board of Directors shall have the power and authority to appoint Officers of the Company.”<sup>90</sup> The authority and functions of the board and the officers “shall be identical to the authority and functions of the board of directors and officers, respectively, of a corporation organized under the [Delaware General Corporation Law].”<sup>91</sup> The Fortress LLC Agreement also provides that the officers and directors of Fortress owe the same duties and obligations to Fortress and its members as would be required of the officers and directors of a corporation organized under the Delaware General Corporation Law.<sup>92</sup> Further, “[n]o Member, by virtue of its status as such, shall have any management power over the business and affairs of the Company or actual or apparent authority to enter into, execute or deliver contracts on behalf of, or to otherwise bind, the Company.”<sup>93</sup> We find nothing in the LLC Agreement that suggests that the Class A shareholders have any greater measure of influence over the affairs of the company than they would as shareholders of a Delaware corporation. Indeed, the LLC Agreement specifies that they do not.

26. We find, on the basis of the record in this proceeding, that Fortress is governed in a manner similar to a corporation. Pursuant to the Commission’s *2013 Foreign Ownership Second Report and Order*, we permit LightSquared Sub to ascribe a voting interest in New LightSquared to Fortress’ public shareholders that is equal to their respective voting interests in Fortress for purposes of identifying foreign voting interests held indirectly in New LightSquared that require specific approval under sections 1.991(i) and 1.994(a)(1) of the rules.<sup>94</sup> Because we find that none of Fortress’ public shareholders would hold as much as 5% of the total voting or equity interests in Fortress or, in turn, in New LightSquared, LightSquared Sub is not required to identify and request specific approval for any foreign public shareholder of Fortress pursuant to sections 1.991(i) and 1.994(a)(1) of the rules. Our determination that LightSquared Sub may ascribe a voting interest in New LightSquared to the public shareholders of Fortress that is equal to their respective voting interests in Fortress shall continue in effect for so long as Fortress shares remain publicly traded and subject to Exchange Act Rule 13d-1, and the provisions of the LLC Agreement and the Shareholders Agreement remain in effect with no material change.<sup>95</sup> We require, as a condition of our finding, that LightSquared Sub notify the International Bureau staff 30 days prior to the occurrence of an event that would be inconsistent with these conditions, and to seek specific approval under section 1.994(a)(1) of the rules based on its calculation of foreign interests held in New

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Agreement provides information on the number of directors that the principals may nominate to Fortress’ board of directors, which is based on the percentage ownership the principals have in Fortress. See October Supplement at 3 (citing Section 4.1 of the Shareholders Agreement, included as Attach. 2 to the October Supplement). Fortress is listed on the New York Stock Exchange (“NYSE”). Under NYSE rules, a company is required to comply with the requirement to have a majority of independent directors unless the company is a “controlled company,” with more than 50% of voting power for the election of directors held by an individual or group. New York Stock Exchange Listed Company Manual, Section 303A.00 Corporate Governance Standards, *available at* [http://nysemanual.nyse.com/LCMTTools/PlatformViewer.asp?selectednode=chp\\_1\\_4\\_3&manual=%2Fflcm%2Fsections%2Fflcm-sections%2F](http://nysemanual.nyse.com/LCMTTools/PlatformViewer.asp?selectednode=chp_1_4_3&manual=%2Fflcm%2Fsections%2Fflcm-sections%2F). LightSquared Sub notes that, as recently announced, Mr. Novogratz is expected to retire from Fortress and the Board of Directors at year end. When this occurs, the ownership of Fortress by the principals will fall below 50% and Fortress will become subject to the NYSE requirement to have a majority of independent directors. October Supplement at 3 n.12.

<sup>90</sup> See October Supplement at 2-3 n.9 (citing Petition at Attach. E (Fourth Amended and Restated Limited Liability Company Agreement of Fortress Investment Group LLC, § 5.1)).

<sup>91</sup> *Id.*

<sup>92</sup> *Id.* at 3 (citing Fortress LLC Agreement, § 5.23(a)).

<sup>93</sup> *Id.*

<sup>94</sup> *2013 Foreign Ownership Second Report and Order*, 28 FCC Rcd at 5807 n.331.

<sup>95</sup> 17 C.F.R. § 240.13d-1(b). The “Exchange Act” referenced herein is the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78a *et seq.* See September Supplement at 2 (“individuals and entities with a five percent or greater interest [in Fortress] are required to file a Schedule 13-D or Schedule 13-G with the SEC”).

LightSquared through Fortress in accordance with the generally applicable requirements for LLC interests under section 1.992.<sup>96</sup>

27. *Centerbridge*. Two Centerbridge affiliates that are organized as Delaware limited partnerships, CCP II AIV II and CCP SBS II, will hold interests directly in New LightSquared. According to the Petition, the limited partnership agreement for CCP II AIV II insulates the limited partners,<sup>97</sup> but the limited partnership agreement for CCP SBS II does not contain specific insulation provisions with the exception of certain provisions discussed below.<sup>98</sup> Based on supplemental information submitted by New LightSquared, including a certification provided by Centerbridge, we find that the foreign limited partners of CCP SBS II will be insulated consistent with the requirements of section 1.993(a) and therefore do not require specific approval under section 1.991(i).<sup>99</sup> The Petition notes that nine of 72 limited partners of CCP SBS II are non-U.S. citizens that hold, in the aggregate, approximately 3% of the equity interest interests in CCP SBS II, which represents an equity interest in New LightSquared of no greater than 0.006%.<sup>100</sup> Despite the *de minimis* equity interest that would be held in New LightSquared by CCP SBS II's foreign limited partners, each would be deemed to hold a 100% voting interest in New LightSquared under section 1.992 of the Commission's rules unless their interests are insulated within the meaning of section 1.993(a) of the Commission's rules.

28. Under CCP SBS II's limited partnership agreement, the limited partners have no right to take part in the management or control of the partnership's business or to act for or bind the partnership, and do not have any right of vote, consent or approval with respect to the organization, management or control of CCP SBS II or its business.<sup>101</sup> Centerbridge has also certified for the record that no foreign holder (*i.e.*, non-U.S. citizen or entity not organized under the laws of the United States) of a limited partnership interest in CCP SBS II will be engaged in active involvement in the management or operation of New LightSquared or any of its subsidiaries.<sup>102</sup> We find that the foregoing provisions of the CCP SBS

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<sup>96</sup> See 47 C.F.R. § 1.992(b)(2)(iii).

<sup>97</sup> The Petition states that limited partners which are deemed to be foreign directly or indirectly hold an aggregate 33.5% equity interest in CCP II AIV II. Because the limited partners are insulated, the aggregate foreign equity and voting interest of CCP II AIV II in New LightSquared is deemed to be no greater than 2.64% thus not subject to specific approval under section 1.991(i) of the Commission's rules. See Petition at 15; 47 C.F.R. § 1.991(i).

<sup>98</sup> See Petition at 15. See also October 28 Supplement at 4. The Petition states that CCP SBS II was formed to provide a co-investment vehicle primarily for employees of Centerbridge and its affiliates, including CCP II AIV II. Petition at 15. With the exception of one investor, the CCP SBS II limited partners are current employees and former employees of Centerbridge, and employees' family trusts. See September Supplement at 4. We note that employee co-investment funds are not uncommon among private equity funds as a means of demonstrating to other investors that fund employees are willing to put their own capital at risk to further align their economic interests with those of the other investors.

<sup>99</sup> October Supplement at 4 and Attach. 3.

<sup>100</sup> Petition at 15-17. Eight of the nine have an interest in CCP SBS II of less than 1% and the ninth has an interest in CCP SBS II of less than 1.1%. *Id.* According to the relevant governing documents, CCP SBS II's share of New LightSquared cannot exceed 0.21% given Centerbridge's overall 8.1% share of New LightSquared, and persons invested in CCP SBS II may not redeem or freely transfer their interests. *Id.* at 16.

<sup>101</sup> October Supplement at 4; see also September Supplement at 4. The limited partners have certain rights against material adverse changes in distributions or changes in rights differentially to other limited partners. *Id.* Centerbridge has certified that the representations in New LightSquared's September Supplement with respect to CCP SBS II are true and correct. See October Supplement, Attach. 3.

<sup>102</sup> *Id.* We note that, as a member of New LightSquared, CCP SBS II is obligated under Section 4.16(b) of the New LightSquared Operating Agreement to use its reasonable efforts to insulate its limited partners consistent with the requirements of the Communications Act and Commission rules and policies, including but not limited to "ensuring that insulated investors are prohibited from having, and do not engage in, active involvement in the management or operation of the Company, its Subsidiaries and such Member."

II limited partnership agreement and the certification provided by Centerbridge satisfy the concerns underlying the insulation criteria for limited partners in section 1.993 of the Commission's rules.<sup>103</sup> We therefore ascribe a voting interest to the foreign limited partners of CCP SBS II that is equal to their respective equity interests in the partnership for purposes of identifying foreign voting interests held indirectly in New LightSquared through Centerbridge that require specific approval under sections 1.991(i) and 1.994(a)(1) of the Commission's rules. We find that none of the foreign limited partners of CCP SBS II will have an equity or voting interest in New LightSquared of a magnitude that requires specific approval under section 1.991(i) of the Commission's rules.

29. *Section 310(b)(4) Petition for Declaratory Ruling.* We grant LightSquared Sub's Petition subject to the conditions set out below. We received no comments objecting to grant of the Petition, and the DOJ has advised the Commission that it has no objection to the Commission approving the authority sought provided that the Commission conditions its approval on the compliance by LightSquared Sub and One Dot Six with the commitments and undertakings set forth in the September 24, 2015 Agreement from LightSquared Sub and One Dot Six to the DOJ.<sup>104</sup> We also find that the proposed foreign ownership of LightSquared Sub's controlling U.S.-organized parent, New LightSquared, will serve the public interest by providing the capital necessary to allow the LightSquared entities to emerge from bankruptcy, consistent with the broad aims of the Bankruptcy Code,<sup>105</sup> the Act and the Commission's rules and policies. As explained below, we find no evidence that the proposed transaction is likely to harm competition involving MSS or other telecommunications service offerings. Thus, pursuant to the rules and policies established by the Commission's *2013 Foreign Ownership Second Report and Order*, we find that the public interest would not be served by prohibiting foreign ownership of LightSquared Sub in excess of the 25% benchmark in section 310(b)(4) of the Act.

30. Specifically, this ruling permits aggregate foreign ownership of LightSquared Sub's controlling U.S. parent, New LightSquared, to exceed, directly and/or indirectly, 25% of its equity and/or voting interests, subject to the terms and conditions set forth below and in section 1.994 of the Commission's rules, including the requirement to obtain Commission approval before LightSquared Sub's foreign ownership exceeds the terms and conditions of this ruling. In addition, this ruling specifically permits the Harbinger Named Entities<sup>106</sup> to hold equity and/or voting interests directly and/or indirectly in New LightSquared up to and including the amounts in paragraph 21 above; grants advance approval, under section 1.991(k)(2) of the rules, for the Harbinger Named Entities to increase their respective interests, individually or in the aggregate, in New LightSquared up to and including a non-controlling 49.99% equity and/or voting interest; and grants advance approval for the Harbinger Named Entities to increase their respective interests, individually or in the aggregate, up to and including a 100% direct or indirect equity and/or voting interest in HGW US as a minority investor in New LightSquared. LightSquared Sub is also required to notify the Commission 30 days prior to the shares of Fortress no longer being publicly traded and subject to Exchange Act Rule 13d-1 or any material change to the provisions of the LLC Agreement and the Shareholders Agreement. Effective upon the occurrence of

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<sup>103</sup> The Commission's treatment of uninsulated interests in a limited partnership (or in a limited liability company) is based on the concern that the partners in a limited partnership or members of a limited liability company, through contractual arrangements, largely have the power themselves to determine the rights of the limited partners or members.

<sup>104</sup> See *supra* section II.C.

<sup>105</sup> See, e.g., *LaRose v. FCC*, 494 F.2d 1145 (D.C. Cir. 1974).

<sup>106</sup> The "Harbinger Named Entities" and the equity and/or voting interests each would hold directly and/or indirectly in New LightSquared upon consummation of the proposed reorganization are listed in paragraph 21, *supra*. The Harbinger Named Entities consist of the following: HGW Holding Company, L.P., HGW GP, Ltd., Harbinger Capital Partners Master Fund I, Ltd., Harbinger Class PE Holdings (Cayman), Ltd., Harbinger Capital Partners Intermediate Fund I, Ltd., Harbinger Capital Partners Offshore Fund I, Ltd., Alford Investment Strategies Ltd., Abu Dhabi Investment Council, and Harbinger Capital Partners Special Situations Offshore Fund, L.P.

such event, LightSquared Sub shall be required to file any necessary requests for specific approval required under section 1.994(a)(1) based on its calculation of foreign interests held in New LightSquared through Fortress in accordance with the generally applicable requirements for LLC interests under section 1.992. Grant of the Petition is also conditioned on LightSquared Sub's compliance with the commitments and undertakings set forth in the DOJ Agreement.

31. LightSquared Sub has an affirmative duty to monitor its foreign equity and voting interests, calculate these interests consistent with the attribution principles enunciated by the Commission, including the standards and criteria set forth in sections 1.992 through 1.993 of the Commission's rules, 47 C.F.R. §§ 1.992-1.993, and otherwise ensure continuing compliance with the provisions of section 310(b) of the Act.

#### **D. Competitive Analysis**

32. Our public interest analysis must also consider the competitive effects of the proposed transaction.<sup>107</sup> In this case, the Applicants represent that none of JPMorgan, Fortress, Centerbridge, or Harbinger holds any significant interest in any satellite or other wireless telecommunications provider.<sup>108</sup> They argue, therefore, that the proposed transaction will have no adverse effect on market concentration or otherwise harm competition. Rather, the Applicants contend that the emergence of LightSquared entities from bankruptcy, with significant new investment, will enhance their ability to provide existing and new competitive services to the public.<sup>109</sup>

33. The record contains no evidence that the proposed transaction is likely to harm competition involving MSS or other telecommunications service offerings.<sup>110</sup> Further, we find that grant of the Application might tend to improve competition by permitting LightSquared Sub and One Dot Six to emerge from bankruptcy with access to significant new capital, furthering the viability of their service offerings. We conclude, therefore, that grant of the Application will not harm competition, and will serve the public interest.

#### **E. National Security, Law Enforcement, Foreign Policy, and Trade Policy**

34. When analyzing an assignment application in which foreign investment is involved, we also consider any national security, law enforcement, foreign policy, or trade policy concerns raised by the Executive Branch.<sup>111</sup> As noted above, LightSquared Sub and One Dot Six have entered into an agreement with the DOJ addressing such concerns.<sup>112</sup>

35. In assessing the public interest, we take into account the record and consider the national security, law enforcement, foreign policy and trade concerns raised by the Executive Branch as we

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<sup>107</sup> See, e.g., *Harbinger Transfer Order*, 24 FCC Rcd 3059, ¶ 29.

<sup>108</sup> See Application at 16-17; May Supplement at 7.

<sup>109</sup> See Application at 14-16.

<sup>110</sup> Pursuant to section 63.24 of the rules, the Applicants state that LightSquared Sub DIP is, and LightSquared Sub would be upon consummation of the proposed transaction, under 100% common ownership with two foreign carriers that are authorized to operate in Canada (SkyTerra (Canada) Inc., and LightSquared Corp.). The Applicants note that LightSquared Sub DIP is currently classified as a "non-dominant" carrier in its provision of U.S. international service under its international section 214 authorizations that would be transferred at closing to LightSquared Sub. Application at 18-20. They assert, and we agree, that LightSquared Sub continues to qualify as a non-dominant U.S. international carrier in its provision of service between the United States and Canada. And, according to the Application, no new foreign carrier affiliations will result from the proposed reorganization. *Id.*

<sup>111</sup> *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market: Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket Nos. 97-142 and 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-21, ¶¶ 59-66 (1997) ("*Foreign Participation Order*").

<sup>112</sup> See DOJ Agreement, *supra* section II.C.

undertake our independent public interest analysis.<sup>113</sup> As the Commission stated in the *Foreign Participation Order*, foreign participation in the U.S. telecommunications market may implicate significant national security or law enforcement issues uniquely within the expertise of the Executive Branch.<sup>114</sup> In accordance with the request of the DOJ, we condition our grant of the Application and Petition on Applicants' compliance with the commitments and undertakings set forth in the DOJ Agreement.

#### IV. CONCLUSION

36. Upon review of the Application, the Petition, and the record, we conclude that grant of the Application and Petition, subject to the conditions set forth below, is in the public interest.

#### V. ORDERING CLAUSES

37. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i)-(j), 214, 303(r), 309 and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 214, 303(r), 309, 310(d), the applications for consent to assign the licenses and authorizations of, and to transfer the domestic section 214 authority of, LightSquared Subsidiary LLC, Debtor-in-Possession to LightSquared Subsidiary LLC, and the application to assign the wireless lease authorization of One Dot Six Corp., Debtor-in-Possession to One Dot Six LLC, listed in the Appendix, ARE GRANTED, as conditioned in this Memorandum Opinion and Order and Declaratory Ruling.

38. IT IS FURTHER ORDERED that, pursuant to Sections 4(i)-(j) and 310(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 310(b), and Section 1.2 of the Commission's rules, 47 C.F.R. § 1.2, the Petition for Declaratory Ruling filed by LightSquared Subsidiary, LLC IS GRANTED to the extent set forth herein, and otherwise DENIED.

39. IT IS FURTHER ORDERED that, pursuant to Sections 4(i)-(j) and 310(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 310(b), and Section 1.41 of the Commission's rules, 47 C.F.R. § 1.41, the Petition to Adopt Conditions of the U.S. Department of Justice IS GRANTED.

40. IT IS FURTHER ORDERED that, pursuant to Sections 4(i)-(j), 303(r), and 310(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 303(r), 310(b), grant of the Petition for Declaratory Ruling IS CONDITIONED UPON LightSquared Subsidiary LLC notifying the Commission 30 days prior to the shares of Fortress Investment Group LLC no longer being publicly traded and subject to Exchange Act Rule 13d-1 or any material change to the provisions of the LLC Agreement and the Shareholders Agreement. Effective upon the occurrence of such event, LightSquared Subsidiary LLC shall be required to file any necessary requests for specific approval required under 47 C.F.R. § 1.994(a)(1) based on its calculation of foreign interests held in New LightSquared through Fortress Investment Group LLC in accordance with the generally applicable requirements for LLC interests under 47 C.F.R. § 1.992.

41. IT IS FURTHER ORDERED that, pursuant to Sections 4(i)-(j), 214, 303(r), 309, 310(b), and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 214, 303(r), 309, 310(b), 310(d), grant of the applications and Petition for Declaratory Ruling IS CONDITIONED UPON compliance by LightSquared Subsidiary LLC and One Dot Six LLC with the provisions of the Agreement between themselves and the U.S. Department of Justice dated September 24, 2015. Any failure to comply and/or remain in compliance with any of these commitments and undertakings shall constitute a failure to meet a condition of the underlying authorizations and licenses and thus grounds for declaring the authorizations and licenses terminated without any further action on the part of the Commission. Failure

<sup>113</sup> See *Foreign Participation Order*, 12 FCC Rcd at 23918-21, ¶¶ 59-66.

<sup>114</sup> *Id.*, 12 FCC Rcd at 23919, ¶ 62.

to meet a condition of the license may also result in monetary sanctions or other enforcement action by the Commission.

42. IT IS FURTHER ORDERED that, pursuant to Sections 4(i)-(j), 214, 303(r), 308, 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 214, 303(r), 308, 309, 310(d), grant of the applications IS CONDITIONED as follows: prior to or contemporaneous with the consummation of the transactions approved herein, JPMorgan and the other parties to the Proxy Agreement will fully execute the Proxy Agreement in the form provided in JPMorgan's November 30, 2015 Supplement to the Application and thereafter shall at all times remain in compliance with the Proxy Agreement, including any amendment thereto subsequently approved by the Commission, until it is terminated following Commission approval. Within ten (10) days after the release of this Order, JPMorgan shall file with the Commission such fully executed Proxy Agreement. Moreover, within thirty (30) days of either the docketing of the judgment in *United States of America v. JPMorgan Chase & Co.*, Criminal No. 3:15-CR-79 (SRU) (D. Conn.) in connection with the DOJ Plea Agreement, or other resolution by the District Court of the charges brought by the United States in such action (either such event, the "Court Action"), JPMorgan will provide written notice to the Commission regarding such Court Action. As soon thereafter as is reasonably practicable in light of the status of then-pending judicial or other governmental proceedings, including enforcement actions, related to JPMorgan's trading activities in the foreign exchange market, but in no event more than three (3) years after the Court Action, JPMorgan shall make a filing with the Commission stating, in light of that Court Action, under what terms JPMorgan proposes to hold its interest in New LightSquared and provide the Commission with information that JPMorgan believes to be relevant to a determination by the Commission, applying as guidance its *Policy Regarding Character Qualifications in Broadcast Licensing*, Report, Order and Policy Statement, 102 FCC 2d 1179 (1986), and its *Policy Regarding Character Qualifications in Broadcast Licensing*, Policy Statement and Order, 5 FCC Rcd 3252 (1990) and pertinent precedent, of whether JPMorgan has the requisite character to hold its interest in New LightSquared.

43. IT IS FURTHER ORDERED that the above grant shall include authority for reorganized LightSquared entities to acquire control of: (1) any authorizations issued to LightSquared Inc. or its subsidiaries while the assignment applications are pending before the Commission and during the period required for consummation of the transaction; (2) any construction permits held by LightSquared Inc. or its subsidiaries that mature into licenses after closing; (3) any applications or lease notifications filed by LightSquared Inc. or its subsidiaries that are pending at the time of consummation; and (4) any leases of spectrum into which LightSquared Inc. or its subsidiaries enter into as lessees while the assignment applications are pending and during the period required for consummation.

44. IT IS FURTHER ORDERED that this Memorandum Opinion and Order and Declaratory Ruling SHALL BE EFFECTIVE upon adoption, in accordance with 47 C.F.R. § 1.103.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

## APPENDIX

**Part 25 – Satellite Communications Licenses**

The following applications for consent to the assignment of space station and earth station licenses from LightSquared Sub DIP to LightSquared Sub have been assigned the file numbers listed below:

**Satellite Space Station Licenses**

<b><u>File No.</u></b>	<b><u>Licensee</u></b>	<b><u>Call Sign</u></b>
SAT-ASG-20150406-00017	LightSquared Subsidiary LLC, Debtor-in-Possession	S2358
SAT-ASG-20150409-00021	LightSquared Subsidiary LLC, Debtor-in-Possession	AMSC-1

**Satellite Earth Station Licenses – Fixed**

<b><u>File No.</u></b>	<b><u>Licensee</u></b>	<b><u>Call Sign</u></b>
SES-ASG-20150406-00192	LightSquared Subsidiary LLC, Debtor-in-Possession	E080030 E080031 E100051 E130161 E930124

**Satellite Earth Station Licenses – Mobile**

<b><u>File No.</u></b>	<b><u>Licensee</u></b>	<b><u>Call Sign</u></b>
SES-ASG-20150406-00191	LightSquared Subsidiary LLC, Debtor-in-Possession	E930367 E980179

**Parts 90 and 101 – Private Wireless Licenses**

The following application for consent to the assignment of private wireless licenses from LightSquared Sub DIP to LightSquared Sub has been assigned the file number listed below:

<b><u>File No.</u></b>	<b><u>Licensee</u></b>	<b><u>Call Sign</u></b>
0006726911	LightSquared Subsidiary LLC, Debtor-in-Possession	WQHL596 WQMN726

### Part 27 – Misc. Wireless Services *De Facto* Transfer Lease

The following application for a long-term *de facto* transfer spectrum leasing arrangement between One Dot Six LLC and OP LLC has been assigned the file number listed below:<sup>1</sup>

<u>File No.</u>	<u>Lessee</u>	<u>Lease ID Number</u>
0006817249	One Dot Six LLC	L000016369

### Part 5 – Experimental Radio Service License

The following application for consent to the assignment of an experimental license from LightSquared Sub DIP to LightSquared Sub has been assigned the file number listed below:

<u>File No.</u>	<u>Licensee</u>	<u>Call Sign</u>
0004-EX-AU-2015	LightSquared Subsidiary LLC, Debtor-in-Possession	WH2XDX

### Part 63 – Domestic Section 214 Authority

The Applicants have filed an application for consent to the transfer of control of domestic section 214 authority from LightSquared Sub DIP to LightSquared Sub. LightSquared Sub DIP holds domestic section 214 authority to provide interstate telecommunications services throughout the United States.

### Part 63 – International Section 214 Authorizations

The following application for consent to the assignment of international section 214 authorizations from LightSquared Sub DIP to LightSquared Sub has been assigned the file number listed below:

<u>File No.</u>	<u>Authorization Holder</u>	<u>Authorization Number</u>
ITC-ASG-20150406-00084	LightSquared Subsidiary LLC, Debtor-in-Possession	ITC-214-19951215-00023 ITC-MOD-20120927-00246

<sup>1</sup> Under the Wireless Telecommunications Bureau's standard filing practice, this application was submitted as a new *de facto* transfer lease application but is intended to reflect the assignment of the existing lease authority from One Dot Six Corp., Debtor-in-Possession, to the reorganized One Dot Six LLC.

**STATEMENT OF  
COMMISSIONER AJIT PAI,  
APPROVING IN PART AND CONCURRING IN PART**

Re: *Applications of LightSquared Subsidiary LLC, Debtor-in-Possession, and LightSquared Subsidiary LLC For Consent to Assign and Transfer Licenses and Other Authorizations and Request for Declaratory Ruling on Foreign Ownership, IB Docket No. 15-126.*

With this transaction, the LightSquared entities are on a path out of Chapter 11 bankruptcy, and today's decision will help move that process forward. With respect to one applicant, however, the Commission is using a proxy agreement and deferring consideration of its character qualifications until the agency receives additional information. In my view, we should be deciding in this *Order* whether every applicant has the requisite qualifications to hold an FCC license. As a result, I am voting to concur in this part of the decision.

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

Re: *Applications of LightSquared Subsidiary LLC, Debtor-in-Possession, and LightSquared Subsidiary LLC For Consent to Assign and Transfer Licenses and Other Authorizations and Request for Declaratory Ruling on Foreign Ownership, IB Docket No. 15-126.*

At the outset, it should be noted that I maintain a small investment in JPMorgan Chase & Co. This was fully disclosed during my confirmation process and has been reported thereafter in annual financial filings. After being alerted to JPMorgan Chase's involvement by my personal staff, I sought out the opinion of the ethics experts within the Commission's Office of General Counsel to inquire about any potential conflict of interest concerns. Upon review, it was determined that my holdings fall far below the threshold to trigger any such issues. Only after this matter was resolved did I participate in this proceeding or entertain any related meetings.

In terms of substance, the transfer of licenses from old LightSquared to the new entity allows for the company to exit bankruptcy proceedings and offer services to the American people. The item appears to properly handle pending non-communications-related legal actions by walling off those involved from LightSquared's decision-making process until the particular issues are fully resolved. Further, the foreign ownership review seems consistent with past practices.

As the new LightSquared moves forward, it should be clear that I have no intent to revisit the process circus that encircled the previous version of LightSquared. In particular, I will not be party to any effort to undermine any legitimate protections afforded to the Global Positioning System and its commercial users.