

Public Company Jones Act Citizenship

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U.S. cabotage laws, popularly and generally referred to as the Jones Act, limit access to the U.S. domestic maritime trade to U.S.-flag vessels owned and operated by qualified U.S. citizens. One of the citizenship requirements is the maintenance of at least 75% U.S. citizen beneficial ownership of the ultimate parent and intervening subsidiaries of the vessel-owning company. The law is apparently unyielding, for there is no *de minimis* exception and compliance in principle must be continuous. Public companies can find it difficult to qualify as Jones Act citizens and maintain that citizenship. Most publicly traded securities are held in “street name” where the securities issuer does not have access to the identity of the ultimate owners, and publicly listed securities are traded daily. Jones Act companies and securities institutions have come up with mechanisms that ameliorate the difficulty. However, government sanctioned compliance tools have lagged and do not provide Jones Act companies that are intent on compliance with the ability to obtain the assurance they deserve. We examine the current Jones Act citizenship standard, the nature of contemporary public securities trade settlement and ownership, current public company strategies for Jones Act compliance, the latest Coast Guard guidance on the subject, and suggest several compliance improvements to alleviate the problem.

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