

Franchise Law Alert: SBA Adopts Alternative to Standard SBA Addendum to Franchise Agreement

February 15, 2017

The U.S. Small Business Administration (SBA) announced yesterday, February 14, 2017, that, in addition to the SBA Addendum to Franchise Agreement it had earlier prescribed for use as a condition of meeting its affiliation requirements, a franchisor may now satisfy the requirements by using a “negotiated addendum” that SBA had previously approved for use by the franchisor in either 2015 or 2016. A franchisor choosing to take advantage of the new rule must also sign a certification confirming that the SBA approved in either 2015 or 2016 the form of franchise agreement and negotiated addendum it intends to use.

Until January 1, 2017 SBA required changes to franchise agreements to be made in the body of the agreement or in an addendum to eliminate the application of terms and conditions that implicated SBA’s affiliation standards. Several large franchisors had complained that the new, one-size-fits-all, two-page SBA Addendum did not accommodate their needs, as the previously negotiated addenda had. Yesterday’s notice grants franchisors greater flexibility in determining the form of addendum they may use.

The 2017 Addendum may not be modified, and SBA will not negotiate with franchisors about changes to it or to previously approved negotiated addenda. **The SBA’s notice and the certification can be found here.**

Related People



Carl E. Zwisler

Principal
Washington, D.C.
Direct: 202.295.2225
carl.zwisler@gpmlaw.com