

Memorandum

New SEC Exemptive Relief for Tender Offers for Equity Securities

April 20, 2026

Introduction

On April 16, 2026, the staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (“SEC”) issued an exemptive order granting relief from Rules 13e-4(f)(1)(i) and 14e-1(a) and (b) under the Securities and Exchange Act of 1934, as amended (the “Exchange Act”), for certain qualifying tender offers for equity securities (“10 Business Day Tender Offers”).¹ Subject to compliance with a variety of conditions discussed below, including that the tender offer have consideration consisting only of cash at a fixed price, the exemptive order permits issuers and qualifying third-party offerors to conduct tender offers for any class of equity security² to remain open for a minimum offering period³ of 10 business days⁴, thereby abbreviating the previously applicable timing requirements.

The SEC exemptive order is effective immediately, and, therefore, the new protocols are available for accelerated tender offers for equity securities commencing after April 16, 2026.

Background

Since its amendment in 1986, Rule 14e-1 of the Exchange Act has required, among other things, that any tender offer be held open for not less than 20 business days from the date that the offer is first published or sent to holders. In the event of an increase or decrease in the percentage of securities being sought or the consideration offered, Rule 14e-1(b) has also required that the offer remain open for at least 10 business days from when notice of the change is first published or sent to holders.⁵

Although there is a well-developed history of SEC no-action letters granting relief for certain tender offers for debt securities,⁶ issuer tender offers for equity securities have generally remained anchored to the 20-business day

¹ The exemptive order is available [here](#).

² See Section 3(a)(11) and Rule 3a11-1 of the Exchange Act for the definition of “equity security.”

³ The term “offering period” refers to an initial offering period as defined in Rule 14d-1(g)(4) of the Exchange Act and does not include any subsequent offering periods as defined in Rule 14d-1(g)(8) of the Exchange Act.

⁴ See Rules 13e-4(a)(3) and 14d-1(g)(3) for the definition of “business day.”

⁵ Acceptance for payment of an additional amount not exceeding 2% of the class of securities subject to the offer is carved out from the advance notice requirement that otherwise applies to any change in the percentage of the subject securities sought in the tender offer.

⁶ Following a series of SEC no-action letters granting relief from the 20-business day requirement for certain tender offers for debt securities over the years, on January 23, 2015, the SEC issued a [no-action letter](#) (the “2015 no-action letter”) that permits an issuer (or its parent company or a wholly-owned subsidiary) to conduct tender offers for debt securities over a minimum period of 5 business days from and

requirement absent no-action letter relief under certain circumstances.⁷ The SEC has also provided exemptive relief for certain features of cross-border tender offers, exchange offers and rights offerings,⁸ but the basic framework for tender offers for equity securities has remained largely unchanged since the rules were enacted.

As a result, the new exemptive order for equity tender offers represents a shift in the equity tender offer regime by allowing certain offerors to conduct qualifying tender offers for equity securities on a more accelerated timeline than the 20-business day requirement under Rule 14e-1(a) while preserving core investor protections.⁹

10 Business Day Equity Tender Offers

The new exemptive order permits offerors to conduct tender offers for equity securities that are open for a minimum of 10 business days, subject to a variety of requirements, including that the tender offer have consideration consisting only of cash at a fixed price.¹⁰ The exemptive order delineates different conditions for tender offers for equity securities of reporting companies and for equity securities of non-reporting companies.

Several requirements in this exemptive order are similar or identical to the conditions set forth in the 2015 [no-action letter](#) involving tender offers for debt securities, including the requirements for cash consideration at a fixed price, public dissemination and advance notice of changes to the offer. For further details on the scope and requirements of the 2015 no-action letter, please see our earlier [memorandum](#).

TENDER OFFERS FOR EQUITY SECURITIES OF REPORTING COMPANIES

To qualify for exemptive relief, an offer in this category must:

- be subject to the provisions of Regulation 14D or Rule 13e-4 under the Exchange Act:
 - if the tender offer is subject to Regulation 14D, the offer must be (i) made pursuant to a negotiated merger agreement or similar business combination agreement, (ii) made for all outstanding securities of the subject class and (iii) accompanied by a Schedule 14D-9 filing that is disseminated by the subject company at or prior to 5:30 p.m., Eastern time, on the first business day following the date of commencement of the tender offer; and

including the date the tender offer is first published or sent to holders, subject to certain specified requirements (the “Five Business Day Tender Offers”).

⁷ See [SEC No-Action and Exemptive Letter, Aadhar Housing Finance Limited \(January 21, 2026\)](#).

⁸ See [SEC Release No. 33-7759, 34-42054, 39-2378 and International Series Release No. 1208 \(October 22, 1999\)](#). For further details on the scope and requirements of the cross-border tender and exchange offers, business combinations and rights offerings, please refer to our prior [memorandum](#).

⁹ The new exemptive order does not mandate any changes in practices associated with tender offers conducted over offer periods of 20 business days or more. In addition, the exemptive order does not address other issues that a tender offer may raise, including, but not limited to, the adequacy of disclosure regarding, and the applicability of other federal or state laws to, the tender offer.

¹⁰ The condition that tender offer consideration consist only of cash at a fixed price makes this exemptive order inapplicable to Dutch auction tender offers.

- if the tender offer is subject to Rule 13e-4 under the Exchange Act, the offer must be made for less than all outstanding securities of the subject class;
- have consideration consisting only of cash at a fixed price;
- not be subject to Rule 13e-3 under the Exchange Act, which governs certain going private transactions;
- not be made in reliance on the cross-border tender offer exemptions set forth in Rule 14d-1(d) or Rule 13e-4(i) under the Exchange Act;
- not be publicly announced at a time when the subject securities are the subject of another previously announced or pending tender offer by a different offeror;¹¹
- be announced by press release through “Immediate Widespread Dissemination” (similar to a Five Business Day Tender Offer) at or prior to 10:00 a.m., Eastern time, on the first business day of the 10-business day offer period;¹²
- have any change in the (i) consideration or (ii) percentage of the subject securities sought in the tender offer be announced by press release through Immediate Widespread Dissemination at or prior to 9:00 a.m., Eastern time, on the fifth business day before expiration of the offer¹³, subject to the 2% exception;¹⁴ and
- have any other material change to the offer be announced by press release through Immediate Widespread Dissemination at or prior to 9:00 a.m., Eastern time, on the second business day before expiration of the offer.

TENDER OFFERS FOR EQUITY SECURITIES OF NON-REPORTING COMPANIES

To qualify for exemptive relief, an offer in this category must:

- be made for equity securities of an issuer that does not have (i) securities registered under Section 12 of the Exchange Act and (ii) reporting obligations under Section 15(d) of the Exchange Act;
- be made by the issuer of the subject equity securities or a wholly-owned subsidiary of such issuer;
- have consideration consisting only of cash at a fixed price, as for registered issuers; and

¹¹ If a competing tender offer for the subject securities is publicly announced after the commencement of the initial tender offer made in reliance on the exemptions applicable to 10 Business Day Equity Tender Offers, the initial offer must be extended to stay open for at least 20 business days from the commencement date of the initial offer.

¹² Please refer to the “Immediate Widespread Dissemination and Modifications to an Offer” section in our earlier [memorandum](#) for the full scope of this requirement.

¹³ Although the exemptive order does not expressly specify the method for counting “the fifth business day before expiration of the offer,” this condition should be read consistently with the formulation in the 2015 no-action letter by counting the day on which the announcement of the change is made. As a result, the announcement date counts as the first of the five business days, and the offer must remain open for four additional business days after the announcement date. The same counting convention should apply to the two-business-day requirement for other material changes to the offer.

¹⁴ See note 5 above.

- comply with the same notice requirements described above for reporting companies for any (i) change in consideration or percentage of the subject securities sought in the tender offer and (ii) other material change to the offer, except that notice must be given to holders of the subject securities.¹⁵

This exemptive order will be a favorable development for many issuers, such as private companies considering tender offers to employee and other shareholders.

Conclusion

The SEC's new exemptive order provides a welcome update to the procedural requirements governing certain cash tender offers for equity securities, bringing several of those requirements more in line with earlier relief granted for certain debt tender offers. The exemptions will allow issuers to complete cash tender offers for equity securities on a more accelerated basis, thereby reducing exposure to market fluctuations and other impediments due to the otherwise lengthy 20 business day tender period and reflecting technological advances.

¹⁵ Methods other than physical mailing should suffice, such as posting to a secure issuer portal or data room to which holders of the subject securities have access or posting to the issuer's website coupled with email notification to holders, provided the location is one that holders of the subject securities would reasonably be expected to regularly monitor. Issuers should consider specifying such location in the launch press release to ensure holders are on notice of where changes to the material terms of the offer will be posted.

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