

SEC Exemptive Order Reduces Minimum Tender Offer Period for Many Equity Tender Offers to 10 Business Days

April 17, 2026

Background. On April 16, 2026, the U.S. Securities and Exchange Commission's ("SEC") Division of Corporation Finance [issued an exemptive order](#) (the "Order") allowing certain eligible fixed-price, all-cash equity tender offers to remain open for a minimum of 10 business days rather than the 20 business days ordinarily required under the Securities Exchange Act of 1934 (the "Exchange Act") Rules 13e-4(f)(1)(i) and 14e-1(a). The SEC stated that the purpose of the Order is to address market inefficiencies, reflect technological developments and reduce exposure to market fluctuations while remaining consistent with investor protection goals.

The Order applies to third-party tender offers for equity securities of reporting companies conducted under Regulation 14D and issuer self-tender offers for a reporting company's own equity securities conducted under Rule 13e-4, as well as issuer self-tender offers for a non-reporting company's own equity securities conducted under Regulation 14E. The relief is subject to specified conditions, including consideration consisting only of cash at a fixed price, specific disclosure requirements and prescribed notice periods for material changes. The relief is not available for so-called "hostile" third-party tender offers or in connection with "going-private" transactions.

Reporting Company Offers. For tender offers involving reporting companies, the 10-business-day minimum offering period is available only if specified conditions are satisfied:

- the offer is conducted pursuant to Regulation 14D or Rule 13e-4;
- Regulation 14D offers must be made pursuant to a negotiated merger agreement or similar business combination agreement (i.e., may not be a "hostile" tender offer), must be for all outstanding securities of the subject class, and require the target to file and disseminate its Schedule 14D-9 no later than 5:30 p.m., Eastern Time, on the first business day following the date of commencement of the tender offer; and

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- Rule 13e-4 offers must be for less than all outstanding securities of the subject class;
 - the offer consideration is solely cash at a fixed price;
 - the offer is not made in reliance on the cross-border exemptions set forth in Rule 14d-1(d) or Rule 13e-4(i) under the Exchange Act;
 - the offer is not subject to Rule 13e-3, which governs going-private transactions;
 - at the public announcement of the tender offer, the subject securities are not the subject of a previously announced or pending tender offer by another offeror;
 - if another offer for the subject securities is publicly announced following the commencement of the initial offer, the initial offer must be extended such that the offer is open for at least 20 business days from the date the initial offer commenced;
 - the offer is announced in a press release containing: (i) the basic terms of the offer (such as the identity of the offeror, the class of equity security sought to be purchased, the amount of consideration offered and the expiration date of the offer) and (ii) an active hyperlink to a website address where security holders may access the offer materials, in each case by 10:00 a.m. Eastern Time on the date that the offer commences;
 - any (i) increase or decrease in the percentage of the subject securities sought in the offer, other than the acceptance for payment of an additional amount of securities not to exceed two percent of the subject securities, or (ii) change in the consideration offered, is communicated in each case by press release or other public announcement that is widely disseminated no later than 9:00 a.m. Eastern Time on the fifth business day before expiration of the offer; and
 - any other material change in the terms of the offer is communicated by press release or other public announcement that is widely disseminated no later than 9:00 a.m. Eastern Time on the second business day before expiration of the offer.

Non-Reporting Company Offers. The Order also permits a 10-business-day minimum period for certain issuer self-tender offers involving non-reporting companies, so long as the following conditions are satisfied:

- the issuer has no class of securities registered under Section 12 of the Exchange Act and is not subject to Section 15(d) reporting obligations;

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- the offer is made by the issuer or its wholly owned subsidiary;
 - the offer consideration is cash at a fixed price;
 - any (i) increase or decrease in the percentage of the subject securities sought in the offer, other than the acceptance for payment of an additional amount of securities not to exceed two percent of the subject securities, or (ii) change in the consideration offered, is communicated in each case by notice to holders of the subject securities no later than 9:00 a.m. Eastern time on the fifth business day before expiration of the offer; and
 - any other material change in the terms of the offer is communicated by notice to holders of the subject securities no later than 9:00 a.m. Eastern time on the second business day before expiration of the offer.

The Order also reminds offerors that the anti-fraud and anti-manipulation provisions, including Exchange Act Sections 10(b) and 14(e), still apply and that the SEC may reconsider, modify or withdraw the Order if issues arise.

Practical Implications. The Order is a meaningful change for qualifying all-cash equity tender offers, as the relief reduces exposure to market volatility by shortening the length of time that qualifying tender offers must remain open. However, consistent with investor protection goals of the SEC, the conditions imposed limit the scope of the Order for reporting companies to negotiated change in control transactions and partial tender offers that will not result in a “going private” transaction. The Order will also permit greater flexibility for non-reporting companies conducting employee tender offers, which has been an increasingly common way to provide liquidity to employees as companies stay private for longer. Consideration should also be given to the practical timing implications of the shortened offer period, including the time required to distribute offer materials through the DTC system and whether a 10-business-day period affords investors sufficient opportunity to review those materials.

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Please do not hesitate to contact us with any questions.



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