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SEC PERMITS COMPANIES TO SHORTEN TENDER OFFER FOR EQUITY SECURITIES

Apr 21, 2026

WHAT HAPPENED

Tender offers for equity securities now need only remain open for 10 business days, instead of twenty, under an [Exemptive Order](#) released on April 16, 2026. Key conditions include:

For public companies:

- In the case of 14D transactions (third-party tenders), the offer is made (1) pursuant to a business combination agreement, (2) for all outstanding securities and (3) a Schedule 14D-9 is timely filed.
- In the case of Rule 13e-4 transactions (issuer self-tenders), the offer is made for less than all outstanding securities.
- The offer is not a Rule 13e-3 “going private” transaction.
- The offer is not covered by cross-border exemptions.
- The subject securities are not subject to a third-party tender offer or public announcement, i.e., a competing tender offer.
- If a competing tender offer is announced, the initial tender offer must be extended so that the offer is open for at least 20 business days from initial commencement.
- The offer is disclosed in a widely disseminated announcement that includes specified details.

For private companies:

- The securities aren’t registered under Section 12 of the Exchange Act or subject to Section 15(d) reporting.
- The tender offer is made by the issuer or a wholly-owned subsidiary.

For all companies:

- The consideration offered consists only of cash at a fixed price.
- Changes of more than 2% in the amount of securities or any changes in the consideration offered are timely announced by 9am ET on the 5th business day before the offer expires.
- Other material changes are timely announced by 9am ET on the 2d business day before the offer expires.

TAKEAWAYS

Both public and private companies can take advantage of the shorter minimum tender period, subject to the specified conditions.

The exemptive order only covers equity securities. However, the staff's prior relief for tender offers for debt securities still applies. See [Abbreviated Tender or Exchange Offers for Non-Convertible Debt Securities](#) (avail. Jan. 23, 2015) and [CFI Nos. 162.01 -162.05](#).

In recent public comments, the Director of the Division of Corporation Finance indicated that:

- The shortened tender period, and the absence of any 8-K filing condition, reflect the view that technological developments in communications rendered previous requirements unnecessarily burdensome.
- In the event companies continue to experience challenges, they are invited to let the Staff know, as delegated authority from the Commission affords the Director flexibility to refine the conditions of the exemptive order.

The exemptive order reminds companies that they also need to consider the anti-fraud and anti-manipulation provisions of the federal securities laws.

RELATED CAPABILITIES

- Securities & Corporate Governance

MEET THE TEAM



R. Randall Wang

Senior Counsel, St. Louis

randy.wang@bclplaw.com

[+1 314 259 2149](tel:+13142592149)

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