

# 7 Key Questions About SEC's Faster Tender Offer Path

By **Rob Ishii, Doug Schnell and Michael Anthony** (June 15, 2026)

On April 16, the Division of Corporation Finance of the U.S. Securities and Exchange Commission, acting under delegated authority, issued an exemptive order providing flexibility to shorten the minimum offering period for certain types of equity tender offers from 20 business days to 10 business days.[1]

The order is the result of the division's stated intent to address market inefficiencies, better reflect technological advancements, and reduce exposure to market fluctuations, consistent with the division's investor protection goals.

The shortened offering period has the potential to compress sign-to-close timelines for well-organized friendly deals, and to accelerate the closing of some self-tender offers by public and private companies.

While we are not aware of any publicly disclosed transactions that have taken advantage of the shortened offering period since the issuance of the order, parties in M&A transactions are expressing interest in structuring transactions to leverage the order's flexibility. We expect the shortened offering period to become a regular feature of eligible transactions over time.

This expectation follows from M&A practitioners' existing perception of tender offer structures, when feasible, as a quicker path to completing M&A transactions relative to a traditional stockholder special meeting and vote structure. The division may have been aware of this demand in the market and considered it a motivating factor in promulgating the order.

As parties weigh this shortened offering period, here are answers to some key questions.

## **1. What types of tender offers are eligible for the minimum offering period of 10 business days?**

### ***All-Cash, Whole Company Acquisitions***

An all-cash acquisition of all of a reporting company's outstanding shares by a strategic or financial acquirer, and structured as a tender offer subject to Regulation 14D of the Securities Exchange Act, is eligible. Importantly, the tender offer must be made pursuant to the terms of a negotiated acquisition agreement between the acquirer and the target.

These deals are typically structured as two-step transactions involving a tender offer and a subsequent merger. Hostile tender offers continue to require a minimum offering period of 20 business days.

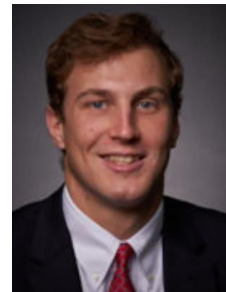
### ***Self Tenders***



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A self-tender offer by a reporting company where the offer is subject to Rule 13e-4 of the Exchange Act, and is for fewer than all of the outstanding equity securities of a class, is also eligible. These are principally share repurchases structured as tender offers.

## **2. What are the eligibility requirements to use an offering period of 10 business days?**

Parties should be aware of these additional eligibility requirements:

- For tender offers subject to Regulation 14D, the reporting company must file its Schedule 14D-9 no later than 5:30 p.m. ET on the first business day following commencement of the offer.
- The offer consideration must consist only of cash at a fixed price.
- The securities subject to the tender offer cannot be subject to a previously announced or existing tender offer by another offeror.
- If a competing tender offer for the reporting company is announced after the commencement of the initial tender offer, then the offering period must be extended to 20 business days from the initial commencement date.
- The tender offer must be announced by 10 a.m. ET on the date of commencement by a widely disseminated press release that includes the basic terms of the offer and contains a hyperlink to a website with the tender offer materials. A Form 8-K furnishing the press release is not required.
- Changes in the consideration offered or the percentage of the outstanding securities sought to be acquired in the tender offer must be announced by a widely disseminated press release or other public announcement no later than 9 a.m. ET on the fifth business day before the expiration of the offer.
- Any other material change in the terms of the tender offer must be announced by a widely disseminated press release or other public announcement no later than 9 a.m. ET on the second business day before the expiration of the offer.

## **3. What types of tender offers at reporting companies are not eligible for the minimum offering period?**

Tender offers relating to insider or affiliate take-private transactions subject to Rule 13e-3 of the Exchange Act aren't eligible. Also ineligible are tender offers made in reliance on the cross-border exemptions set forth in Rule 14d-1(d) or Rule 13e-4(i) under the Exchange Act.

## **4. How does a shorter minimum offering period affect the timeline to closing in this context?**

There is the potential for a meaningfully shorter time between signing and closing for public company acquisitions, which could reduce uncertainty and the potential need to react to changing circumstances.

We expect the norm for acquisitions that utilize a minimum 10-day offering period to involve the parties taking approximately two weeks after the signing of the merger agreement to prepare the tender offer documents and make regulatory filings under the Hart-Scott-Rodino Antitrust Improvements Act,[2] followed by the offering period.

This results in a sign-to-close period of approximately four weeks. In this scenario, the acquisition can be completed roughly two weeks sooner than a traditional tender offer.

A sign-to-close timeline as short as approximately two-and-a-half to three weeks may be possible if the parties are motivated and well organized, prepare their tender offer documents concurrently with the merger agreement, commence the tender offer and make regulatory filings a day or two following the signing of the merger agreement, and do not encounter any regulatory delays.

### **5. Are any private company tender offers eligible for the minimum offering period of 10 business days?**

Yes. The order also provides for a minimum 10-business-day offering period for tender offers subject to Rule 14e-1 of the Exchange Act at private companies if:

- The tender offer is made for equity securities of an issuer that (1) does not have a class of securities registered under Section 12 of the Exchange Act and (2) is not required to file reports pursuant to Section 15(d) of the Exchange Act;
- The tender offer is made by the issuer of the securities sought, or one of its wholly owned subsidiaries;
- The consideration is only for cash at a fixed price;
- Changes in the percentage of the subject securities sought or consideration offered in the tender offer are communicated by notice to the holders of the subject securities no later than 9 a.m. ET on the fifth business day before the expiration of the offer; and
- Any other material change in the terms of the tender offer is communicated by notice no later than 9 a.m. ET on the second business day before the expiration of the offer.

The shortened offering period does not apply to tender offers by third-party purchasers, such as secondary market funds that buy directly from employees or investors conducting secondary purchases from existing shareholders. To the extent they are structured as tender offers, these transactions remain subject to the 20-business-day minimum offering period.

### **6. What else is important to know?**

The order only shortens the minimum offering period under Exchange Act Rules 13e-4(f)(1)(i) and 14e-1(a)-(b) for eligible issuer and third-party tender offers. Other Exchange Act provisions — such as the antifraud and antimanipulation protections — are unaffected by the order and continue to apply.

### **7. Is a shorter offering period right for my transaction?**

A shortened offering period provides a significant new tool for structuring friendly M&A transactions for public companies, especially in deals with limited regulatory considerations. The ability to close the transaction in four or fewer weeks after signing provides a path to reducing the risk for all parties of exogenous events between signing and closing, in addition to speeding the delivery of consideration to shareholders.

At the same time, acquirers and target companies should consider the benefits, and weigh the disadvantages, of a shortened offering period. A target company may be hesitant to shorten the time during which its board of directors can receive and consider unsolicited, or topping, proposals, especially if the company did not engage in a market check prior to signing, or the market check was limited.

Additionally, a shortened offering period may have to be sequenced with any go-shop period provided for in the merger agreement to ensure that the target company gets the full benefit of its opportunity to solicit a transaction. An acquirer will also need to consider whether the risk of delays in obtaining regulatory approvals or satisfying other closing conditions may counsel in favor of an extended offering period.

For public companies looking to engage in capital return transactions, the shorter offering period makes the issuer tender offer structure more attractive, given that the minimum offering period of 20 business days has historically been one of the more significant drawbacks of a tender offer relative to an open-market repurchase program or an accelerated share repurchase.

For private companies, the ability to accelerate the closing of tender offers conducted by the issuer, such as those for employee liquidity, has the potential to be very meaningful. All sides will want to think through these and other considerations carefully and should discuss the desired offering period early in the negotiation of the transaction.

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[1] <https://www.sec.gov/files/rules/exorders/2026/exemptive-order-tender-offers-equity-securities-041626.pdf>

[2] Under the HSR Act, cash tender offers are subject to a 15-day waiting period from filing. This contrasts with the 30-day waiting period for acquisitions where a shareholder vote is required.