

Exemptive Order for Tender or Exchange Offers for Non-Convertible Debt Securities
~~Abbreviated Tender or Exchange Offers for Non-Convertible Debt Securities~~

~~The criteria applicable to a Five Business Day Tender Offer are that the offer would:~~

The Division, acting for the Commission pursuant to delegated authority, hereby grants an exemption from Exchange Act Rule 14e-1(a) and (b) to permit a tender or exchange offer for any class or series of non-convertible debt securities to remain open for a minimum offering period of five business days, so long as the following conditions are met (“Five Business Day Tender Offer”):

- ~~be~~the offer is made by the issuer of the subject non-convertible debt securities, ~~or~~ a direct or indirect wholly owned subsidiary of such issuer, or a parent company that directly or indirectly owns 100% of the capital stock (other than directors’ qualifying shares) of such issuer;
- ~~be~~the offer is made for a class or series of non-convertible debt securities,²⁶ regardless of any particular rating assigned ~~thereto~~to such securities by any nationally recognized statistical rating organization, as such term is defined in Exchange Act Section 3(a)(62) ~~of the Securities Exchange Act of 1934, as amended, (the “Exchange Act”);~~
- ~~be~~the offer is made solely for cash consideration and/or consideration consisting of Qualified Debt Securities³⁷, ~~for any and all of such debt securities;~~

²⁶ Separate offers may be made for more than one class or series of non-convertible debt securities as part of the same offer to purchase document.

³⁷ The consideration offered may be a fixed amount of cash (and/or Qualified Debt Securities) or an amount of cash (and/or Qualified Debt Securities) based on a fixed spread to a benchmark and, in the case of Qualified Debt Securities, the coupon may be based on a spread to a benchmark. A “benchmark” includes U.S. Treasury Rates, LIBORSOFR, swap rates and, in the case of securities denominated in currencies other than US dollars, sovereign securities or swap rates denominated in the same currency as the securities subject to the offer, in each case that are readily available on a Bloomberg or similar trading screen or quotation service. The spread used for determining the amount of consideration offered will be announced at the commencement of the tender offer. In the case of an offer of Qualified Debt Securities, if the interest rate or the spread used for determining the interest rate for such securities is not fixed and announced at the commencement of the offer, it will be announced at the commencement of the offer as a range of not more than 50 basis points, with the final interest rate or spread to be announced by 9:00 a.m., Eastern time, on the business day prior to the expiration date of the offer. The exact amount of consideration and the interest rate (in the case of amounts or interest rate based on fixed spreads to a benchmark) on any Qualified Debt Securities will be fixed no later than ~~2:00 p.m., Eastern~~the expiration time, ~~on the last business day~~ of the offer. In addition, in the case of an offer of Qualified Debt Securities, a minimum acceptance amount would be announced at the commencement of the offer.

“Qualified Debt Securities” means non-convertible debt securities that are ~~identical~~substantially similar in all material respects (including but not limited to the issuer(s), guarantor(s), collateral, lien priority, covenants, and other terms) to either (1) the debt securities that are the subject of the tender

- if the offer is for less than all of the outstanding class or series of non-convertible debt securities, and a greater amount of securities are tendered in the offer than the offeror is bound or willing to take up and pay for, the securities taken up and paid for shall be taken up and paid for as nearly as may be pro rata, disregarding fractions, according to the amount of securities tendered by each security holder during the offering period;
- ~~be open to all record and beneficial holders of such debt securities; provided that exchange offers~~ if the offer is an exchange offer in which Qualified Debt Securities are offered ~~would be, the offer is~~ restricted to Qualified Institutional Buyers (as defined in Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”)) ~~and/or, non-U.S. persons (within the meaning of Regulation S under the Securities Act), and/or institutions that are accredited investors (within the meaning of Rule 163B(c)(2) of the Securities Act)~~ (collectively, “Eligible Exchange Offer Participants”) in a transaction exempt from the registration requirements of the Securities Act; ~~provided, further, that, holders who are not Eligible Exchange Offer Participants (or an affiliate thereof) would be given an option concurrent with such offer (which can be part of the same offer to purchase document) to receive cash (from either the offeror or a dealer manager) for such holders’ debt securities in a fixed amount determined by the offeror, in its reasonable judgment, to approximate the value of the Qualified Debt Securities being offered and such an amount is set forth at the commencement of the offer⁴;~~
- the offer is not ~~be~~ made in connection with a solicitation of consents to amend the indenture, form of security or note, or other agreement governing the subject non-convertible debt securities (collectively, the “Indenture”) where such amendment requires the consent of the holders of more than a simple majority of the outstanding principal amount of the subject securities;
- the offer is not ~~be~~ made ~~if/when~~ a default or event of default exists under the Indenture or any other indenture or material credit agreement to which the issuer is a party;
- ~~not be made if at the time of~~ the offer is not made at a time when the issuer is the subject of bankruptcy or insolvency proceedings, or has commenced a solicitation of consents for a “pre-packaged” bankruptcy proceeding, or if the board of directors of the issuer has authorized discussions with the issuer’s creditors ~~of the issuer~~ to effect

offer or (2) the most recent issuance of debt securities that are pari passu to the debt securities that are the subject of the tender offer, except in either case for the maturity date, interest payment and record dates, redemption provisions, and interest rate; *provided* that Qualified Debt Securities must have (i) all interest payable only in cash ~~and (ii) a weighted average life to maturity that is longer than the debt securities that are the subject of the offer.~~

⁴ ~~In order to limit the amount of cash that an offeror (or a dealer manager) may have to pay to holders who are not Eligible Exchange Offer Participants (or their affiliates), an offeror may decide to include a condition precedent to its offer that no more than a specified maximum amount of cash would be required to be paid in the offer or else both the cash offer and concurrent exchange offer would terminate.~~

- a consensual restructuring of the issuer's outstanding indebtedness;
- ~~• not be financed with the proceeds of any Senior Indebtedness⁵;~~
 - ~~• permit tenders prior to the expiration of the offer through a guaranteed delivery procedure by means of a certification by or on behalf of a holder that such holder is tendering securities beneficially owned by it and that the delivery of such securities will be made no later than the close of business on the second business day after the expiration of the offer;~~
 - be the offer is announced via a press release issued through a widely disseminated news or wire service disclosing, which includes the basic terms of the offer (including such as the identity of the offeror, the class of series of non-convertible debt securities sought to be purchased, the type and amount of consideration being offered, and the expiration date of the offer), and containing the procedures for proration (if applicable), and contains an active hyperlink to, or an Internet address at which a record or beneficial holder could then obtain, copies of the offer to purchase and a website address where security holders may access the tender offer materials, letter of transmittal (if any), and any other instructions or documents (including a form of guaranteed delivery instructions) relating to the tender of such debt securities (collectively, "Immediate Widespread Dissemination"), in each case at or prior to relating to the offer, by 10:00 a.m., Eastern time, on the first business day of such five business day period date that the tender offer commences;⁶
 - ~~• if the issuer or the offeror is a reporting company under the Exchange Act (including "voluntary filers"), furnish the press release announcing the offer in a Current Report on Form 8-K filed with the Commission prior to 12:00 noon, Eastern time, on the first business day of the offer;~~
 - any (i) increase or decrease in the percentage of the subject non-convertible debt securities sought in the tender offer, other than the acceptance for payment of an additional amount of securities not to exceed two percent of the class or series of securities that is the subject of the tender offer, calculated in accordance with Section 14(d)(3) of the Exchange Act, 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 third business day

⁵- ~~"Senior Indebtedness" means indebtedness that is incurred to finance all or a portion of the consideration in the Five Business Day Tender Offer (excluding indebtedness or borrowings under any credit or debt facility existing prior to the commencement of the offer) if such indebtedness (i) has obligors, guarantors or collateral (or a higher priority with respect to collateral) that the subject debt securities do not have; (ii) has a weighted average life to maturity less than that of the subject debt securities; or (iii) is otherwise senior in right of payment to the subject debt securities.~~

⁶ In addition ~~to Immediate Widespread Dissemination~~, the offeror ~~in any debt tender offer also~~ would (i) use commercially reasonable efforts to send via email (or other form of electronic communication) the press release announcing the offer to all investors subscribing to one or more corporate action ~~e-mail~~ emails or similar lists; (ii) use other customary methods in order to expedite the dissemination of information concerning the tender offer to beneficial holders of the subject non-convertible debt securities; and (iii) issue a press release promptly after the consummation of the offer setting forth the results of the offer.

before the expiration date of the offer;

- ~~• provide for communication by Immediate Widespread Dissemination at least five business days prior to the expiration of the offer of any change in the consideration being offered in the offer and at least three business days prior to expiration of any other material change to the offer, in each case at or prior to 10:00 a.m., Eastern time, on the first day of such five or three business day period, as applicable; and, if the issuer or offeror is a reporting company under the Exchange Act (including a “voluntary filer”), describe any change in the consideration being offered in a Current Report on Form 8-K filed with the Commission prior to 12:00 noon, Eastern time, on the first day of the aforementioned five business day period;~~
- 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 the expiration date of the offer;
- ~~provide~~the offer provides for withdrawal rights that are exercisable (i) at least until the earlier of (x) the expiration date of the offer and (y) in the event that the offer is extended, the tenth business day after commencement of the offer, and (ii) at any time after the 60th business day after commencement of the offer if, for any reason, the offer has not been consummated within 60 business days after commencement;
- if the offer is for less than all of the outstanding class or series of non-convertible debt securities, the offeror will use commercially reasonable efforts to announce the proration factor by press release or other public announcement that is widely disseminated by 10:00 a.m., Eastern time, on the next business day after the expiration date of the offer, or as soon thereafter as practicable;
- ~~provide~~the offer provides that the offeror will not pay the consideration in the offer until promptly after expiration of the offer pursuant to Exchange Act Rule 14e-1(c); and
- ~~the offer is not be~~ (i) ~~made in anticipation of or in response to, or concurrently with, commenced within ten business days after the first public announcement or the consummation of~~ a change of control or other type of extraordinary transaction involving the issuer, such as a merger (or similar business combination), reorganization or liquidation, or a sale of all or substantially all of its consolidated assets; (ii) made in anticipation of or in response to other tender offers for the issuer’s securities; (iii) made concurrently with a tender offer for any other class or series of the issuer’s securities made by the issuer (or any subsidiary or parent company of the issuer) if the effect of such offer, if consummated (by way of amendment, exchange, or otherwise), would be to add obligors, guarantors, or collateral (or increase the priority of liens securing such other class or series) ~~or shorten the weighted average life to maturity of such other series;~~ or (iv) commenced within ten business days after the first public announcement or the consummation of the purchase, sale, or transfer by the issuer or any of its subsidiaries of a material business or amount of assets that would require the furnishing of pro forma financial information with respect to such transaction pursuant to Article 11 of Regulation S-X (whether or not the issuer is a registrant under the Exchange Act).