

New Procedures for Shortened Debt Tender Offers; Relief Extended to High-Yield Debt

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A new no-action letter from the SEC staff substantially revises the rules applicable to shortened debt tender offers and expands their utility. The new rules may also portend changes in practice for other types of tender offers.

On January 23, 2015, the staff of the SEC issued a no-action letter addressing the circumstances under which an issuer (or parent or subsidiary) may conduct a tender offer for any and all of a class of its non-convertible debt securities in 5 business days, instead of the 20 business days prescribed by Rule 14e-1 under the Exchange Act. Significantly, the no-action letter extends this flexibility to high-yield debt securities – previously, the ability to conduct a tender offer in less than 20 business days was reserved to tender offers involving investment-grade debt only (i.e., debt rated BBB- or higher). The relief will also permit certain exchange offers that could facilitate debt refinancings. However, the new no-action letter, which supersedes several previously-issued no-action letters, will also restrict some current market practices in shortened tender offers for investment-grade debt.

The new no-action letter is the product of discussions among a group of liability management executives at several investment banks active in the field, the Credit Roundtable (a group of large fixed-income investors), law firms (including Davis Polk) who regularly advise on these matters, and the staff of the SEC.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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