

Timetable of any equity tender offer

The U.S. federal securities laws regulate a tender offer from the time it is publicly announced until its completion. A typical tender offer for a target's shares has the following stages:

- public announcement of the tender offer
- commencement of the tender offer
- extension of the tender offer period, if any
- completion of the tender offer (or initial offering period)
- payment for shares tendered
- commencement of subsequent offering period (if any)
- completion of subsequent offering period
- payment for shares tendered during subsequent offering period.

Public announcement of the tender offer

Before the commencement of a tender offer, a bidder generally makes a public announcement that it intends to launch a tender offer for the target's shares. The public announcement normally includes the offer price, the start and end dates of the tender offer and any other material terms. If the tender offer is structured to include a subsequent offering period, this would generally be disclosed in the public announcement. The announcement also generally refers target shareholders to the bidder and its advisors for additional information about the tender offer and directs them to the full informational documents in connection with the offer, which would include both disclosure about the terms of the tender offer and logistical information about the process of tendering shares.

While the tender offer rules come into effect at this time, the bidder cannot accept tendered shares until the commencement of the tender offer.

Commencement of the tender offer

The tender offer commences on the date previously announced. At this time, the bidder sends the tender offer documentation to the target's shareholders or appropriate intermediaries and makes them publicly available. After the start of the tender offer, the target's shareholders can tender their shares.

Extension of the tender offer period

Once the tender offer commences, the bidder has the option of extending the tender offer period. For example, it may choose to do so if not enough of the target's shareholders have tendered their shares. The bidder may also be required to extend a tender offer if it makes a material change in the terms of the tender offer, so that the target's shareholders have the opportunity to decide whether to tender shares.

Completion of the tender offer (or initial offering period)

Once the tender offer closes, the bidder normally announces the results of the tender offer, *i.e.*, the number and percentage of shares tendered. After the close of the tender offer, the target's shareholders are no longer able to tender their shares to the bidder. However, since the U.S. tender offer rules no longer apply after the completion of the offer, they may be able to sell their shares to the bidder in open market or privately negotiated transactions subject to any restrictions under the rules of the target's home jurisdiction.

Payment for shares tendered

Once the tender offer (or the initial offering period) closes, the bidder must pay for the shares tendered in the offer. Alternatively, if the tender offer was structured subject to a minimum tender condition, (for example, the bidder would only purchase the tendered shares) if a specified minimum percentage of the target's shareholders tendered their shares, and the condition threshold is not met, the bidder has the option of returning the tendered shares.

Subsequent offering period

Under the U.S. tender offer rules, the bidder may structure the offer to include a subsequent offering period after the termination of the initial tender offer, but is not required to do so. A subsequent offering period is a practice common in certain jurisdictions, such as Germany, that permits a bidder to acquire shares from holders that choose not to tender their shares during the initial tender offer (while the outcome is uncertain), but may choose to tender their shares once the initial tender offer is successful. If the bidder is successful in obtaining a majority of the target's shares in the initial tender offer, the subsequent offering period can be useful in allowing the bidder to reach the higher shareholding threshold required to effect a short-form merger and squeeze out any remaining shareholders. Regulation 14E contemplates the possibility of having a subsequent offering period so long as the consideration to be paid and the arrangements to purchase the shares are the same as in the initial offer, but does not set out any other procedural requirements.

The subsequent offering period normally commences shortly after the closing of the initial offer, and after shareholders that tendered in the initial offer receive payment for their shares. Shareholders that tendered their shares in the initial offer are **not** permitted to withdraw the shares during the subsequent offering period.