

APPENDIX A

Tender Offers for Equity Securities of Reporting Companies

A tender offer for any class of equity security of a reporting company under the Securities Exchange Act of 1934 (the “Exchange Act”) may remain open for a minimum offering period of 10 business days, so long as the following conditions are met:

- the tender offer is subject to the provisions of Regulation 14D or Rule 13e-4 under the Exchange Act;
- if the tender offer is subject to Regulation 14D, (i) the offer is made pursuant to the terms of a negotiated merger agreement or similar business combination agreement between the subject company and the offeror, (ii) the offer is made for all outstanding securities of the subject class, and (iii) a Schedule 14D-9 is filed and disseminated by the subject company no later than 5:30 p.m., Eastern time, on the first business day following the date of commencement of the tender offer;
- if the tender offer is subject to Rule 13e-4 under the Exchange Act, the offer is made for less than all outstanding securities of the subject class;
- the consideration offered in the tender offer consists only of cash at a fixed price;
- the tender offer is not subject to Rule 13e-3 under the Exchange Act;
- the tender offer is not made in reliance on the cross-border exemptions set forth in Rule 14d-1(d) or Rule 13e-4(i) under the Exchange Act;
- at the public announcement of the tender offer, the subject securities are not the subject of a previously announced or pending tender offer by another offeror;
- if another tender offer for the subject securities is publicly announced following the commencement of the initial tender offer made in reliance on this relief, the initial tender offer must be extended such that the offer is open for at least 20 business days from the date the initial offer commenced;
- the tender offer is announced in a press release issued through a widely disseminated news or wire service, which includes the basic terms of the offer (such as the identity of the offeror, the class of equity security sought to be purchased, the amount of consideration offered, and the expiration date of the offer), and contains an active hyperlink to a website address where security holders may access the tender offer materials, letter of transmittal (if any), and any other documents relating to the offer, in each case by 10:00 a.m., Eastern time, on the date that the tender offer commences;
- any (i) increase or decrease in the percentage of the subject 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 subject securities, 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 fifth business day before expiration of the offer; and

- any other material change in the terms of the tender 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 expiration of the offer.

Tender Offers for Equity Securities of Non-Reporting Companies

A tender offer for any class of equity security of a non-reporting company may remain open for a minimum offering period of 10 business days, so long as the following conditions are met:

- the tender offer is made for the equity securities of an issuer that (i) does not have a class of securities registered under Section 12 of the Exchange Act and (ii) 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 in the tender offer, or by the issuer's wholly-owned subsidiary for the securities of the issuer;
- the consideration offered in the tender offer consists only of cash at a fixed price;
- any (i) increase or decrease in the percentage of the subject 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 subject securities, or (ii) change in the consideration offered, is communicated in each case by notice to holders of the subject securities no later than 9:00 a.m., Eastern time, on the fifth business day before expiration of the offer; and
- any other material change in the terms of the tender offer is communicated by notice to holders of the subject securities no later than 9:00 a.m., Eastern time, on the second business day before expiration of the offer.

The exemptive order defines "offering period" to refer to an initial offering period under Exchange Act Rule 14d-1(g)(4) and does not include any subsequent offering period under Rule 14d-1(g)(8).