



March 18th, 2026

By E-Mail

U.S. Securities and Exchange Commission
Office of Mergers & Acquisitions
Division of Corporation Finance
Attention: Tiffany Posil
100 F Street, N.E.
Washington, D.C. 20549

Cc:

- Marc Oorloff Sharma (Office of the Investor Advocate)
- Charles Kwon (Office of the Investor Advocate)
- Anna Ambramson (Division of Corporation Finance)
- Jessica Ansart (Division of Corporation Finance)

Re: European Investor Perspectives in Support of The Credit Roundtable Letter Regarding Securities Exchange Act of 1934 - Rules 14e-1(a) and (b)

Dear Ms. Posil,

We write on behalf of the European Leveraged Finance Association (“**ELFA**”), a trade association comprised of more than 55 institutional fixed-income managers, including investment advisors, insurance companies, and pension funds. ELFA’s mission is to seek “a more transparent, efficient and resilient leveraged finance market,” including through regulatory engagement to “convey investors’ perspectives so that these can inform policy decisions.”

We submit this letter in support of the letter sent by The Credit Roundtable (“**CRT**”) to the Securities and Exchange Commission (the “**Commission**”) dated January 28, 2026¹ (the “**CRT January Letter**”), and to provide the perspective of European investors who share CRT’s concerns regarding shortened tender offer periods.² Before turning to our support of the CRT January Letter, we first highlight the critical role European investors play in U.S. capital markets and why their participation and perspectives warrant careful consideration in the Commission’s review of tender offer regulations.

As Chairman Paul S. Atkins recently affirmed, “Europeans have only deepened their engagement with American markets... We are grateful for this engagement and encourage our European friends to

¹ The Credit Roundtable Letter to the SEC Re: Securities Exchange Act of 1934 - Rules 14e-1(a) and (b) - 1.28.2026 (2026),

https://cdn.ymaws.com/thecreditroundtable.org/resource/resmgr/recent_news/2601_crt_tender_offer_flexib.pdf.

² For purposes of this letter, we use the term “tender offer” to refer to both cash tender offers and exchange offers for newly issued debt securities, in line with the Commission’s tender offer rules.

continue investing alongside us.”³ In that spirit, this letter reflects our commitment to strengthening our transatlantic investment relationship in debt capital markets. We seek to engage constructively with the Commission to help ensure that U.S. capital markets remain accessible, fair, and attractive to European bond investors who invest alongside their U.S. counterparts.

The Role of European Investors

European investors are indispensable to the U.S. corporate debt market and represent a vital source of capital formation. As of June 30, 2024, European investors held an estimated \$2.538 trillion in U.S. corporate debt securities by market value, representing approximately 16% of the amount outstanding and approximately 56% of the amount held by non-U.S. investors.⁴ New York law is the primary governing law for European high-yield bonds,⁵ and U.S. and European issuers often market high-yield bonds simultaneously in the U.S. and Europe through parallel Rule 144A and Regulation S tranches. Investment-grade issuers in the U.S. also frequently market euro-denominated bonds in Europe in connection with marketing U.S.-dollar-denominated bonds to U.S. investors. In practice, this means that when a tender offer is made for the 144A tranche or U.S.-dollar series, a parallel offer is often made for the Regulation S tranche or euro-denominated series held predominantly by European investors. Accordingly, the Commission’s tender offer rules, and particularly the timing requirements set forth in Rule 14e-1, govern transactions that directly affect a substantial European investor base.

Although Rule 14d-1 under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), provides exemptions from certain tender offer rules for securities with substantial foreign ownership, those exemptions rarely result in shorter tender offer periods. Specifically, Rule 14d-1 provides for two tiers of exemptions:

- **Tier I:** In a tender offer for securities issued by a foreign private issuer (“**FPI**”), if no more than 10% of the class of securities sought in the tender offer are held by U.S. persons, the transaction is exempt from most U.S. tender offer rules, including Rule 14e-1(a)’s requirement that tender offers remain open for twenty business days and Rule 14e-1(b)’s requirement that tender offers remain open for at least ten business days from the time of an increase or decrease in the consideration or the percentage of the class being sought.
- **Tier II:** In a tender offer for securities issued by a FPI, if 40% or less of the class of securities sought in the tender offer are held by U.S. persons, the transaction is eligible for more limited relief, such as the rules governing notices of extensions and prompt

³ Keynote Address at the Association for Financial Markets in Europe (AFME)’s Annual Financial Services Policy Dinner, U.S. Securities and Exchange Commission, February 4, 2026, <https://www.sec.gov/newsroom/speeches-statements/atkins-remarks-afme-020426>.

⁴ Table 3: Foreign Holdings of U.S. Securities by Type and Table 5: Foreign Holdings of U.S. Securities by Region as of June 30, 2024 (2025) Treasury International Capital (TIC) system. Available at: <https://ticdata.treasury.gov/resource-center/data-chart-center/tic/Documents/shl2024r.pdf>.

⁵ Association for Financial Markets in Europe (AFME) European High Yield Primary Market Practice Guidelines, February 2018, <https://www.afme.eu/media/w3hnc1qc/afmehydeuropeanhyprimarybondmarketpracticeguidelines.pdf>. See “Indentures and purchase agreements for high yield notes are typically, although not always, governed by New York law.”

payment, but not the requirements for a twenty-business-day total offer period or a ten-business-day period after a change in price or amount sought.

FPIs in Europe rarely apply Tier I relief to tender offers for two reasons. First, U.S. institutional participation in European-issued bonds frequently exceeds the 10% threshold. Second, even when issuers believe ownership might fall below that level, it is often difficult to verify that the Tier I exemption is available due to the complexities of international custodial chains and client confidentiality considerations. As a result, European issuers default to applying the timing requirements of Rule 14e-1(a) and Rule 14e-1(b) in virtually all tender offers for New York-law governed bonds. Accordingly, U.S. tender offer rules provide meaningful protections against unduly time-pressured tender offers for debt securities held by both European and U.S. investors, and further exemptions from tender offer rules would have immediate and significant consequences far beyond U.S. borders.

Potential Adverse Impact of Shortened Tender Offer Periods on European Investors

We agree with CRT's view that tender offer periods in Five Day Tender Offers (as defined in the CRT January Letter) and early tender periods in other debt tender offers cannot be compressed without significant harm to investors. In our experience, the procedural and operational constraints detailed in the CRT January Letter are magnified for European investors due to the following factors:

- *Cross-border notification delays.* European investors routinely receive tender offer notices later than U.S. holders because information must be disseminated through multiple cross-border intermediaries. When combined with time-zone differences, these delays materially shorten the effective window available to European investors to evaluate and make decisions on tender offers.
- *Clearing systems and response deadlines.* European investors in bonds that clear primarily through The Depository Trust Company ("**DTC**") must navigate multiple clearing systems to submit tender elections, in contrast to U.S. investors whose brokers and custodians can use DTC's Automated Tender Offer Program directly. European tenders usually must be made through Euroclear or Clearstream, each of which has its own validation and cut-off requirements, before the tender decisions can be passed along to DTC. To ensure that tenders are received by issuers and their agents prior to the deadline provided in the offer documents, European custodians are forced to impose even earlier response deadlines than their U.S. counterparts. Internal corporate action teams at investment firms then set their own deadlines prior to the earliest deadline set by the applicable custodians, meaning the practical deadline for decision-makers may be as early as three or more business days prior to the date set in the offer documents.

The cumulative effect of these factors is that European bondholders already face an exceptionally constrained decision window compared to U.S. investors. Any further compression of that timeframe would meaningfully impair their ability to participate in tender offers on an informed basis.

We also agree with the CRT January Letter that bondholders face considerable informational constraints, as the decision to tender often depends in part on expectations about the participation of other bondholders, particularly in waterfall tender offers and tender offers with associated consent solicitations. Procedural delays in the dissemination of tender materials to European investors and early

response deadlines materially exacerbate these constraints not only for European investors, but for all holders of the issuer's bonds, by impeding timely coordination that is critical to an informed assessment of the transaction's impact. The same operational and informational factors apply in connection with changes to the price and amount sought in a tender offer. In short, the procedural delays on European investors exert further time pressure on investment managers as they seek to make decisions in the best interest of the clients to whom they have fiduciary obligations.

As articulated in the CRT January Letter, further shortening tender offer periods would create a meaningful risk that issuers could force snap decisions on "take-it-or-leave it" offers, which is exactly what Rules 14e-1(a) and 14e-1(b) were designed to protect against.⁶ For European investors that already face materially shorter effective decision windows due to cross-border and operational constraints, any additional compression would significantly impair the ability of such investors, and the issuer's bondholder base as a whole, to make informed tender decisions. The result would be tender offers that are coercive in practice and markets that are neither fair nor efficient, potentially deterring European investors from continuing to invest in U.S. corporate debt securities. By contrast, the targeted accommodations proposed in the CRT January Letter would offer issuers added flexibility without materially weakening bondholder protections.

Conclusion

Given the scale of European investment in U.S. corporate debt securities, ensuring that tender offer rules account for the perspective of European investors and the realities of global participation is essential to maintaining efficient access to capital and sustaining the robust transatlantic investor base on which U.S. issuers rely. If bond investors faced further obstacles to evaluating tender offers, the balance between issuers and investors would become distorted, and investor confidence in the fairness of the Commission's rules would weaken. In sum, any additional compression of tender offer periods would risk alienating European investors, narrowing the investor base and increasing issuers' cost of capital.

We appreciate the Commission's careful consideration of these issues and its continued commitment to protecting investors; maintaining fair, orderly, and efficient markets; and facilitating capital formation.⁷ As the Commission evaluates potential no-action or exemptive relief in respect of tender offer rules, we respectfully encourage consideration of the essential role European investors play in U.S. capital formation as well as the operational realities of cross-border investments.

We would welcome the opportunity to engage further or provide additional information as the Commission evaluates these issues. Please direct any questions to me at eyerman@elfainvestors.com or +44 7725 353149.

Sincerely,

⁶ See John R. Evans, *Tender Offers: An SEC Perspective* (1979), https://www.sechistorical.org/collection/papers/1970/1979_0622_EvansTender.pdf ("The minimum time period chosen [for a tender offer] should be long enough to assure that investors can receive information... analyze that information, and make an informed decision whether or not to tender...")

⁷ Mission, U.S. Securities and Exchange Commission, <https://www.sec.gov/about/mission>.

A handwritten signature in black ink, reading "Edward Eyerman". The signature is fluid and cursive, with the first name "Edward" and last name "Eyerman" clearly distinguishable.

Edward Eyerman
Chief Executive Officer
European Leveraged Finance Association