

To Our Clients and Friends

Memorandum



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Timetables for the Performance of Tender Offers in France (Updated August 2010)

This memorandum provides updated timetables for friendly and contested tender offers in France, reflecting recent amendments to the General Regulations of the French Financial Market Authority (the "AMF") which include the creation of a pre-offer period during which new reporting obligations and trading prohibitions apply.

In 2006,¹ the AMF extended the obligation for a target's board of directors to obtain a fairness opinion from an independent expert whenever the tender offer may cause conflicts of interest within the board that could prejudice its impartiality concerning the merits of the offer and its consequences for the target, shareholders and employees, or which could jeopardize the equal treatment of shareholders or holders of other financial instruments that are the subject of the tender offer.²

The attached timetables for friendly tender offers are subdivided in two in light of the procedural differences that arise when an independent expert is appointed. A single timetable for contested tender offers is provided as an independent expert is rarely appointed in the context of a contested tender offer.

The timing set forth in these timetables is based on regulatory minimal deadlines and is shown for indicative purposes.

Abbreviations

AMF:	<i>Autorité des Marchés financiers</i>
Euronext:	Euronext Paris

¹ Pursuant to Act no. 2006-387 of March 31, 2006 concerning public acquisition offers transposing into French law the EU Takeover Directive (EU Directive 2004/25/EC of April 21, 2004).

² Such is the case where, among others: (1) the target is already controlled by the bidder prior to the commencement of the offer; (2) the officers of the target or the persons which control it have entered into an agreement with the bidder susceptible of affecting their independence; (3) the controlling shareholder does not tender its shares in a self tender offer; (4) there exists one or several transactions connected to the offer susceptible of having a significant impact on the price or the exchange parity of the offer; or (5) the offer relates to financial instruments of different categories and is structured with pricing conditions susceptible of adversely affecting equal treatment among shareholders or holders of other financial instruments which are the subject of the offer.

Day count:³

Bold type indicates trading days (**D + X**)

Italics indicate calendar days (*D + Y*)

In some cases, a deadline may be expressed as the sum of trading days and calendar days, in the form **D + X + Y**

“D-day” is the date on which the bidder’s presenting bank files the tender offer documents with the AMF.

GRAMF

General Regulations of the AMF

Assumptions:

- The tender offer is filed under the normal procedure. The AMF regulations provide a simplified procedure for tender offers in particular circumstances, such as an offer by a person already owning a majority of the target’s shares, an offer for no more than 10 % of the target’s shares, or for self-tender offers.
- In the first timetable, the tender offer is assumed to be friendly and there are no potential conflicts of interests that would require the appointment of an independent expert. The tender offer statement is thus prepared jointly by the bidder and the target.
- In the second timetable, the tender offer is assumed to be friendly but there are potential conflicts of interests that would require the appointment of an independent expert. Under this assumption, the tender offer statement cannot be prepared jointly by the bidder and the target. However, it is assumed that the bidder’s preliminary tender offer statement and the target’s preliminary recommendation statement are filed simultaneously as the independent expert will have been appointed earlier on in the process.
- In the third timetable, the tender offer is contested by the target but there are no potential conflicts of interests requiring the appointment of an independent expert, in which case the bidder prepares a tender offer statement, and the target responds with its own recommendation statement.
- The sale of control of the target does not constitute a *concentration* subject to the approval of antitrust authorities; *i.e.*, the French Ministry of the Economy or the European Union Commission, as the case may be.
- The target does not operate a business included in one of the strategic business sectors in which the French Ministry of the Economy has the right to restrict foreign investments in France.

³ Articles 640 *et seq.* of the French Code of Civil Procedure provides the default framework for calculating time periods under French law. Absent specific contrary provision, statutory time periods include all calendar days except that where the final day of a time period is a Saturday, a Sunday, or a bank holiday, the period is extended until the first business day thereafter. Time periods set in AMF regulations, however, generally include only stock exchange trading days. The date of the event which begins the running of a time period is generally not included except in special cases which we expressly point out in the timetables.

- The sale of control of the target is not conditional on special regulatory approvals, such as those that would apply to the sale of a bank, an insurance company or a company that owns a newspaper or radio or television station.

Timetable for Friendly Tender Offer in France where no independent expert is appointed by the target's board (PDF format)

Timetable for a Friendly Tender Offer in France where an independent expert is appointed by the target's board (PDF format)

Timetable for Contested Tender Offer in France where no independent expert is appointed by the target's board (PDF format)

This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its contents. If you have any questions about the contents of this memorandum, please call your regular Fried Frank contact or the attorneys listed below:

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