

A VARIANCE OF OTHER CONTRACTUAL TERMS, OR A MATERIAL CHANGE IN REQUIRED DISCLOSURE ACCOMPANYING AN OFFER, CONSTITUTES A NEW OFFER.

(2) "TAKE-OVER OFFER" DOES NOT INCLUDE AN OFFER OR ACQUISITION OF ANY EQUITY SECURITY OF A TARGET COMPANY PURSUANT TO:

(I) BROKERS' TRANSACTIONS EFFECTED BY OR THROUGH A BROKER-DEALER IN THE ORDINARY COURSE OF ITS BUSINESS;

(II) AN EXCHANGE OFFER FOR SECURITIES OF ANOTHER ISSUER, IF THE OFFER IS EXEMPTED FROM REGISTRATION OR IS REGISTERED UNDER THE PROVISIONS OF THIS TITLE OR IF THE OFFER IS REGISTERED UNDER THE SECURITIES ACT OF 1933;

(III) ANY OTHER OFFER TO ACQUIRE AN EQUITY SECURITY, OR THE ACQUISITION OF THE EQUITY SECURITY PURSUANT TO THE OFFER, FOR THE SOLE ACCOUNT OF THE OFFEROR, FROM NOT MORE THAN 25 PERSONS, IN GOOD FAITH AND NOT FOR THE PURPOSE OF AVOIDING THIS SUBTITLE;

(IV) AN OFFER MADE TO STOCKHOLDERS OF THE TARGET COMPANY, IF THE NUMBER OF ITS STOCKHOLDERS IS LESS THAN 100 AT THE TIME OF THE OFFER;

(V) AN OFFER AS TO WHICH THE TARGET COMPANY, ACTING THROUGH ITS BOARD OF DIRECTORS, RECOMMENDS ACCEPTANCE TO ITS STOCKHOLDERS, IF THE OFFER IS MADE TO ALL STOCKHOLDERS ON SUBSTANTIALLY EQUAL TERMS AND IF ANY INDUCEMENTS TO OFFICERS AND DIRECTORS OF THE TARGET COMPANY ARE DISCLOSED TO ALL OFFEREEs AT THE TIME THE TAKE-OVER OFFER IS MADE;

(VI) AN OFFER IF THE ACQUISITION OF ANY EQUITY SECURITY UNDER THE OFFER, TOGETHER WITH ALL OTHER ACQUISITIONS BY THE [[OFFERER]] OFFEROR OF SECURITIES OF THE SAME CLASS [[CURING]]DURING THE PRECEDING 12 MONTHS, WOULD NOT EXCEED 2 PERCENT OF THAT CLASS OF THE OUTSTANDING EQUITY SECURITIES OF THE ISSUER;

(VII) AN OFFER BY THE TARGET COMPANY TO ACQUIRE ITS OWN EQUITY SECURITIES;

(VIII) AN OFFER BY A CORPORATION TO ACQUIRE EQUITY SECURITIES OF A SUBSIDIARY WHERE THE CORPORATION OWNS BENEFICIALLY VOTING STOCK REPRESENTING AT LEAST TWO-THIRDS OF THE COMBINED VOTING POWER OF ALL CLASSES OF VOTING STOCK OF THE SUBSIDIARY; OR

(IX) ANY OFFER WHICH THE COMMISSIONER, BY RULE OR ORDER, EXEMPTS FROM THE DEFINITION OF "TAKE-OVER OFFER" AS NOT BEING ENTERED INTO FOR THE PURPOSE OF, AND NOT HAVING THE EFFECT OF, CHANGING OR INFLUENCING THE CONTROL OF THE TARGET COMPANY OR OTHERWISE AS NOT COMPREHENDED WITHIN THE PURPOSES OF THIS