

# Real Estate Forum

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## NewsFront MIDWEST

What you need to know—region by region

### Why Mini Tenders May Be Bad

Recently, a business executive received an urgent call from his mother, Anna. She was in a panic. She had just received a very upsetting and official-sounding letter. “This is terrible,” she told him breathlessly. “The company is going bankrupt!”

The letter she received implied that a REIT in which she had purchased shares was going bankrupt and that she needed to sell her stock immediately. “Hurry,” she begged her son. “I need you to help me with this right away or I will lose all my money!”



By **Daniel Goodwin**

Luckily for Anna, her son was familiar with the scare tactics of the so-called mini-tender industry. A mini-tender is a dangerous and deceptive practice in the securities industry in which a bidding company seeks to buy less than 5% of the outstanding shares of a company at a fraction of its true market value in order to resell them for a quick buck.

In Anna’s case, the company in which she had invested was not going bankrupt—far from it. And true to form, the bottom-feeders were offering her just a small fraction of what her shares were worth. They were relying on fear about commercial real estate to trick investors like Anna into tendering their shares.

Thankfully, Anna’s son was able to explain the situation to her and save her from a terrible mistake. But unlike Anna, thousands of investors do fall victim to these scams every year. Despite their moral repugnance, such offers are legal under current Securities and Exchange Commission rules and represent a loophole not subject to the disclosures that govern normal tender offers.

The SEC warns investors against mini-tender offers, point blank telling them on its website that such offers are used to catch shareholders off guard, and “investors who surrender

their shares without fully investigating the offer may be shocked to learn that they cannot change their minds and withdraw. In the meantime, they’ve lost control over their securities and end up selling at below-market prices.”

But more needs to be done than simply offering a warning. I urge the SEC to regulate these unscrupulous offers. These firms should be required to disclose that they are independent of the target company; that investors are under no obligation to sell; that if investors sell, they are selling below the market value of the shares; that alternative cash liquidity options exist for shareholders; and that mini-tender companies are buying the shares to simply sell them for a higher price.

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With such disclosures, investors have a fighting chance to make an informed decision.

Another approach to curb this exploitation of vulnerable shareholders is to file a complaint with your state’s attorney general. Many states have laws against exploiting people, which can be enforced regardless of what the SEC does.

The enforcement of existing state laws and increased disclosure requirements can go a long way to stop these unconscionable practices.

*The views expressed in this column are those of the author and not necessarily REAL ESTATE FORUM.*

*Daniel Goodwin is chairman and CEO of the Inland Real Estate Group of Companies, Inc. in Oak Brook, IL. This op-ed originally ran in the February/March edition of Real Estate Forum magazine.*