

February 2, 1979

To Our Clients:

Takeovers, Concurrent Exchange
Offer and Cash Tender Offer

Occidental Petroleum proposed to make an exchange offer for Mead Corporation. Occidental proposed to issue shares of a straight preferred and a convertible preferred for Mead common and for two series of Mead convertible preferreds which were to be treated as common equivalents. The conversion ratio of the Occidental convertible preferred was to be determined based on the market price for Occidental common during a valuation period ending shortly before the commencement of the exchange offer. Fearing a competing cash tender offer for Mead, Occidental requested Rule 10b-6 and Rule 10b-13 exemptions to permit a cash tender offer prior to or concurrently with the exchange offer.

The SEC concluded that at least from the time that Occidental filed the exchange offer registration statement and related Schedule 14D-1 it was engaged in a distribution subject to Rule 10b-6; that Rule 10b-13 applied from the same time (such filing constituting a public announcement of the exchange offer for Rule 10b-13 purposes); and the exchange offer and the cash tender offer would each be deemed to be a single offer to three different categories of securities holders for Rule 10b-13 purposes:

The SEC granted a Rule 10b-6 exemption on the following conditions:

(1) The cash tender offer could be made only in response to a competing offer for Mead;

(2) The cash tender offer must be completed (by announcement of definitive acceptance rate) at least 15 business days prior to the effective date of the exchange offer; and

(3) "Purchases of and offers to purchase" Mead securities pursuant to the cash tender offer must not be made after five days before the valuation period for determination of the conversion ratio of the Occidental preferred to be issued in the exchange offer.

The SEC also granted a Rule 10b-13 exemption on the same conditions.

The SEC said that it had under consideration Occidental's request for exemptions that would permit the cash tender offer to commence or continue after the effective date of the exchange offer.

Occidental Petroleum Co. (Avail. Jan. 2, 1979) CCH
Fed. Sec. L. Rep. ¶ 81,196.

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