

# IPO Critical Tasks And Timeline Overview

## Corporate Structure & Reorganization

- Suitability of current corporate organization
- Tax structuring and implications

## Corporate Governance & Board

- Composition of board of directors
- Search for independent directors
- Board committees (audit, compensation, and others)
- Compliance with SOX
- Potential management changes/additions
- Executive compensation analysis

## Capital Structure

- Use of proceeds
- Optimize capital structure and financing needs
- Dividend policy
- Elimination of any preferred equity and converts

## IPO Prospectus

- Key marketing document
- Bookrunners provide outline/investment highlights
- Company counsel drafts prospectus

## Roadshow Slides

- Bookrunners craft slides with company

## Executive Compensation

- Determine compensation packages for executive management and board (including stock/options)
- Compensation disclosure in Form S-1 (limited disclosure for EGCs)

## Pre-Organization Meeting Preparation

## Filing Preparation (6-10 Weeks)

## SEC Review (8-10 Weeks)

## Marketing & Pricing (2 Weeks)

### Hire Advisors

- Bookrunners
- Legal Counsel
- Auditors
- IPO advisor/consultant

### Financial Statements

- 2 years audited financials (for EGCs)
- 2 years selected financials (for EGCs)
- SOX and internal controls
- Acquisition financials and pro formas

Organizational Meeting

### Due Diligence

- Business
- Financial
- Legal
- Accounting
- Research

### Financial Projections

- Develop detailed financial projections (typically 5 years)

### Testing The Waters Communications

- Limit discussions to QIBs
- Clear communication materials with counsel

### SEC Review<sup>1,2</sup>

- SEC reviews prospectus, including financial statements
- Typically 3-4 rounds of comments for an IPO (8-10 weeks)
- Updated financials
- Add co-managers
- File with \$ price-range

### Marketing & Pricing

- Investor targeting
- Management dry-run
- Salesforce presentations and teach-ins
- Roadshow (one-on-ones and group events)
- Bookbuilding
- Pricing and allocation
- Closing

1. SEC Review can take significantly longer.

2. IPO issuers can file confidentially and respond to SEC comments without making a public filing. Public filing is required 15 days before roadshow launch.

# The Registration Process

# Preparing for Due Diligence

- The underwriters and their counsel will lead the due diligence process
- The issuer's financial and administrative staff must be prepared for a time-intensive and somewhat distracting process
- The issuer will typically create a virtual data room or use an outside vendor to facilitate the flow of information
- Issuer's counsel will engage in pre-IPO sell-side diligence, including review of material contracts and other key documentation
- Issuer and its counsel must determine which contracts are "material" for SEC purposes and, therefore, are required to be filed as exhibits to the registration statement
- The issuer can redact certain sensitive information from commercial contracts (thus avoiding public disclosure) using a Confidential Treatment Request (CTR)

# Registration Statement

- A typical IPO prospectus (Part I of the registration statement) contains:
  - Summary
  - Risk Factors
  - Use of Proceeds
  - Dividend Policy
  - Capitalization
  - Dilution
  - Selected Financial Data
  - MD&A
  - Business
  - Management
  - Executive Compensation
  - Corporate Governance
  - Related Person Transactions
  - Principal and Selling Stockholders
  - Description of Capital Stock
  - Underwriting
  - Legal Matters
  - Experts
  - Financial Statements
- Part II of the registration statement contains information such as expenses of the offering, indemnification arrangements, any sales of unregistered securities, exhibits and undertakings

# Confidential Submission

- Companies may confidentially submit initial registration statement to the SEC
  - No filing fee until publicly filed
  - Able to resolve complex issues outside of public spotlight
  - Helps to preserve other strategic alternatives, such as sale or private placements
- If submitted confidentially, must publicly file registration statement (and all previously submitted drafts) at least 15 days before roadshow
- Confidentially submitted registration statement form and content should be substantially the same as one that is publicly filed, except that it does not need the company's signatures or an auditor consent
  - The registration statement must include a signed audit report and all other exhibits that would be required if publicly filed

# The Roadshow

- Once the working group is ready to launch the offering, the marketing of the offering begins
- Company executives and underwriters hit the road with the preliminary prospectus and a “road show” presentation to promote the offering, meeting with institutional investors in various cities
- A typical road show for an IPO lasts up to two weeks
- Lead underwriter takes indications of interest and builds “the book”
- At this stage, no shares can be officially sold, so any orders submitted are only indications of interest and are not legally binding

# Pricing and Closing

- At the conclusion of the road show, the company and underwriters participate in a bring-down diligence call to confirm no material changes have occurred and then a pricing call to finalize the terms of the offering
  - The company and underwriters agree on the price to the public and the underwriters' spread
- Execute the Underwriting Agreement and deliver comfort letters
- Finalize and print the Prospectus
  - Final prospectus containing pricing information must be filed with the SEC not later than close of business on the second business day after pricing
- Closing will be two trading days after pricing

# Emerging Growth Companies (“EGCs”)

- Smaller companies going public through an IPO may qualify as EGCs
- To qualify as an EGC, the company’s annual gross revenues for its most recent fiscal year must be less than \$1,070,000,000.
- EGCs are permitted to go public with somewhat reduced disclosure requirements and can “test the waters” in advance of an offering
  - The disclosure modifications include:
    - Reduced financial statement requirements
    - Scaled down compensation disclosures and tables
  - “Testing the waters” allows companies to gauge investor interest in an offering by communicating directly with qualified institutional buyers or institutional accredited investors both before or after the filing of the registration statement.
    - Underwriters can participate in these communications
    - Investors can be solicited for non-binding indications of interest