



PREPARING FOR AN IPO

Insights for your IPO journey

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Going IPO

Providing insights into the IPO journey for your business



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For further information visit:
rsm.com.au/transactions

INTRODUCTION

THE IPO JOURNEY

Companies that have successfully listed on a stock exchange never forget that defining moment: the ringing of the bell. While it is an historic event in any company's growth story, it is also one that requires significant work and commitment.

Some companies may complete the initial public offering (IPO) preparatory process in four to six months compared to others who spend close to two years. It all depends on the size and complexity of your company, requirements for pre-float restructuring, and potential interest from investors.

Whether you are a privately-held company wanting to list in order to open up new opportunities to raise capital, or you are looking to provide shareholders with liquidity, it is important to weigh up the pros and cons of a listing against alternative methods of achieving similar goals.

Over the years, RSM's corporate finance, tax, and audit teams have worked on many IPOs, providing advice from the very early stages of evaluating strategic options pre-IPO through to supporting growth after a business has listed. We pride ourselves on the close relationships we have built with the Australian Securities Exchange (ASX) and the Australian Securities and Investments Commission (ASIC), having worked with family-owned businesses and private equity or venture capital-held companies seeking to IPO. RSM can guide your company through the entire IPO process.

Services we provide include:

- evaluating and advising on tax issues including a company's structure
- providing investigating accountant's reports
- advising on relevant reporting requirements and ongoing disclosure
- connecting you with experienced advisers including legal and banking partners
- forming part of the due diligence committee
- assisting with the due diligence process
- preparing the prospectus and assisting with verification
- preparing and reviewing forecasts

It is important to consider all the relevant advantages and disadvantages before committing to an IPO, as it may not always be the most suitable option for your organisation.

This eBook aims to provide you with a solid understanding of what is involved in the journey to IPO.

IPOs can be high-risk and the information in this eBook is not intended as investment advice. Please seek professional financial advice before making any investment decision in any IPO.

We hope you find it a useful read.

CONSIDERING AN IPO?

WHAT YOU SHOULD KNOW BEFORE YOU START

Deciding to list on the stock exchange through an IPO is a big step for any company. It marks the transition from being privately owned and controlled, to becoming a public company where shareholders expect greater transparency into business operations and, depending on the level of equity they control, play a significant part in directing the future of the company.

The minimum admission criteria to list on the ASX are as follows:¹

Admission criteria	General requirement
Number of shareholders	Minimum 300 non-affiliated investors at \$2,000
Free float	20%
Company size: profit test	\$1 million aggregated profit from continuing operations over past 3 years + \$500,000 consolidated profit from continuing operations over the last 12 months
or	
Company size: asset test	\$4 million net tangible assets or \$15 million market capitalisation

Full details of the admission criteria can be found here: www.asx.com.au/listings

In addition, it is important to be aware of the reporting requirements to support your listing application. You will be required to provide audited accounts for the last three full financial years under the profit test. Under the assets test, you will need to provide audited accounts for the last two full financial years unless you have come to an alternative agreement with the ASX.

In addition, if you are more than seven-and-a-half months into the current financial year, you will need to produce audited or reviewed accounts for the last half-year under both tests.

In addition, once listed, you will be required to report on your financials half-yearly and annually. If your company does not have a track record of revenue or profit, you will need to file quarterly cash flow statements. Mining and oil and gas companies must report quarterly on activities and spending on production, development, and exploration.

If you are listing under the assets test, you will need at least \$1.5 million in working capital. You will also need to include a statement in the prospectus that you have enough working capital to carry out your stated objectives.

If you are listing under the profit test, your business will not be subject to escrow restrictions. However, if you are listing under the assets test, escrow restrictions usually apply to a proportion of shares. The escrow period can be one or two years depending on the type of shareholder and how they acquired their shares.

If you are already listed on a peer exchange then you may be exempt from certain ASX requirements.

¹ www.asx.com.au/documents/resources/00280-listingbrochure-v4-lr.PDF

Undertaking an IPO can be a costly exercise. The ASX has released the following guide as an indication of the total IPO costs incurred as a % of capital raised:

Total IPO costs

Market capitalisation	% of amount raised (median)
Less than \$10m	10.80%
\$10m to \$50m	9.50%
\$50m to \$100m	6.90%
\$100m to \$500m	5.20%
More than \$500m	4.90%

The table below also summarises initial listing fees and annual fees. The table is a guide to ASX fees that currently apply to listings with a market value of up to A\$500 million.

Market capitalisation*	Initial fee	Annual fee
\$10m	\$75,338	\$26,376
\$50m	\$118,388	\$34,654
\$100m	\$156,057	\$45,001
\$500m	\$339,018	\$61,729

The ASX also offers a listing fees calculator online: www.asx.com.au/prices/cost-listing.htm

Although there are a variety of reasons for a company to embark on an IPO, it is most commonly used to raise funds for reinvestment in the company and to assist with future growth.

Other key reasons why a company may engage in an IPO include:

- Access to capital for growth:** Listing on the ASX raises money, which can help fund future growth.
- Currency for external growth:** The cash obtained from listing the company may be used to fund acquisitions. These acquisitions foster growth by providing a more diversified and liquid share capital base.
- Higher profile:** Taking a company public provides the opportunity to engage with the media, analysts, and the industry at large. This can help sustain demand for the company's products or services and, by extension, its shares.
- Institutional investment:** An IPO attracts institutional investors due to the increased transparency and trading liquidity associated with being a public company. This may contribute to improved credibility, in addition to providing access to capital.
- Improved valuation:** A public company can benefit from independent market valuations, which is a consequence of more readily accessible information.
- Greater efficiency:** Ongoing reporting requirements and duties of disclosure for public companies helps improve their operating procedures and, in turn, achieve efficiencies.
- Secondary market for shares:** Listing on the ASX increases share liquidity and ease of trade. This enables shareholders to realise the value of their holdings and raise further capital.
- Alignment of employee/management commitment:** When organisations remunerate or reward and incentivise employees with shares, it helps to align employee interests with the organisation's goals. It can also assist companies to attract and retain a high calibre of talent.
- Reassurance of customers and suppliers:** The extensive due diligence that is undertaken throughout the listing process, in addition to the ongoing compliance procedures gives customers and suppliers increased confidence in the strength of the business.
- Exit strategy for directors or investors:** An IPO is a legitimate exit strategy for company owners, directors and investors who are looking to retire or move in a new direction.



An IPO is a significant step for a company to take. While it can assist in raising capital for growth and other initiatives, it also attracts increased requirements around compliance, reporting and due diligence. As such, it is important to assess the potential disadvantages of listing your company and make sure you are not unduly influenced by the potential to raise capital in a short period.

To determine whether an IPO is the right approach, it is important to seek expert advice to ensure a thorough understanding of the IPO process, the responsibilities of directors, and the risks and costs involved.

SOME CONSIDERATIONS BEFORE HEADING DOWN THE IPO PATH

Despite the advantages of an IPO, there are potential downsides associated with a listing to be considered. These include:

- 1. Increased regulation and reporting requirements:** Once a company can be traded on the stock exchange, it attracts additional compliance and continuous disclosure requirements. This may lead to a significant administrative burden and a greater level of accountability.
- 2. Privacy concerns:** In addition to the burden of reporting requirements, increased disclosure of financial reports reduces company privacy and leads to a higher level of scrutiny. Communication with shareholders is an essential part of being a public company, and a high level of transparency regarding directors' interests and the strategy of the company is usually expected.
- 3. Increased public oversight:** Listed companies become answerable to shareholders as the shared owners of the company. If you are a company owner accustomed to operating without public oversight, it may be difficult to adapt to the significant culture shock that an IPO can deliver.
- 4. Associated costs and complexities of listing a company:** Engaging in an IPO requires considerable input from professional advisers which, in turn, attracts additional costs. Engaging expert advice from accountants and lawyers may require a diversion of business resources and funds from core business activities to IPO activities in the short term.
- 5. Time:** Although the total amount of time to list a company will depend on the complexity and size of the business, the ASX estimates the general timeframe is six months, with the potential to take up to two years.

THE IPO PROCESS AND TIMELINE

While every IPO is different, the process can take approximately five months at its quickest pace. The key steps in the process are:

1. Appoint advisers

It is essential to work with professional advisers from the start of the process. Advisers assist with the preparation of the prospectus, form part of the due diligence process and price and market the IPO to investors

2. Conduct due diligence and draft prospectus

The prospectus is the key document investors will use in determining whether to invest in your company. It must therefore include all the information investors require to make a considered decision about an offer, including information about the business model, risks, management, financials, and any rights and liabilities attached to the shares to be issued. The due diligence process is guided by the due diligence committee which comprises of both the company's representatives and external advisers such as lawyers and investigating accountants.

3. Begin marketing

You are restricted in terms of what advertising you can conduct before you lodge the prospectus with ASIC but you can undertake certain marketing activities, such as IPO roadshows to institutional investors.

4. Lodge the prospectus

After lodging the prospectus, it is available for public review and comment for an exposure period of seven days during which you cannot accept any applications under the offer. If ASIC needs more time, it can extend this period to 14 days before applications from investors can be processed.

5. Lodge the formal listing application

Within a week of lodging the prospectus with ASIC, the formal listing needs to be lodged with the ASX. It should take between four to six weeks to review and approve the application.

6. Offer to retail investors

Retail investors can take up your offer for three to five weeks.

7. Begin trading

The final step in the IPO is the listing ceremony at ASX where you will ring the bell and trading in your shares will begin.

GET ADVICE EARLY

Once both the advantages and disadvantages of listing have been weighed and you make the decision to pursue an IPO, you should seek expert advice as early in the process as possible. This will assist in a smooth transition from a private company to being publicly-listed on the stock exchange.

There are several parties necessary to successfully complete an IPO, including legal advisers and a financial team. The financial team should include a transactions team, audit team, and a taxation team.

THE TRANSACTIONS TEAM:

- reviews the financial information included in the prospectus
- prepares an independent assurance report included in the prospectus
- forms part of the due diligence committee (DDC)
- provides guidance to the DDC and the company on materiality thresholds to be adopted in preparing the prospectus
- undertakes financial due diligence on the listing entity to inform the DDC and any newly appointed directors
- prepares the prospectus and assists with verification

THE AUDIT TEAM:

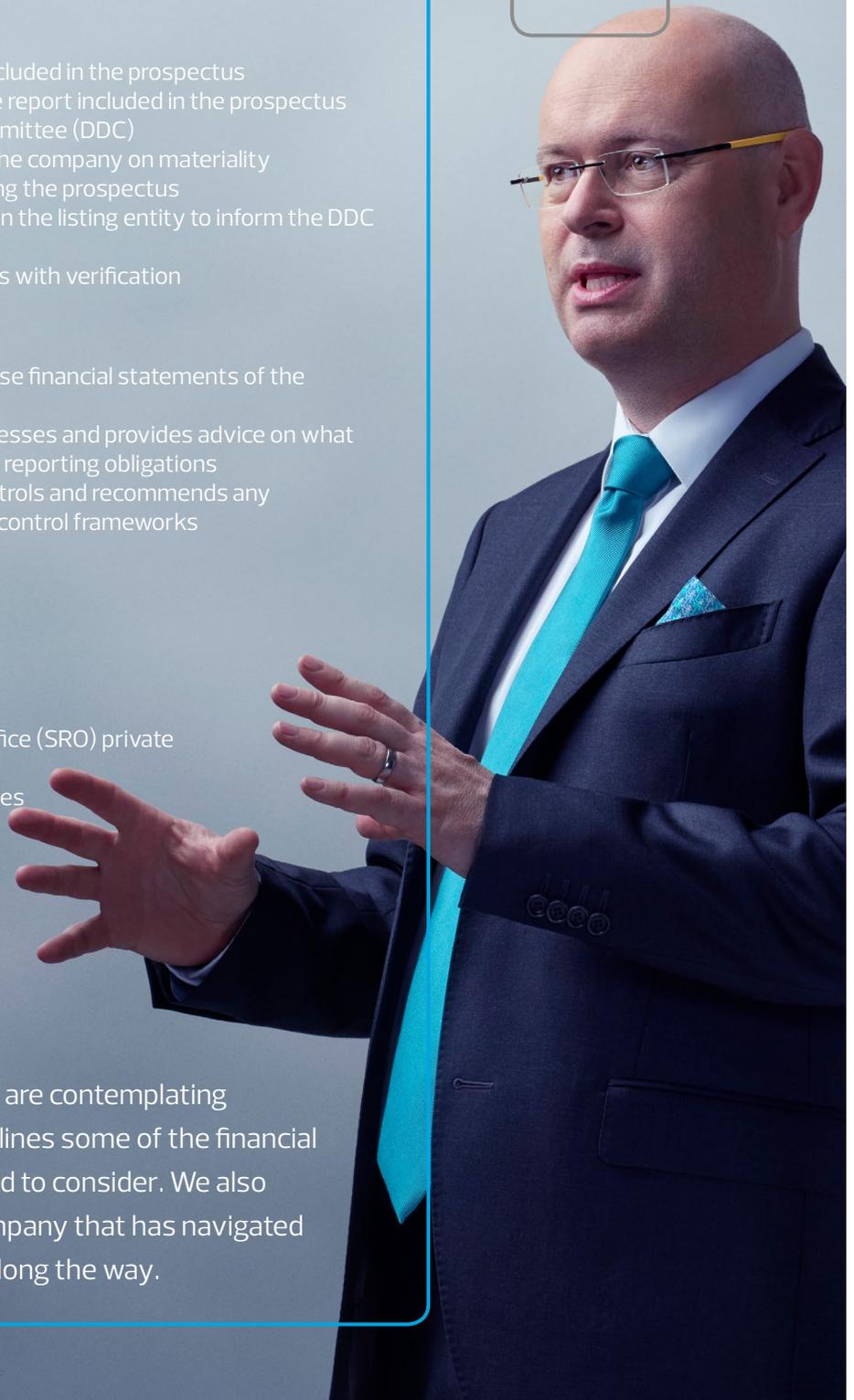
- reviews or audits the general purpose financial statements of the company
- reviews the financial reporting processes and provides advice on what resources are required to meet ASX reporting obligations
- reviews the company's internal controls and recommends any improvements required for internal control frameworks

THE TAXATION TEAM:

- assists with pre-IPO structuring
- reviews tax inputs on forecasts
- undertakes tax due diligence
- applies any GST rollovers
- manages ATO and state revenue office (SRO) private ruling applications
- administers employee share schemes
- reviews legal agreements
- conducts Foreign Account Tax Compliance Act (FATCA) GST calculations



An IPO is not for everyone. If you are contemplating this step, the following guide outlines some of the financial and legal obligations you will need to consider. We also share a real-life story from a company that has navigated an IPO and their lessons learnt along the way.



THE VIEW FROM THE OTHER SIDE

INTERVIEW WITH JOSH FEGAN, ALTHEA



Althea is a health and wellbeing company. It is an Australian-owned, licensed importer and producer of medicinal cannabis, which can be legally prescribed by a doctor. Althea's mission is to improve the lives of patients suffering from debilitating conditions by facilitating access to high-quality medicinal cannabis.

Althea recently elected to raise capital for business expansion via an IPO. We interviewed Althea's founder and managing director, Josh Fegan, to find out more.

What prompted you to consider an IPO for capital-raising?

The emerging cannabis sector has a lot of potential for growth and is novel enough to draw strong positive attention from capital markets. The timing and opportunity were, therefore, right to take the company public. We had the option to stay private but felt that listing on the ASX was the right choice for Althea's future growth.

Because the industry Althea operates in is highly-regulated, it was attractive for risk-averse investors (which is quite typical in the Australian investment scene), creating positive signs for investment.

Which advisers did you engage as part of the process?

We approached RSM based on a referral from a financial adviser. We wanted to work with a reputable firm and RSM fit with the organisation.

Understanding the importance of a strong due diligence committee, we also worked with a strong law firm. The combined capabilities of these two advisers, as well as having a good lead broker, meant we were able to list in six months.

The process ran smoothly because we had a good lead broker, who was able to get us access to the right pre-IPO investment community, which led to the IPO being oversubscribed on launch day.

The team of advisers worked extremely well together. Having a collaborative team of external parties makes a big difference in being able to drive the process forward.

How did you find the experience?

The Althea team went in with eyes wide open in terms of the process and the cost of taking the company public. We also had comprehensive guidance from our advisers. We held a number of planning sessions with our law firm and our accounting/auditing firm to plan out the costs, so we were as prepared and informed as we could be. The process can be unpredictable and, while we did not quite hit the budget, we came very close.

What changes did your business need to make in preparation for the IPO?

There was a lot of regulatory compliance required and we needed to update our website and implement a more robust way of accounting. Apart from that, there were not many internal changes required.

What could have made the process smoother?

If we had known more about the process upfront, we could potentially have saved some time and work. But there is no rulebook to follow and any company going through an IPO just has to step through each of the stages methodically. It is important to form the best team possible and be prepared to work very hard for a few months.

Both internally and with our advisers, Althea was lucky in that we had a calm, attentive team that took time to understand the business. That really helps.

Having an international partner (Aphria) added some complexity in terms of logistics but this was relatively easy to manage. It helps when everyone on the team is swimming in the same direction and understands the commercial imperatives and strategy.

What advice would you offer for organisations considering an IPO?

It is important to find good partners. The best place to start is with a good lead manager/broker who understands the business and its potential before committing to anything. If there are no investors, then an IPO is not a viable option.

It is important to have maturity in the industry or market the business is pursuing, regardless of whether that is in Australia or elsewhere. For example, Althea's key partner had a very strong blueprint in Canada when it came to medicinal cannabis, so it was known that this would be a good investment opportunity for the right investors.

Companies have to convince the ASX, which is very thorough, in terms of who can appear on boards. The ASX monitors this area very closely and the process is demanding. So it is not advisable to go through the entire experience unless you are confident you can reap the results at the end.

What results did Althea achieve?

Althea was able to execute where we wanted to and have a good plan for the future.

Now that the company is listed, we are focused on surrounding ourselves with people who understand the reporting requirements, and have the time management capabilities and specific skills required to meet them so you do not miss deadlines.

Overall, our IPO experience was a very positive one. It was a great step for us to take to be able to ensure our future growth. There are plenty of other Australian businesses that need capital to grow; it is unfortunate when we lose those companies to offshore opportunities. Australia should do as much as it can to back high-potential companies, because that will have positive effects for the entire economy.



THE CRUCIAL ROLE PLAYED BY ADVISERS

Taking a company public is a complex process with numerous legal, financial, and ethical obligations that need to be met. Aside from the sheer volume of documentation required, which could take up a significant amount of company directors' time, there is also the potential cost of making a mistake. Failing to do due diligence correctly, or provide correct and accurate documentation in a timely manner, can damage the potential of the IPO to reach its goals.

It is essential to put together a strong team of advisers to shepherd the IPO to success. And you should engage this expert team as early in the process as possible to minimise costs and ensure a smooth, seamless listing.

CREATING A STRONG ADVISORY TEAM

There are six key roles to be played in an IPO. This should be your A-team:

Lead manager

It is essential to have a clear leader in the IPO process. A corporate adviser, stockbroker, or investment banker can take on this role. In a particularly large IPO, a number of banks and brokers may act together to jointly manage the listing.

This role involves providing general advice including providing a valuation of your company, advising on offer price, size, and timing of the IPO, and analysing the market to determine the best approach. Professionals in this role are also responsible for identifying institutional investors and making sure that the shareholder spread and free float tests are met.

In short, they are in charge of ensuring that all aspects of the IPO are managed effectively and correctly.

The lead manager often also underwrites the IPO.

Underwriter

If the share offer is undersubscribed then your business will not meet its capital raising target. A business can engage an underwriter (often the lead manager) to make up the shortfall. That means the underwriter will buy any shares that are not purchased by investors during the IPO.

Having an underwriter is not compulsory but it can help ensure the business meets its targets. The underwriter profits by selling the shares later at a higher price.

Depending on the size of the IPO, there may be a single underwriter or a group, known as a syndicate.

The underwriter typically waits to see what the investor reaction to the IPO is likely to be before assuming the risk of underwriting the IPO. They prefer to see that the offer will be fully subscribed. Normally, the underwriter signs an agreement to underwrite the shares just before the prospectus is lodged with the Australian Securities and Investment Commission (ASIC).

Lawyer

Given the legal process that needs to be followed, it is essential to seek legal advice early. Legal counsel will assist with due diligence and disclosure requirements, provide advice on the prospectus, and liaise with the ASX and ASIC.

Your lawyer may also be in charge of negotiating agreements such as underwriting on behalf of the company.

Furthermore, legal experts can help you work through any restructuring requirements in the wake of becoming a public company such as appointing and removing directors, changing the company's constitution, managing contracts, and ensuring good corporate governance.

Even for companies with in-house counsel, it is worth engaging an external law firm specifically experienced

in IPOs. Even if the in-house counsel has experience with IPOs, the workload involved is usually significant and it can be more efficiently driven by external counsel. This frees up your in-house lawyer to act as an intermediary between the external firm and the company's directors, as well as to focus on other business as usual activities.

Investigating accountant

While the lawyers conduct business due diligence, the accountants will conduct financial due diligence. They will review all the information to be included in the prospectus and provide the independent assurance report for the prospectus.

The independent assurance report is an objective report that provides assurance of the financial information provided for the prospectus.

The investigating accountant's role is to carry out due diligence inquiries into certain financial and accounting matters and provide:

- an investigating accountant's report for inclusion in the prospectus
- a due diligence sign-off to the due diligence committee
- materiality guidelines providing recommendations on the level of quantitative materiality the due diligence committee should apply to the due diligence process
- separate financial reports to the board of the directors and the due diligence committee on the historical financial information, the proforma historical financial information and the forecasts

Technical experts

If your business operates in a technical industry, the prospectus may need to include expert reports to explain aspects of the business.

Communications

Investor relations and communications experts can help set the scene for an IPO by getting the word out about the company and its listing, and managing communications in the lead-up to (and following) the IPO.

WHAT TO LOOK FOR IN AN ADVISER

The quality of advisers and their ability to work together effectively will have a significant effect on the success or otherwise of your IPO. Furthermore, some of these advisers may remain in place for the long term to continue providing advice and support to your business long after the IPO is complete. It is therefore essential to choose the right team.

Here are five key qualities you should look for in potential IPO team members:

1. Experience in successful IPOs

It goes without saying that businesses need to work with the most experienced team possible. IPOs are complex and getting it right is crucial for the future of the business.

2. Experience and knowledge in the business's industry

Each industry has its own unique quirks and requirements when it comes to IPOs. Apart from being experienced in IPOs generally, it is valuable to have a team with existing knowledge of the industry your business operates in. This ensures that the team will be able to communicate based on a shared language, and mitigates the risk of something going wrong because the advisory team did not know enough about your industry.

3. Good cultural fit with the existing team

An IPO is absolutely a team project and it cannot be achieved unless all members of the team pull together effectively. This means everyone in the team must have a strong working relationship.

Putting existing team members together with new advisers can create challenges. It is therefore important to choose a team that is eager to develop strong relationships based on mutual trust. This will stand the business in good stead if the IPO process becomes tricky or drawn out, and the team needs to put in extra effort to ensure it is successful.

4. Ability to take a whole-of-business approach rather than a narrow perspective

The real value in any adviser is their ability to see a challenge, not just from the narrow perspective of their area of expertise, but from a holistic view. It is important to choose advisers who will look at the big picture and provide advice accordingly.

5. Willingness to provide honest advice, even when it is not positive

Some business executives do not want to hear bad news or any advice that contradicts their opinion. This is a recipe for disaster in normal business dealings; it virtually guarantees failure when it comes to an IPO. It is important to choose advisers who will be honest and upfront in their advice, even if it is not what your executives want to hear. This can prevent bigger problems down the track.

Empowering you every step
of the way





DUE DILIGENCE

There is no legal requirement to conduct a due diligence process when preparing a prospectus. However, conducting a due diligence process has emerged as a market practice for issuers seeking to mitigate the risk of future liability from a poor-quality prospectus, and to ensure that the prospectus includes all information necessary to make an informed investment decision and is not misleading.

The key elements of current market practice for due diligence include:

- a due diligence committee that oversees and documents the due diligence process and identifies issues for investigation and disclosure in the prospectus
- directors, management and various advisers to the issuer undertaking particular tasks to ensure the prospectus is properly prepared
- the due diligence committee undertaking verification of the prospectus to ensure it does not contain any false or misleading statements

The general approach taken to an adequate due diligence process includes:

- devising a due diligence plan or system
- establishing a due diligence committee to coordinate and supervise the due diligence process

- arranging for the committee to meet regularly to ensure that the due diligence process is being implemented
- the committee delegating tasks to the relevant parties to make particular inquiries, including administering questionnaires to appropriate parties
- having a verification process for the disclosures of material statements of fact or opinion in the disclosure document
- a final due diligence report to the board of directors that outlines the procedures followed, the inquiries undertaken and a conclusion

The market practice when preparing a prospectus is to establish a due diligence committee to oversee and coordinate the IPO due diligence process. The committee is generally established by delegation of the issuer's board of directors and should report periodically to the board of directors on the conduct of the due diligence process.

The members of the due diligence committee are usually directors (typically one executive and one non-executive director), legal advisers, investigating accountants, underwriters and lead managers. Members are generally expected to actively participate in the due diligence inquiries and deliberations, and apply an independent and inquiring mind to the prospectus and due diligence process.

REGULATORY FRAMEWORK

WHAT HAPPENS AFTER LISTING?

As established, an IPO is not to be entered into lightly. A successful listing means increased capital, but also attracts a new regulatory framework and ongoing reporting requirements which may prove to be administratively burdensome.

It is important to be aware of what will be required after the IPO before deciding to list. These requirements can include:

Ongoing regulatory requirements: ASX Listing Rules

Upon listing, the entity becomes subject to the ASX Listing Rules.² These are designed to protect the interests of listed entities, investors, and the reputation of the market, so it is no surprise that they are numerous, stringent, and complex.

The listing rules govern admission to the official list, the quotation of securities, the suspension of securities from quotation, the removal of entities from the official list, disclosure and some aspects of a listed entity's conduct. Compliance with these rules is a requirement for admission, and they operate as a contract between the ASX and the listed entity. While they are not law, they can be enforced by sections of the Corporations Act.

The rules are designed to ensure minimum standards for all companies on the ASX are satisfied. This includes ensuring timely disclosure of material information of the highest standard, ensuring the integrity, accountability and responsibility for listed entities and their officers, and the protection of security holders' interests.

Non-compliance with listing rules can lead to price queries, trading halts, suspensions, ASIC issuing infringement notices, and could potentially lead to class action suits from shareholders, if for example, they assessed that the company had not provided timely disclosure.

Continuous disclosure

Covered in the Corporations Act 2001, under section 677, the continuous disclosure rules (Listing rules 3.1 and 3.1A) are arguably the rules with the greatest impact on listed companies. Any information which may materially impact on an entity's security price or value must be disclosed to the market immediately. This might include any material acquisitions or disposals, termination, variation, or entry into a material agreement, or the knowledge that earnings will be materially different from market expectations.

² www.asx.com.au/regulation/rules/asx-listing-rules.htm

Periodic disclosure

Specific disclosures must be made to the market at prescribed times, including:

- an appendix 4E disclosing the company's financial results must be lodged within two months of the year end
- audited financial statements must be lodged within three months of the year end
- an appendix 4D disclosing the interim results for the six-month period must be lodged within two months of the end of the half-year period
- interim financial statements must be lodged within two months of the half-year period. They must be either audited or reviewed.

Other areas required by the listing rules include the conduct of member meetings, board meetings, and appropriate governance.

Ongoing regulatory requirements: Corporations Act 2001 (the Act), additional requirements

In addition to the listing rules, the Act also includes more stringent requirements for public, disclosing entities than for private companies, which include providing additional information in lodged annual reports.

Remuneration reports

Section 300A of the Act requires listed disclosing entities to prepare a remuneration report and part 2M.3.03 requires that this report includes comparative information. The remuneration report contains detailed disclosures concerning the directors and key management, and also the company's policies in determining executive remuneration.

Operating and financial review (OFR)

Section 299A of the Act requires listed entities to provide an OFR in the directors' report. This provides an overview of the company's operations and financial position, and also describes its business strategy and its future prospects. The OFR assists shareholders in understanding the company's business and the reasons for its financial results.

This report may contain non-IFRS financial information, as may the directors' report, or other sections of the annual report. Any such information must be explained and reconciled to IFRS financial information, and be unbiased and not used to counteract facts presented by IFRS information. It must also be given less prominence compared to IFRS information.

How to keep things from going wrong: Establish good governance practices

Compliance with ongoing reporting requirements and new regulations can be complex, so newly-listed companies must be prepared to meet their increased obligations. This will include ensuring good governance structures and practices such as:

- the formation of separate committees for the consideration of audit, ethics and risk, remuneration, and any other significant areas
- the formation of a stable, diverse board who can challenge management on feasibility of business plans if necessary
- the appointment of a Company Secretary to ensure regulatory requirements are not overlooked
- the establishment of policies and procedures to monitor related parties, significant shareholdings, and other reportable information
- efficient mechanisms for reporting disclosable information to the ASX immediately



TAX STRUCTURING AND OTHER CONSIDERATIONS

PREPARING FOR THE IPO

With greater reporting obligations and transparency requirements, preparation is crucial if your company is considering going public. To prepare your company for listing, various tax issues need to be considered. You should:

1. Perform a tax risk review

A due diligence exercise will typically be required as part of the investigating accountant's report. Performing a pre-IPO tax risk review will let you identify and tackle any tax issues before commencing the IPO process. Adequate tax records and documents need to be readily available to be examined as part of pre-IPO tax due diligence procedures.

2. Develop or enhance tax infrastructure

For the first time, tax disclosures will be open to public scrutiny so it is essential to implement appropriate systems and processes that support tax reporting. This may include enhancing the tax provisioning process to ensure that effective controls are operating so that accurate reports can be generated on a timely basis.

The IPO provides a good opportunity to adopt new automated tax systems, including tax provisioning software. Technology-based software platforms can enhance efficiency and provide consistency through automatic uploads and standardised processes.

3. Develop or enhance your tax governance

The expectations of listed public companies in relation to tax governance are significantly higher.

You should implement a tax governance or risk policy and ensure the finance function is adequately resourced, with effective tax controls and review procedures in place. Companies with limited resources may benefit from outsourcing certain tax compliance functions.

4. Revise or implement employee incentive plans

As your business prepares to operate in a listed environment, it becomes increasingly important to secure the ongoing engagement of employees, particularly key senior management and non-executive directors. This can be done through incentives such as the issue of shares or options. Existing plans may need to be modified or new incentive plans may need to be designed and implemented. In structuring incentive arrangements, tax is often a key driver. For example, benefits under certain types of employee share schemes are eligible for income tax concessions.

5. Consider the impact of transaction costs

You should undertake a review to determine the income tax treatment of transaction costs (such as legal fees and consultancy fees), including whether such costs are immediately deductible in the year incurred or are capital in nature. The GST treatment



of transaction costs should also be reviewed in conjunction with the income tax analysis. This is important as there may be restrictions on recovering the GST component embedded in transaction costs related to the making of financial supplies, including the issuance of shares.

6. Consider the impact on the company's tax attributes

For example, where your company has carried forward tax losses, the Continuity of Ownership Test may be failed as a result of the IPO. If so, the Same Business Test may need to be relied on.

7. Post-IPO dividends

Given the attractiveness of franking credits, companies generally intend to frank dividends post-IPO to the greatest extent possible. To this end, it is important to monitor the franking account and compliance with the franking provisions such as the benchmark franking rule.

STRUCTURING

1. Dual track process

Consider the potential for an outright sale of the business and then consider whether to pursue a dual track process.

2. Float company versus sale company

Together with your advisers, evaluate the most appropriate structuring option for the IPO. For example, consider the establishment of a float company as a 'clean' parent company for listing. This may also let existing shareholders realise their investment in the company with a combination of cash and shares.

3. Tax implications of structuring steps

Consider the tax implications of structuring steps to be completed in preparation for listing (such as spin-offs and restructures, excluding subsidiaries whose operations are not relevant to the group's main businesses). Review the stamp duty, GST and income tax implications of each structuring step.

4. Shareholder consequences

The tax consequences for existing shareholders will always be a key consideration for the pre-IPO structure. For example, if a float company is established to issue shares to the public, existing shareholders who retain an ownership interest in the float company will need to satisfy themselves that they are eligible for scrip-for-scrip rollover relief.



Power
comes
from being
understood

CONCLUSION

A FINAL RECAP

It is key to start by confirming that an IPO really is the right move for your business. Whilst it is a highly viable avenue through which to raise capital, it is clear there are onerous requirements around compliance, reporting, and due diligence.

If you decide to go ahead with an IPO, seek expert advice as early as possible in the process. Our experience has shown that successful IPOs can take up to two years with a significant amount of time spent navigating financial and reporting issues, developing business processes and infrastructure as well as appointing the right executive and advisory team. It is critical to put together a strong team of advisers including legal advisers and a financial team made up of transactions, audit, and taxation experts.

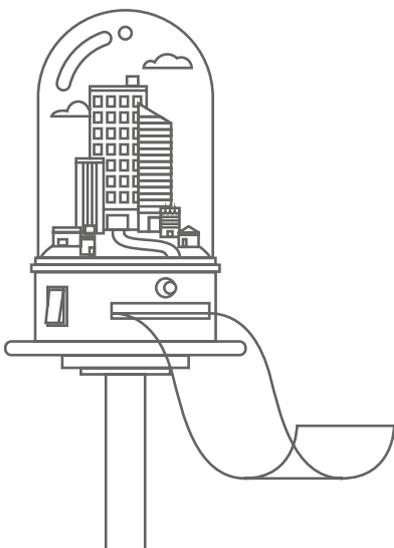
The advisory team can make the difference between a smooth, seamless listing or a protracted and difficult process. It is important to choose team members who:

- have experience with successful IPOs
- know your industry well
- are a good cultural fit with the existing team
- can take a whole-of-business approach rather than a narrow perspective
- are willing to provide honest advice even when it is not positive

Once the team is in place, you can begin conducting due diligence, which is an important part of preparing the prospectus. It can help head off future liability concerns and ensure the prospectus is accurate as well as comprehensive.

It is also important to ensure everyone in the business knows what roles they play after the IPO is complete. This will include regular reporting requirements, so it is advisable to put relevant committees together to ensure all requirements are met. It is also recommended to maintain a team of advisers that can help the business ensure compliance with all reporting requirements.

During the preparation phase, it is essential to focus on tax structuring to work out business benefits from any concessions and understands the implications of different structures.



RSM has extensive experience in helping Australian companies prepare for successful IPOs. Our proven approach teams highly-skilled auditors, tax professionals, and accountants with your legal and other business advisers to deliver optimal outcomes.

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