IN-DEPTH

Initial Public Offerings

USA



LEXOLOGY

Initial Public Offerings

EDITION 10

Contributing Editor

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In-Depth: Initial Public Offerings (formerly The Initial Public Offerings Law Review) introduces the reader to the main stock exchanges around the globe and their related initial public offering (IPO) regulatory environments, and provides insight into the legal and procedural IPO landscapes across key jurisdictions worldwide. Each chapter gives a general overview of the IPO process in the region, addresses regulatory and exchange requirements, and presents key offering considerations.

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Summary

INTRODUCTION
YEAR IN REVIEW
GOVERNING RULES
THE OFFERING PROCESS
POST-IPO REQUIREMENTS
OUTLOOK AND CONCLUSIONS
ENDNOTES

Introduction

The United States is home to the New York Stock Exchange (NYSE) and the Nasdaq Stock Market (Nasdaq), the two largest stock exchanges in the world by market capitalisation and two of the most popular venues for initial public offerings (IPOs).[1] A listing on a US exchange offers companies access to deep pools of capital from institutional and retail investors and can serve to attract investment from both US and global investors. The strength of the US capital markets relies on balancing a commitment to promote capital formation while implementing safeguards for investor protection through layers of regulatory oversight. In addition to the rules of the NYSE and Nasdaq, the IPO market in the United States is governed by the federal securities laws and the rules and regulations of the Securities and Exchange Commission (the SEC). The Financial Industry Regulatory Authority (FINRA), a self-regulatory organisation that writes and enforces rules for broker-dealer firms and brokers in the United States, also plays a role in promoting investor protection and market integrity in capital markets transactions.

The two principal statutes governing IPOs in the United States are the Securities Act of 1933 (the Securities Act) and the Securities Exchange Act of 1934 (the Exchange Act). Both were passed by Congress in response to the US stock market crash of 1929 and the resulting Great Depression. The federal securities laws of the United States provide a regulatory framework that is disclosure based. The goal of this framework is to ensure that prospective investors receive fulsome and accurate financial and other material information concerning the company and securities that are the subject of their investment decisions. Failures to comply with these rules and provide accurate and complete disclosures expose transaction participants to private causes of actions for recovery and risk federal enforcement actions. Prior to Congress enacting federal securities laws, individual states had their own securities laws, also known as blue sky laws. With their preemption by the federal securities laws, these blue sky laws typically do not factor into IPOs.[2]

Over the years, Congress has enacted legislation to tighten or loosen regulation in response to significant market developments. For example, the Sarbanes-Oxley Act of 2002 (SOX) strengthened corporate accountability, financial reporting and audit oversight following major accounting scandals, while the Jumpstart Our Business Startups Act of 2012 (JOBS Act) and the Fixing America's Surface Transportation Act of 2015 (FAST Act) introduced or expanded accommodations for companies seeking to access the public markets. Since 2025, the SEC has continued to emphasise capital formation and disclosure simplification. In 2026, the SEC proposed, but has not adopted, optional semiannual interim reporting for domestic reporting companies, broader registered-offering reforms and expanded filer-status and emerging-growth-company accommodations.[3] The SEC also continues to review the scope of foreign private issuer (FPI) eligibility.[4] These initiatives have the potential to have significant impact on the IPO market, capital markets activity and public company reporting post-IPO and should be monitored, but they do not change current IPO disclosure or reporting requirements unless and until adopted.

Year in review

The US IPO market experienced a resurgence in 2026, marking a very significant return to IPO capital raising. After several years of subdued activity following the pandemic-era boom of 2020–2021, the first half of 2026 saw issuers and investors return to the public markets with renewed confidence.

After the 2020 and 2021 IPO boom, US issuance was comparatively subdued from 2022 through 2024. Activity began to improve during 2025 and accelerated materially in the first half of 2026. As reflected in the table below, 88 corporate IPOs raised approximately US$114.8 billion in total proceeds in the first half of 2026, compared with 227 corporate IPOs raising approximately US$43.3 billion for all of 2025. Although the number of corporate IPOs on an annualised basis was lower, total proceeds were substantially larger, driven by a number of landmark offerings, including the largest IPO in global history (SpaceX) with approximately US$86 billion raised and the largest US IPO ever completed by a foreign company (SK Hynix) with approximately US$26.5 billion raised. Thematically, AI and AI-adjacent businesses were important drivers of activity, while aerospace, defence and biotechnology sectors also contributed meaningfully to issuance. Market windows remain selective, however, and can be affected quickly by interest-rate expectations, geopolitical developments, valuation discipline and aftermarket performance. A number of high-profile IPOs scheduled for the second half of 2026 have been pushed to 2027.

Year	Number of IPOs by corporate issuers	IPO total proceeds by corporate issuers (US$ millions)[5]
2020	233	79,680.80
2021	452	142,535.10
2022	111	7,941.50
2023	138	20,310.20
2024	186	30,412.80
2025	227	43,290.80
1H 2026 (through June 30)	88	114,790.00

The stronger 2026 market has not eliminated the need for careful advance preparation. Companies considering an IPO should maintain audit, internal-control, governance and disclosure readiness so that they can act when an appropriate market window opens.

Governing rules

Overview of law and regulations

The Securities Act and the Exchange Act are the principal statutes governing IPOs in the United States. Acting under the federal securities laws, the SEC has adopted numerous rules and regulations that have shaped the IPO market and capital markets more broadly. The SEC regularly issues both formal and informal guidance concerning the federal securities laws and its own rules and regulations. Federal court decisions also weigh on interpretations of the federal securities laws and guide practice.

The Securities Act is often referred to as the "truth in securities" law. The two basic objectives of the Securities Act are to:

- require that investors receive financial and other significant information concerning securities being offered for public sale; and
- prohibit deceit, misrepresentation, and other fraud in the sale of securities.

In order to achieve these goals, the SEC requires the registration of securities.[6] The SEC does not approve offerings or make determinations as to whether an offering of securities is a good or bad investment. The registration process instead is meant to ensure the disclosure of important information so that investors can make an informed judgment about their investment decision. The federal securities laws and the SEC require that this information be complete and accurate, but do not guarantee or independently verify it. Instead, investors who purchase securities and suffer losses have important recovery rights if they can prove that there was incomplete or inaccurate disclosure of important information.

Specifically, sections 11 and 12 of the Securities Act impose liability for material misstatements or omissions in offering documents, including IPO registration statements. These sections of the Securities Act are strict liability provisions that protect investors in an offering and do not require a showing of scienter or reliance. Section 11 of the Securities Act specifically holds issuers strictly liable for any material inaccuracies in a registration statement, while underwriters, directors and officers and selling shareholders and select others, may avoid liability by demonstrating that they conducted a reasonable investigation and believed the registration statement was accurate. Section 12(a)(2) of the Securities Act similarly imposes liability for material misstatements or omissions in prospectuses or oral communications used in the sale of securities, with a comparable due diligence defence available to sellers. Remedies under these sections include rescission and damages based on the loss in market value.

The Exchange Act governs the ongoing trading of securities after their initial issuance and the regulation of securities in the public markets. With the Exchange Act, Congress created the SEC and gave it broad authority over all aspects of the securities industry. It identifies and prohibits certain types of conduct in the markets and provides the SEC with disciplinary powers over regulated entities and persons associated with them. Public companies must file periodic with the SEC, ensuring that investors have access to material information about companies whose securities are publicly traded.

Section 10(b) of the Exchange Act and its implementing regulation, Rule 10b-5, are central anti-fraud provisions designed to protect investors from manipulative or deceptive practices in connection with the purchase or sale of securities, including those offered

in initial public offerings (IPOs). These provisions create a private right of action, making them a frequent basis for securities litigation. To prevail in a claim under section 10(b) and Rule 10b-5, plaintiffs must establish several elements: a material misstatement or omission in the offering documents, the defendant's intent to deceive or reckless disregard for the truth (scienter), a connection between the misstatement and the purchase or sale of securities, actual reliance by the plaintiff, economic loss, and a causal link between the loss and the alleged fraud. Unlike the strict liability framework of sections 11 and 12 of the Securities Act, section 10(b) and Rule 10b-5 require plaintiffs to prove scienter, which sets a higher bar for successful claims. Remedies in private actions may include rescission and damages, while regulatory and criminal actions can result in penalties, disgorgement, injunctions, and even imprisonment. As such, these provisions serve as a powerful deterrent against fraud in IPOs.

Other relevant legislation

Over the years, Congress has enacted legislation to tighten or loosen regulations in response to significant market developments. In 2002 Congress enacted the Sarbanes-Oxley Act (SOX), which introduced sweeping reforms to enhance corporate accountability, financial transparency, and investor protection in response to major corporate scandals. For companies preparing to go public through an IPO, SOX imposes significant requirements, including the establishment and maintenance of robust internal controls over financial reporting. Senior executives, specifically the Chief Executive Officer (CEO) and Chief Financial Officer (CFO), must personally certify the accuracy of financial statements and disclosures under SOX sections 302 and 906, facing severe criminal penalties for false certifications. SOX section 404 requires management – and, for most companies, external auditors – to assess and report on the effectiveness of internal controls, although certain exemptions exist for emerging growth and smaller reporting companies. Additionally, SOX mandates strict record-keeping protocols under SOX section 802. Achieving SOX compliance demands substantial investment in systems, processes, and personnel, making it a critical consideration for any company planning an IPO.

The JOBS Act, enacted in 2012, significantly transformed the IPO landscape by creating an "IPO on-ramp" for emerging growth companies (EGCs), generally those with annual gross revenues below US$1.235 billion. EGCs may submit draft registration statements confidentially, benefit from reduced disclosure requirements, and engage in test-the-waters communications with qualified institutional buyers and institutional accredited investors before a public filing. EGCs also are exempt from certain regulatory burdens, including auditor attestation of internal controls under SOX section 404(b), subject to the applicable rules, and certain executive-compensation disclosures. The FAST Act expanded selected accommodations in 2015. In March 2025, the SEC's Division of Corporation Finance expanded its voluntary nonpublic review procedures for a broader group of issuers and transactions, including certain initial Exchange Act registrations, subsequent offerings and eligible de-SPAC transactions; the staff also permitted omission of underwriter names from an initial draft submission, subject to later inclusion. These staff procedures are distinct from the statutory EGC accommodations.

Main stock exchanges

The main stock exchanges in the United States are the NYSE and Nasdaq. Each operates multiple exchanges and trading platforms in the United States and internationally. The NYSE uses designated market makers to support fair and orderly trading, while Nasdaq operates an electronic market-maker model. Competition among listing venues has increased: the Texas Stock Exchange received SEC approval to operate as a national securities exchange in September 2025 and commenced trading operations in 2026, although NYSE and Nasdaq remain the principal IPO listing venues.

Historically, the NYSE has been associated with large, blue-chip companies in sectors such as industrials, consumer-retail, finance and energy. Nasdaq may be perceived as more likely to attract and host high-growth, technology-driven companies and companies in the biotech/biopharma sector. Over the last 10 years or so, and in response to shifts in the US and global economies, that distinction has blurred and the NYSE has attracted numerous high-growth tech companies and Nasdaq has its fair share of blue-chip mega cap companies. Foreign issuers also will list on both exchanges, but large cap foreign issuers that are seeking a dual listing and list American Depositary Receipts (ADRs) may still be more likely to list on the NYSE.

Both the NYSE and Nasdaq offer different tiers for listings. In addition to the main New York Stock Exchange, sometimes referred to as the "Big Board," the NYSE American exchange is designed for small and mid-cap companies. Nasdaq provides three tiers for listing: the Nasdaq Global Select Market, the Nasdaq Global Market and the Nasdaq Capital Market. The Nasdaq Global Select Market includes Nasdaq-listed companies with the highest market capitalisations, and the Nasdaq Capital Market is for small and mid-cap companies. These different exchanges and tiers have different initial listing and continuing listing standards for companies to consider when selecting an exchange for an IPO. In addition, there are different applicable corporate governance standards and cost considerations.

To list on the NYSE, US domestic companies must meet the financial requirements of either an earnings test or a global market capitalisation test. US domestic companies applying to list on the NYSE are also required to meet certain distribution standards. The minimum IPO distribution standards include having at least 400 round lot holders, 1.1 million publicly held shares, a market value of publicly held shares of US$40 million and a share price of US$4. A Foreign Private Issuer (FPI) may qualify for listing on the NYSE by meeting one of the financial requirements applicable to US domestic companies or, where there is a broad, liquid market for the company's shares in its country of origin, an FPI may meet alternative financial requirement tests. These alternatives include an earnings test, valuation/revenue with cash flow test, pure valuation/revenue test and affiliated company test. The alternative liquidity requirements provide for a minimum of 5,000 round lot shareholders worldwide, 2.5 million publicly held shares worldwide, a market value of publicly held shares of US$60 million worldwide and a share price of US$4. The NYSE is often an exchange of choice for companies seeking to dual list or list ADRs. The NYSE American provides more relaxed initial listing financial requirement and distribution standards for both US and foreign companies.

Similar to the NYSE and NYSE American, Nasdaq requires that IPOs meet certain initial listing requirements. The initial financial and liquidity requirements for the Nasdaq Global Select Market are more stringent than those for the Nasdaq Global Market and likewise, the initial listing requirements for the Nasdaq Global Market are more stringent than those

for the Nasdaq Capital Market. To list on the Nasdaq Global Select Market, a company must meet the minimum requirements for one of its four financial standards: earnings, capitalisation with cash flow, capitalisation with revenue or assets with equity. The Nasdaq Global Market requires a company to meet its requirements under an income standard, equity standard, market value standard or total assets/total revenue standard. The Nasdaq Capital Market permits companies to list if they meet minimum requirements under an equity standard, market value of listed securities standard or a net income standard. As with the NYSE, liquidity requirements for each of the Nasdaq tiers includes minimum requirements for round lot holders (GSM:450/GM: 400/CM: 300), publicly held shares (GSM:1.25 million/GM: 1.1 million/CM: 1 million), a market value of unrestricted publicly held shares (GSM: US$45 million/GM: either US$16 million, US$36 million or US$40 million, depending on the standard/CM: either US$5 million or US$15 million, depending on the standard) and a minimum share price of US$4. Unlike the NYSE, Nasdaq does not have alternative quantitative initial listing standards for foreign companies.

Exchange listing standards should be checked against the current rulebooks and the particular issuer's capital structure. In 2025, Nasdaq amended certain initial liquidity requirements, including requiring Nasdaq Capital Market companies listing in connection with an IPO to satisfy the applicable market value of unrestricted publicly held shares requirement solely from IPO proceeds. Nasdaq's 2025 proposals concerning additional initial-listing criteria for companies principally operating in China and a higher public-float requirement should be treated as proposals unless and until approved and effective. In 2026, the NYSE American adopted more stringent initial-listing requirements, including a generally applicable US$4 minimum initial listing price, a US$15 million market value of unrestricted publicly held shares requirement for IPOs and other underwritten offerings (satisfied from offering proceeds), and revisions to other equity and liquidity tests. These requirements can materially affect offering size, pre-IPO capitalisation and exchange selection. The purpose of these proposed and recently adopted rule changes is to address key liquidity and trading concerns of small cap companies in the US capital markets.

Both the NYSE and Nasdaq charge initial listing fees, as well as continuing listing fees. The NYSE currently charges a flat initial listing fee of US$325,000 the first time an issuer lists a class of common shares. Thereafter, the NYSE charges an annual fee of US$0.001285 per share, subject to a minimum annual fee of US$82,000 per year. The NYSE American charges initial listing fees between US$50,000 and US$75,000 depending on the number of new common shares issued at IPO, in addition to a US$5,000 application fee. Annual fees at the NYSE American are US$60,000 per year or, if an issuer has in excess of 50 million shares outstanding, US$80,000 per year. The Nasdaq Global Select Market and Nasdaq Global Market each charge a flat initial listing fee of US$295,000, which includes a US$25,000 application fee. The Nasdaq Capital Market charges an entry fee of US$50,000 if an issuer has 15 million shares outstanding or US$75,000, if greater. The Nasdaq exchanges have tiered annual fee schedules depending on the total number of shares outstanding. Both the NYSE and Nasdaq have flat listing fees for SPACs of US$85,000 and US$80,000, respectively.

Corporate governance requirements

The NYSE and Nasdaq are primarily responsible for setting corporate governance standards for public companies. Though exceptions apply, the corporate governance

standards between the two exchanges are rather similar. US domestic companies are required to have a board composed of a majority of independent directors within 12 months of its IPO. Most issuers have a majority independent board at time of IPO. All companies are required to have an independent audit committee that meets the requirements of Exchange Act Rule 10A-3. Audit committees under NYSE and Nasdaq rules must be composed of only independent directors and have at least one audit committee financial expert. US domestic companies are required by both the NYSE and Nasdaq to have: (1) a compensation committee; and (2) a nominating and corporate governance committee, each composed of independent directors. Generally, each of these committees consists of three directors. Public companies are also required to adopt and maintain a code of business ethics.

The offering process

General Overview of the IPO process

There are three main stages to the IPO process: deal preparation, SEC review, and marketing and execution. A conventional IPO timetable from organisational kick-off to closing often spans roughly 16 to 24 weeks, but the timetable is highly fact-specific and may be longer due to financial statement preparation, complex accounting matters, SEC comments, exchange review or market conditions. Companies should undertake public-company readiness work well before the formal process, often 12 to 24 months before an anticipated IPO.

Deal preparation

During the deal preparation phase, the company should consider some basic structural parameters for its IPO, including the size of the offering and the expected valuation of the company. In considering where to set the offering size, a company should consider the underwriters' overallotment option, which is typically 15% of the base offering and available to the underwriters to exercise up to 30 days after the IPO (45 days for SPAC IPOs). The company should also consider how it intends to use the proceeds from the offering, such as whether proceeds are going to fund growth capital or pay down indebtedness. The offering may also involve the sale of stock by existing shareholders, sometimes because shareholders have contractual rights to have their shares registered for resale.

The formal IPO process typically starts with an organisational kick-off meeting involving the company's management team, the company's counsel, the underwriters, underwriters' counsel, the company's auditors and potentially other advisers to the company (IPO advisers, investor relations and public relations specialists, etc.). The working group uses this meeting to get organised, set an overall deal timeline and go over each parties' responsibilities on the transaction. Often the management team will provide an overview presentation of the company and the underwriters and counsel will ask questions and engage with management in order to better understand the company's story and how it will be positioned to the market.

During the initial deal preparation stage, the underwriters will conduct financial and business due diligence and company and underwriters' counsel will engage in legal due diligence. The process is important to protect transaction participants from liability and also to better structure and position the offering and draft the IPO registration statement. The legal due diligence process involves an extensive review of the company's corporate records, material agreements, capital structure, corporate governance and shareholder agreements, employee and litigation matters and other topics that may be relevant for the company's operations, such as intellectual property and cybersecurity matters.

The registration statement is a disclosure document and serves two main purposes: registering the securities with the SEC and educating investors about the company and the securities being offered. The SEC has established form requirements for the registration statement and US domestic issuers utilise a Form S-1 and FPIs utilise a Form F-1. The content of the registration statement is dictated by these forms and corresponding SEC regulations that are referenced by the form. The registration statement includes an offering prospectus with disclosure about, among other topics, the terms of the offering, the company's business, risk factors, management's discussion and analysis of financial condition and results of operation (MD&A), use of proceeds, the board of directors and management team, executive compensation, corporate governance, principal and selling shareholders, a description of capital stock, related party transactions, tax considerations and underwriting terms.

The registration statement must include financial statements of the company (and potentially other entities) for prescribed periods. The preparation and audit of public-company financial statements are often among the most significant pre-IPO workstreams. A company should engage its auditor and counsel early to determine the applicable financial-statement, pro forma, audit, staleness and auditor-comfort requirements based on its facts and anticipated timetable. The SEC's May 2026 registered-offering reforms proposal (Release No. 33-11418) would simplify certain age-of-financial-statement rules, but it has not been adopted.

Financial statement requirements for registration statements

	EGC	Non - EGC	FPI considerations
Annual financial statements	Two years of audited annual financial statements	Three years of audited annual financial statements	For FPIs, date of the last audit cannot be more than 12 months prior to filing of a registration statement, subject to limited exceptions.
Interim financial statements	Interim financial statements covering the most	Same	For FPIs, interim financials covering at least the first

	recently completed quarterly period		six months of the year are required nine months after the fiscal year end. In the offering context, however, auditor comfort letters may require the issuer to include more current interim financial statements.

In addition to its own audited annual and interim financial statements, an issuer may need to provide financial statements of acquired businesses and pro forma financial information, depending on the significance of an acquisition or other transaction under Regulation S-X. Issuers should assess potential acquisitions, dispositions and probable transactions early because required financial statements can become a critical-path item.

The company will also be required to file exhibits to its registration statement that include its corporate organisational documents, material agreements, and various legal opinions and consents.

The registration statement is submitted through the SEC's EDGAR system. Companies typically use a financial printer or filing technology provider to prepare and format the filing. Initial IPO registration statements are commonly submitted for nonpublic staff review. An EGC uses the JOBS Act confidential-submission process; other issuers may rely on the SEC Division of Corporation Finance's voluntary nonpublic review procedures and should consider requesting confidential treatment under Rule 83 (17 CFR 200.83) to protect draft filings from public disclosure under the Freedom of Information Act. For an IPO, the issuer must publicly file the registration statement, the initial draft registration statement and all draft amendments at least 15 days before commencing a road show (or, if no road show, at least 15 days before the requested effective date).

In addition to preparing the registration statement, during the deal preparation stage, the transaction participants will also negotiate an underwriting agreement, comfort letter and other ancillary agreements. The underwriting agreement is entered into by the company, any selling shareholders and the underwriters, pursuant to which the underwriters make a firm commitment (subject to certain customary conditions) to purchase the IPO shares and resell them to investors at the IPO price. The comfort letter is provided by the company's auditor to the underwriters to confirm the accuracy of financial information appearing in the registration statement and supports the underwriters' due diligence defence under the federal securities laws. The underwriting agreement and comfort letter are not executed or delivered until the IPO pricing. It is also important that the company negotiate and receive any required consents and approvals from shareholders and other third parties to proceed with the IPO.

SEC review period

The timing of SEC review is not fixed. Although a first round of staff comments has often arrived in approximately 30 days, review timing and the number of comment rounds depend on staff workload, filing complexity, accounting issues and the quality and completeness of the submission. Issuers should allow sufficient time for multiple rounds of comments and for updated financial statements and other disclosure before marketing.

During this time, the company will work with the underwriters on marketing for the IPO, including preparation of a roadshow presentation. The company may also hold test-the-waters meetings with institutional investors to gauge investor interest and identify and address any potential issues or questions that investors may raise in advance of the actual roadshow. The company will also refine its financial model and valuation in light of meetings and discussions with investment bank research analysts.

Also, during the SEC review period, the company and its counsel will continue work on the stock exchange listing application and prepare for compliance with public company reporting and rules.

Marketing and execution

Once SEC comments are cleared, or all material issues have been addressed, the company publicly files the registration statement and begins marketing when permitted by the applicable public-filing timing requirements. For an IPO using the nonpublic review process, the initial draft registration statement and all draft amendments must be public at least 15 days before the road show. The road show consists of group and one-on-one meetings with institutional investors, coordinated by the underwriters and typically conducted over one to two weeks. Retail investors may have access to an online road show. The underwriters collect indications of interest and build the order book to assess demand.

After building a large enough book of demand to sufficiently cover the offering size, the IPO will move to pricing. To price the IPO and execute the underwriting agreement, the registration statement will first need to be declared effective by the SEC. Once the registration statement is declared effective, the underwriters and the company will agree on a final price for the offering and the total number of securities that will be sold. The underwriting agreement will then be executed and the underwriters allocate shares to investors and confirm sales. The shares will begin trading on the stock exchange the day after pricing. The closing of the offering occurs two business days after pricing. At the closing, the company issues the shares, which the underwriters deliver to accounts, and the underwriters wire the proceeds from the offering to the company (and/or selling shareholders, if applicable). Companies will typically engage a transfer agent, effective at closing, to manage the issuance of shares. The transfer agent will maintain records concerning the issuance of shares and the establishment of share reserves. It will also serve as the conduit to the Depository Trust Company (DTC), which functions as a central securities depository and a US clearing agency for over US$87 trillion of securities, including equity securities trading on the NYSE and Nasdaq. Also on closing, various legal documents are exchanged between the company, selling shareholders and the underwriters.

Practical considerations

To ensure a successful IPO, companies should start preparations 18–24 months in advance of a potential IPO and consider addressing the items listed below well in advance of the IPO organisational kick-off meeting.

Financial statements

As discussed above, at least two years of audited financial statements will be required for a company to go public and additional financial statements may be required. The company's auditor must be registered with the Public Company Accounting Oversight Board (PCAOB) and satisfy both the SEC's and PCAOB's independence requirements. Potential issuers should take note that public company accounting rules often differ from private company accounting rules, so certain changes may need to be made to historical financial reporting practices.

Internal controls over financial reporting

After becoming a public company, SOX section 404 will require that management evaluate and report on the issuer's internal control over financial reporting. In connection with a public listing any material weaknesses will be disclosed in the issuer's registration statement. Once public, compliance with SOX section 404 is a significant undertaking, and newly public companies often engage third parties to assist them in evaluating and/or remediating internal control issues.

Financial model and financial reporting

A company should work to develop and refine its financial model as it approaches its IPO. The underwriters and their research analysts will review the financial model in connection with a decision to underwrite the IPO and their valuation of the company. The research analysts will also utilise the company financial model to build their own independent financial models.

Capitalisation and existing shareholder rights

In advance of a public listing, it is important to review the existing capital structure to determine the impact of the transaction on outstanding securities. A review of shareholder rights should be undertaken to identify any necessary consents, waivers and amendments. Consider whether existing investors have registration rights, approval or veto rights over the proposed transaction and whether investors are required to sign a customary lock-up.

Management team and board of directors

It is often necessary or desirable for an issuer to change the composition of its board by changing or adding directors to satisfy independence requirements and build out the board's diversity and skill set. The public company demands on an issuer's management team are significant, and often companies need to increase their accounting and finance staff and add investor relations capabilities. Companies should consider whether it will be

necessary or advisable to retain additional senior management or make changes ahead of going public.

Prepare for diligence process

In an IPO, the underwriters and counsel for both the underwriters and the issuer will conduct legal and business diligence on the issuer, including a review of corporate records, material contracts and other similar materials, and documentary support for statistical information and other statements included in the IPO prospectus. The SEC will also require companies to provide materials to substantiate any claims made in the registration statement regarding market position, industry size, etc. The company should be prepared to provide substantially all such materials well ahead of the initial submission of the IPO registration statement.

Communications rules

Companies should be mindful of the Securities Act communications rules before and during an IPO process. Under section 5(c) of the Securities Act, offers generally may not be made before a registration statement is filed, absent an available exemption or safe harbour. After filing but before effectiveness, offers are subject to section 5(b) of the Securities Act and the prospectus and communications rules. The definition of an "offer" is broad, so public statements, interviews, website content, social-media activity and other publicity can raise gun-jumping concerns if they appear to condition the market or are inconsistent with the registration statement. Violations can delay the offering, require corrective disclosure or a cooling-off period, and create potential liability. Issuers should implement disciplined communications controls and consult counsel before material external communications during the offering process.

To mitigate these risks, companies should exercise extreme caution in external communications, including press releases, interviews, website and social media content, and marketing materials, and should consult with counsel before making public statements. The SEC provides limited safe harbours for certain factual business communications and for “testing-the-waters” discussions with qualified institutional buyers and accredited investors, but these exceptions are narrow and require careful documentation and legal oversight. Improper communications can not only delay or disrupt the IPO process but may also result in embarrassing disclosures, exclusion of certain investors from the IPO, or even civil and criminal penalties. As a result, companies should implement strict internal controls and review procedures for all communications throughout the IPO process to ensure compliance and protect the offering.

Special considerations for foreign issuers

Non-US companies that access the US capital markets are subject to the US federal securities laws. With the goal of making the US capital markets more attractive to these issuers, the SEC had historically made available certain accommodations to alleviate some of the burdens of being a public company in the United States. Generally, to take advantage of these accommodations, a non-US company must qualify as an FPI.

A foreign private issuer is a corporation or other organisation incorporated or organised under the laws of a jurisdiction outside the United States, other than a foreign government, that either has 50% or less of its outstanding voting securities held of record by US residents or, if more than 50% is so held, does not have any of the following US contacts: (1) a majority of executive officers or directors who are US citizens or residents; (2) more than 50% of assets located in the United States; or (3) business administered principally in the United States.

FPIs may benefit from a different disclosure and reporting framework, including annual reporting on Form 20-F, furnishing material information on Form 6-K, and exemptions from the US proxy rules, Regulation FD and section 16. FPIs may also be permitted to follow home-country corporate-governance practices, subject to exchange disclosure and other requirements. The availability of these accommodations should be assessed carefully for each issuer; the SEC's 2025 concept release on FPI eligibility (Release No. 33-11376) has not resulted in an adopted change to the definition as of September 2026.

US domestic issuers must file financial statements with the SEC in accordance with US GAAP. Financial statements of FPIs may be prepared in accordance with US GAAP, IASB IFRS or local GAAP. Where FPIs utilise IASB IFRS, no reconciliation to US GAAP is required. Where FPIs utilise local GAAP, financial statements must include appropriate reconciliations to US GAAP.

Generally, FPIs are permitted to opt out of most NYSE and Nasdaq corporate governance requirements and may, instead, follow home-country practice. These companies must publicly disclose the ways in which their corporate governance practices differ from those followed by US domestic issuers. Notwithstanding this accommodation, FPIs are required, just as US domestic companies, to have an independent audit committee that meets the requirements of Exchange Act Rule 10A-3.

Post-IPO requirements

After completing an IPO, a company becomes subject to ongoing reporting obligations under the Exchange Act. The obligations for US domestic companies and FPIs can differ substantially. US domestic companies file annual reports on Form 10-K, including audited financial statements, MD&A and detailed business, risk-factor and governance disclosures, and generally file quarterly reports on Form 10-Q with unaudited financial statements and updates on significant developments. In 2026, the SEC proposed optional semiannual reporting on new Form 10-S in place of Form 10-Q reporting for domestic reporting companies, together with related financial-statement changes (Release No. 33-11414). That proposal remains pending and does not alter current Form 10-Q obligations.

In addition, current reports on Form 8-K must be filed to disclose material events such as entry into or termination of material agreements, significant acquisitions or dispositions, changes in executive officers or other corporate actions, and other events that shareholders or the market should know about promptly. Form 8-Ks generally are required to be filed within four business days of the triggering event.

Regulation FD is designed to prevent selective disclosure of material nonpublic information to market professionals and shareholders. Under Regulation FD, when a US

domestic company discloses material information to certain individuals or entities – such as securities market professionals or shareholders who may trade on the basis of that information – it must also make that information publicly available to all investors at the same time (for intentional disclosures) or promptly thereafter (for unintentional disclosures). Compliance with Regulation FD is an important aspect of ongoing public company obligations, as it promotes transparency and helps ensure a level playing field for all investors.

US domestic companies are also subject to proxy statement requirements under section 14(a) of the Exchange Act, which mandate the delivery of detailed proxy materials to shareholders in connection with annual and special meetings. Furthermore, shareholders of US domestic companies must comply with beneficial ownership reporting requirements, including filings by directors, officers, and significant shareholders on Forms 3, 4, and 5 under section 16 of the Exchange Act.

Additional obligations include compliance with SOX, which imposes requirements related to internal controls over financial reporting, CEO and CFO certifications of financial statements, and auditor independence. Companies must also adhere to stock exchange continuing listing standards, which impose further ongoing governance and disclosure requirements.

FPIs generally follow a different reporting regime. They file annual reports on Form 20-F, including audited financial statements and disclosure broadly comparable in many respects to a Form 10-K, and furnish material information on Form 6-K when required by the applicable rules. FPIs ordinarily are not required to file quarterly reports, although the age-of-financial-statement rules and market practice may require current interim financial information in connection with an offering. FPIs remain subject to US anti-fraud rules and applicable exchange requirements. FPI status should be tested annually and monitored closely in light of the SEC's continuing review of FPI eligibility (Release No. 33-11376).

Outlook and conclusions

The US IPO market strengthened substantially in the first half of 2026 after several years of uneven recovery. Larger deals and a deep pipeline supported record first-half proceeds, while investor demand was particularly evident for AI and AI-adjacent issuers. Aerospace, defence and biotechnology also participated in the recovery. The market remains selective, with investors focusing closely on earnings quality, durability of growth, valuation and aftermarket performance.

The outlook remains constructive but sensitive to interest rates, geopolitical developments, inflation and energy-price pressures, and the concentration of capital around larger offerings. Strong pipeline activity can support continued issuance, but issuers should expect episodic windows rather than assume a continuously open market. Alternative routes to public-company status, including de-SPAC transactions, reverse mergers and direct listings, may be appropriate in particular circumstances but require separate analysis of liquidity, financing and disclosure considerations.

Against this backdrop, preparation and readiness remain critical for issuers exploring an IPO. Companies should complete audit and internal-control work, establish

public-company governance and disclosure controls, pressure-test their equity story and financial guidance, and maintain flexible filing and marketing plans. The United States remains a leading IPO market because of its depth of capital, liquidity, broad investor base and established regulatory framework.

Endnotes

1 World Federation of Exchanges. ^ Back to section

2 Blue sky laws are still applicable to certain securities offerings that are not registered with the SEC. IPOs are always registered with the SEC. ^ Back to section

3 See Semiannual Reporting, Release No. 33-11414 (proposed 7 May 2026); Amendments to Securities Offering Rules, Release No. 33-11418 (proposed 28 May 2026); Amendments to Filer Status and Reporting Requirements, Release No. 33-11419 (proposed 5 June 2026). ^ Back to section

4 See Concept Release on Foreign Private Issuer Eligibility, Release No. 33-11376 (4 June 2025). ^ Back to section

5 US Securities and Exchange Commission, IPOs: Number and Proceeds (quarterly data through 2026:Q2; last reviewed or updated 29 July 2026). Totals reflect only the SEC's "Corporate" issuer category. The SEC defines corporate issuers as all IPO issuers other than fund issuers (including closed-end funds and business development companies) and blank check companies/SPACs at the time of the offering. ^ Back to section

6 The federal securities laws provides that certain securities and transactions may be exempt from registration. ^ Back to section

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