This is your Release #2 (September 2011)

Initial Public Offerings

A Practical Guide to Going Public

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Already hailed by executives, entrepreneurs, general counsel, investment bankers, venture capitalists, and accountants alike as the definitive IPO guide, this groundbreaking treatise keeps getting better.

Completely revised and substantially expanded to reflect key developments in legal requirements and market practices, this Release #2 contains essential updates that you need as you plan for your IPO and new life as a public company. The updates address the following subjects:

• **IPO market statistics**, including key parameters of typical IPOs in the current market that can help a company decide if it can go public (see Figures 1-3 to 1-8 and Appendix 20C).

• **New trends in pre-IPO financing techniques and liquidity alternatives**, including the rise of secondary markets (see § 2:6.4) and growth equity (see new § 2:8.1[E]).

• Important topics in **accounting preparation**, including auditor independence determinations when transitioning from private to public status (see new § 4:3.4); the prospective convergence of U.S. GAAP and IFRS accounting standards (see § 4:4.1[B]); the latest guidance on cheap stock issues (see § 4:7.3[B]); and the accounting treatment of offering expenses (see new § 4:11).

• **Corporate governance matters**, including the continuing impact of the Dodd-Frank Act (see chapters 5 and 6); dual-class capital structures (see new § 5:8.2[K]); new corporate governance and takeover defense data (see §§ 5:5, 5:6, and 5:8); and updated suggestions for best practices (see Appendix 5A).

• **The quiet period**, including lessons learned from pre-IPO publicity missteps (see § 11:3.3) and expanded discussion of additional quiet-period topics, including investor conferences (see § 11:5.13) and non-deal road shows (see new § 11:5.14).

(continued on reverse)
• The **Form S-1**, including a high-level summary of disclosure requirements for directors, officers, 5% stockholders, and selling stockholders (see new Table 10-3) and a discussion of emerging prospectus practices (see new § 13:2.1[Y]).

• **Selling stockholder topics**, including the critical role of medallion guarantees on stock powers (see new § 14:4.3[D]) and procedural and administrative challenges presented by the presence of foreign selling stockholders (see new § 14:5.5).

• **SEC review**, including new data on the elapsed time between Form S-1 filings and SEC comment letters (see new Table 17-2) and updated data on the number and nature of SEC comments (see § 17:3.6).

• Critical considerations in **marketing the offering**, including the inclusion of “flash results” in a prospectus (see new § 18:2.3); impermissible offering communications and their consequences (see new § 18:7); the use of a preliminary road show in advance of the formal road show (see new § 18:8); and the impact of new FINRA rules on lockup agreements (see § 18:12).

• The **underwriting process**, including data on underwriting discounts by offering size (see new Table 19-2) and a review of new FINRA rules affecting IPO share allocations (see new § 19:3.5).

• **Public company reporting**, including practical advice on a company’s first earnings release as a public company (see new Table 22-2) and an update on proxy access (see § 22:2.3[A][5]).

• Updated discussion of post-IPO **investor relations**, including the pervasive influence of social media (see chapter 23).

• **Fundraising alternatives** for public companies, including new Form S-3 eligibility rules (see § 24:6) and updated market data for various types of offerings (see chapter 24).

• Expanded and updated **Glossary** and **IPO forms**.

• **Plus** updated guidance on non-GAAP financial measures, pre-IPO acquisitions, financial planning for pre-IPO company executives, due diligence and potential liability, assembling the IPO team, stock exchange listing, pricing the IPO, SPACs and other “special” types of IPOs, and many other topics.

Thank you for subscribing to *Initial Public Offerings: A Practical Guide to Going Public*. If you have questions about this product, or would like information on our other products, please contact customer service at (800) 260-4PLI.
FILING INSTRUCTIONS

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Practising Law Institute
810 Seventh Avenue
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Here's what people are saying about
*Initial Public Offerings: A Practical Guide to Going Public*:

**Securities Practitioners**
Both informative and entertaining, this book draws on a wealth of personal and institutional knowledge and experience to explain and demystify the IPO process. All participants in the process—even the hardiest veterans—will find something in this book that they didn’t know before they picked it up. I know that I did.

— Keith F. Higgins, Partner, Ropes & Gray LLP

Now more than ever, IPOs must be led by people who have an intense knowledge of the issues that arise and how a deal gets done. This superb book shares some of the most useful information on that topic that I have seen and does so with a highly practical and readable approach that never needlessly veers into the legalistic.

— Stanley Keller, Partner, Edwards Angell Palmer & Dodge LLP

An extraordinary achievement, this book is truly the roadmap to successful completion of any IPO. Now more than ever, executives, directors and advisors need comprehensive guidance to avoid the potential pitfalls of the IPO process—and to be ready for the intense scrutiny that accompanies public company life. No other IPO resource puts so much critical information together in one easy-to-use format.

— David M. Lynn, Partner, Morrison & Foerster LLP; former Chief Counsel, SEC Division of Corporation Finance

There’s nothing I like more than practical guidance. And this book sure fits the bill as a detailed step-by-step guide that every practitioner should have. A perfect starter’s kit.

— Broc Romanek, Editor of TheCorporateCounsel.net

There is no better practical tool for anyone needing an in-depth, step-by-step guide to the IPO process. Anyone embarking on the IPO road will benefit from the book’s insights on dealing with the SEC, and from its practical advice on every business and corporate governance issue that must be addressed in taking an enterprise public.

— Larry Sonsini, Chairman, Wilson Sonsini Goodrich & Rosati

An invaluable and comprehensive resource for the experienced practitioner and novice entrepreneur alike.

— Richard D. Truesdell, Jr., Partner, Davis Polk & Wardwell LLP

**CEOs**
This book unravels the intricate and often perplexing mysteries of the IPO process in a cogent, straightforward fashion, and will serve as an indispensable guide for first-time or repeat IPO executives and board members. CEOs should keep this book at their side from the moment they first seriously consider an IPO . . . and will soon find it dog-eared with sections that inspire clarity and confidence.

— Don Bulens, CEO of EqualLogic at the time it pursued a dual-track IPO
This book is a CEO’s toolbox filled with practical insights that enable you to stay well-informed and tightly organized, and to master the details without losing sight of your objective. It should be required reading for any executive team planning to go public.

— Michael R. Davin, Chairman and CEO, Cynosure

This is the ultimate comprehensive and readable book covering the IPO process and corporate governance basics. Having completed two IPOs and one dual track process, I consider this a “must read” for corporate executives, board members and private equity investors contemplating an IPO.

— Royce Holland, Executive Chairman, Masergy Communications; former CEO, Allegiance Telecom and McLeodUSA

Public Company Directors

This guide takes the mystery out of the IPO process and makes it understandable to lawyer and layman alike. It should be required reading for management and boards of any company contemplating a public offering. This book sets the standard against which any future IPO guide will be measured.

— David B. Elsbree, director of Acme Packet and Art Technology Group; retired audit partner, Deloitte & Touche

A veteran of four IPOs as CFO or Audit Committee chair, I was humbled by how much I learned reading this book. This book can help save any company substantial expense, accelerate the process and lead to a more successful IPO, and is indispensable for anyone with an IPO in their future.

— Ernest L. Godshalk, director of GT Solar, Hittite Microwave and Verigy; retired President, COO and director of Varian Semiconductor

CFOs

This book demystifies the entire IPO process, from A to Z. It is incredibly easy to find what you are looking for and, most importantly, to quickly understand the subject matter. Whether you are a C-level executive, a seasoned practitioner or Joe the Plumber, you will benefit greatly from having so much pulled together in one organized spot.

— Greg Beecher, CFO, Teradyne; former audit partner, PricewaterhouseCoopers LLP

Nothing completely prepares one for the challenges of the IPO process other than having done it before. This book will serve as an excellent basic educational tool for some and a great reference book for all involved in the IPO process.

— Paul Milbury, Vice President of Operations and CFO, Starent Networks; former CFO, Avid Technology
General Counsel

This book is a welcome and important resource for every corporate executive and general counsel faced with the exciting and challenging prospect of an initial public offering. I wish this book had been available when our company had its IPO. I would have found this practical guide invaluable then, and I highly recommend it to anyone contemplating an IPO now.

— Douglas C. Barnard, General Counsel, CF Industries Holdings; former partner, Kirkland & Ellis LLP

To be truly useful, an IPO guide must not only provide clear and concise “black letter” legal guidance, but must also cover the process, personalities and pitfalls involved with going public. This book hits on all cylinders. It is an indispensable reference for any general counsel going through an IPO, whether for the first time or the tenth, and a must-read for any company with aspirations of going public. I wish I had this book when my company went public!

— Rick M. Olin, General Counsel, TechTarget; former General Counsel, Workscape and SpeechWorks International

Venture Capitalists

The essential IPO guide for venture capitalists and the companies they fund. An instant classic.

— Jonathan A. Flint, Co-Founder and Managing General Partner, Polaris Ventures

An IPO is often seen by entrepreneurs and their investors as the ultimate achievement in the development of a company. This highly readable book gives management teams a thorough, understandable overview of the complex IPO process and how to survive it.

— William S. Kaiser, Partner, Greylock Partners

Investment Bankers

Growing regulatory complexity and volatile markets have made IPO-related decisions more complex and critical than ever. This book provides a comprehensive yet practical and useable guide to the IPO process—and will be invaluable to the CEO, CFO and Board members of any company that is planning to go public.

— Christopher T. Pasko, Senior Managing Director—Corporate and M&A Advisory Services, The Blackstone Group

An IPO can be frightening, confusing and frustrating for first-timers and old-timers alike. This book pulls back the curtain and methodically dissects each aspect of the process in an easy to understand manner. I’ve never come across a more thorough, practical—and even engaging—IPO guide. This book is an essential resource for executives, board members, venture capitalists and others preparing to take the IPO plunge.

— Brian Truesdale, Managing Director, Technology Investment Banking, Deutsche Bank Securities

A thoughtful, clear and comprehensive overview of the IPO process. A must-read for company executives, securities lawyers and capital markets professionals alike.

— John Tyree, Managing Director, Morgan Stanley
Accountants
Over the last 20 years, I have read most, if not all, of the books on IPOs. Without a doubt, this book is the best. It reminds me of Sunday brunch at the Rainbow Room in New York City: a fantastic smorgasbord of information—pick and choose what you want; you will not be disappointed!

— W. Anderson Bishop, CPA and former Executive Vice President, The SEC Institute

An IPO is challenging enough, so why go in unprepared? This readable and accessible book is a prerequisite for anyone interested in going public, covering every step of the IPO process and the necessary preparations leading up to it.

— David G. Wyand, CPA, Shareholder, Caturano and Company, P.C.

Academics
At last, a useable, soup-to-nuts book on the mechanics of the IPO process. It is an invaluable resource for any capital markets attorney as well as a must-read for any general counsel at a company about to venture forth into the public markets.

— Steven M. Davidoff, Associate Professor of Law, University of Connecticut School of Law, and New York Times “Deal Professor”

If you need one book on the public offering process, this is it. This masterful work explains the financial, governance and legal realities of the IPO process from a perspective valuable to entrepreneurs, first-time issuers, young attorneys and grizzled veterans alike. Chock full of pragmatic insights, the book lays bare obscure Wall Street practices and arcane SEC regulations with a clarity and precision rare in the field.

— Joseph A. Grundfest, William A. Franke Professor of Law and Business and Co-Director, Rock Center on Corporate Governance, Stanford Law School; former SEC Commissioner

The most complete book about going public ever written—almost everything a company’s management needs to know. This book is completely up-to-date on the ever-changing requirements for going public in the U.S.

— Jay R. Ritter, Cordell Professor of Finance, University of Florida

Book Reviews and Media Commentary
“… a highly pragmatic, knowledgeable and comprehensive account of the topic and … an invaluable resource for all those who may be involved with a company considering the IPO journey.”

— Insights: The Corporate and Securities Law Advisor

“… fills a critical void by providing a practical, all-inclusive handbook to the initial public offering process [and] is an invaluable and comprehensive resource for the experienced practitioner and the novice entrepreneur alike.”

— New York Law Journal

“… is quickly becoming the bible of the I.P.O. market.”

— New York Times (The Deal Professor)

“A detailed step-by-step guide that every practitioner should have.”

— Broc Romanek, TheCorporateCounsel.net