

*This is your Release #7 (November 2019)*

# Initial Public Offerings

## *A Practical Guide to Going Public*

### Second Edition

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Numerous developments—originating from the SEC, FINRA, Congress, and the private sector—continue to shape the IPO landscape. Completely revised and expanded, this Release #7 addresses key changes in legal requirements and market practices of critical interest to IPO companies, lawyers, and market professionals alike. Among other new and updated topics, Release #7 addresses the following subjects:

- Updated **IPO market statistics and outlook**, including IPO company metrics (*see* §§ 1:5 and 21:2 to 21:6, Figures 1-3 to 1-8, and Appendix 20C).
- **Pre-IPO fundraising**, including updated discussion of initial coin offerings (*see* § 2:8.1[I]) and updated market statistics on the use of various other financing techniques (*see* § 2:8).
- **Equity compensation**, including updated market data on the terms and size of stock incentive plans (*see* § 2:6.3[B]) and employee stock purchase plans (*see* § 4:7); and updated discussion of the tax deferral opportunity presented by section 83(i) of the Internal Revenue Code (*see* § 8:4.4).
- Developments on **accounting and financial statement** topics, including updated market data on accounting elections by EGCs (*see* §§ 4:4.1[A][2] and 4:4.1[B][2]); proposed changes to the financial statement requirements for business acquisitions and dispositions (*see* § 4:4.2); “cheap stock” considerations (*see* § 4:6.3); restatement trends (*see* § 4:9); and non-GAAP financial measures (*see* §§ 4:12 and 22:3).
- **Corporate governance** developments, including investor expectations and best practices (*see* § 5:2 and Appendix 5A); board committees (*see* § 5:4); multi-class capital structures and various other governance matters, including updated data (*see* §§ 5:5, 5:6, and 5:8 and Tables 5-2, 5-3, and 5-4); and the board’s duty of oversight (*see* § 6:2).
- Developments in the areas of **controls and policies**, including the need to consider the impact of cyber-related threats when implementing in-

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- ternal accounting controls (*see* § 6:3.1[B]) and the SEC’s continuing enforcement focus on pre-IPO companies (*see* § 6:3.1[C]).
- Updated discussion of **estate planning for pre-IPO company executives** (*see* § 8:5).
  - **EGC considerations**, including updated adoption rates (by company industry) for key items of relief available to EGCs (*see* Table 10-2).
  - **Quiet period** updates, including the SEC’s proposal to allow any company to engage in “test-the-waters” communications with eligible institutional investors in connection with any registered securities offering (*see* §§ 11:2.2[E] and 18:8.1) and new examples of quiet-period concerns in IPOs and direct listings (*see* § 11:3.3[B]).
  - **Form S-1 preparation**, including updated discussion of disclosure requirements and illustrative SEC comments (*see* § 13:2.1), updated prospectus data (*see* § 13:2.2), and a description of the SEC’s new streamlined procedures for obtaining confidential treatment of eligible portions of material contracts (*see* §§ 13:2.4 and 16:7).
  - **SEC review**, including a summary of the realignment of Corp Fin’s disclosure review program (*see* § 17:2.2) and updated statistics on the nature and timing of SEC comments on Form S-1 filings (*see* § 17:3.7, Table 17-3, and Table 17-4).
  - **Marketing and pricing matters**, including updated market data on the use of flash results (*see* § 18:2.3), updated discussion of lockup agreements (*see* § 18:12), and updated market data on changes in the price range and the prevalence of pricing above and below the range (*see* § 20:7.1).
  - **Underwriting**, including updated market data on underwriting discounts and expense reimbursement arrangements (*see* § 19:2.2[D] and Table 19-2) and updated discussion of underwriting agreements (*see* § 19:4).
  - Updated discussion of **non-traditional IPOs**, including smaller reporting company IPOs (*see* § 21:3.2), SPAC IPOs (*see* § 21:4.4), and direct listings (*see* § 21:5.4).
  - **Public company reporting** developments, including updated disclosure requirements and proposed changes to the tests for accelerated filer and large accelerated filer status (*see* §§ 22:2.1, 22:2.2, and 22:2.3), and recent and proposed rule amendments as part of the SEC staff’s ongoing disclosure effectiveness initiative (*see* § 22:2.5).
  - **Post-IPO liquidity**, including updated market data on follow-on public offerings, Rule 144A placements, and PIPE financings, and updated discussion of related stockholder approval requirements (*see* §§ 24:8, 24:9, and 24:10).
  - Updated **Glossary** and **IPO forms**.
  - Plus updated guidance and insight on selling stockholders; FINRA requirements; employment considerations; pre-IPO acquisitions; liability considerations; stock exchange listing; investor relations; corporate housekeeping; and many more topics.

Thank you for purchasing *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 [info@pli.edu](mailto:info@pli.edu) or at (800) 260-4PLI.

## FILING INSTRUCTIONS

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## *A Practical Guide to Going Public*

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**REMOVE OLD PAGES**  
**NUMBERED:**

- Title page to Form 9-1
- Form 17-1 to Form 18-6
- Form 25-1 to Form 25-8
- Form 29-1 to I-95

**INSERT NEW PAGES**  
**NUMBERED:**

- Title page to Form 9-1
- Form 17-1 to Form 18-7
- Form 25-1 to Form 25-8
- Form 29-1 to I-97

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