



# GETTING THE MEASURE OF EGC CORPORATE GOVERNANCE PRACTICES:

*A survey and related resources*

# RINGING THE BELL FOR EGC CORPORATE GOVERNANCE PRACTICES:

## *A Survey and Related Resources*

Corporate governance has changed dramatically in the nearly 13 years since passage of the Sarbanes-Oxley Act of 2002 and in the nearly five years since enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Likewise, the level of shareholder engagement and institutional investor expectations regarding governance practices have also changed significantly. The passage of the Jumpstart Our Business Startups Act in April 2012, which helped spur a dynamic initial public offering market, raised concerns among certain groups that new initial public offering (“IPO”) candidates would view certain of the accommodations available under the Act as a rationale to relax certain governance practices and to rely on phase-in periods.<sup>1</sup> However, emerging growth companies, or EGCs, availing themselves of the JOBS Act’s Title I “IPO on-ramp” provisions, generally have adopted rigorous governance policies and procedures.

In this review, we take the measure of the practices adopted by EGCs in connection with their IPOs. We examined the filings of over 400 EGCs that completed their IPOs in the period from January 1, 2013 through December 31, 2014. Our objective is to provide data that will be useful to you in assessing whether your current or proposed corporate governance practices are consistent with EGC market practice.

***Under the JOBS Act, an issuer will remain an “emerging growth company” until the earliest of:***

- ***the last day of the fiscal year during which the issuer has total annual gross revenues of \$1 billion or more;***
- ***the last day of the issuer’s fiscal year following the fifth anniversary of the date of the first sale of common equity securities of the issuer pursuant to an effective registration statement under the Securities Act (for a debt-only issuer that never sells common equity pursuant to a Securities Act registration statement, this five-year period will not run);***
- ***any date on which the issuer has, during the prior three-year period, issued more than \$1 billion in non-convertible debt; or***
- ***the date on which the issuer becomes a “Large Accelerated Filer,” as defined in the SEC’s rules.***

<sup>1</sup> For a general overview of the JOBS Act, see our JOBS Act Quick Start: A Brief Overview of the JOBS Act (2014) <http://www.mofo.com/~media/Files/PDFs/jumpstart/140700JOBSAct.pdf>.

Based on the companies reviewed, here are our key findings:

- 86% of non-controlled companies had a majority of independent directors at the pricing of the IPO
- 69% had staggered or classified boards
- 60% separated the Chief Executive Officer and Board chair positions
- 68% had all independent directors on the key Audit, Compensation, and Nominating and Corporate Governance Committees upon completion of the IPO
- 93% had a “financial expert” on the Audit Committee at pricing
- 35% had “exclusive forum” provisions in bylaws
- 75% had “super majority” shareholder voting provisions
- 51% allowed shareholders to take action by written consent under specified conditions
- 20% were “foreign private issuers”

Below we discuss the observed trends in more detail, and provide resources intended to assist companies planning their IPOs.

## The Filers

*A “foreign private issuer” is any foreign issuer (other than a foreign government), unless: (i) more than 50% of the issuer’s outstanding voting securities are held directly or indirectly of record by residents of the United States; and (ii) any of the following applies: (x) the majority of the issuer’s executive officers or directors are U.S. citizens or residents; (y) more than 50% of the issuer’s assets are located in the United States; or (z) the issuer’s business is administered principally in the United States. For additional information, see our Frequently Asked Questions about Foreign Private Issuers <http://www.mofo.com/files/Uploads/Images/100521FAQForeignPrivate.pdf>.*

We identified the IPOs of 532 issuers in the period from January 1, 2013 through December 31, 2014, of which 82 or 15.4% were not EGCs. We reviewed the IPO filings of the EGCs, excluding the 35 master limited partnerships and one offering that priced but was withdrawn before closing.<sup>2</sup> See Appendix A for a list of the EGC IPOs we reviewed and Appendix B for a summary of the benefits enjoyed by EGCs under the JOBS Act.<sup>3</sup> Of the remaining 414 EGCs, 83 were foreign private issuers, or FPIs. Of the 331 U.S. domestic companies, 86.1% were incorporated in Delaware, followed by Maryland (5.74%) and Texas (1.5%). Of the 414 EGCs, all but two listed on either the Nasdaq or the NYSE.<sup>4</sup> “Controlled companies”<sup>5</sup> represented 17.1% of the 414 issuers. The securities exchanges

<sup>2</sup> We did not review any business development company (BDC) EGCs because BDCs are subject to the additional requirements of the Investment Company Act of 1940. For additional information, see our Frequently Asked Questions about Business Development Companies, <http://www.mofo.com/files/Uploads/Images/FAQ-Business-Development-Companies.pdf>.

<sup>3</sup> For additional information, see our Frequently Asked Questions about Initial Public Offerings, <http://www.mofo.com/files/Uploads/Images/FAQ-IPOs.pdf> and The Short Field Guide to IPOs <http://media.mofo.com/docs/pdf/the-short-field-guide-to-ipos>.

<sup>4</sup> See Appendix C for a summary of the NYSE and the Nasdaq quantitative listing requirements and Appendix D for a summary description of the differences between the listing requirements of these securities exchanges.

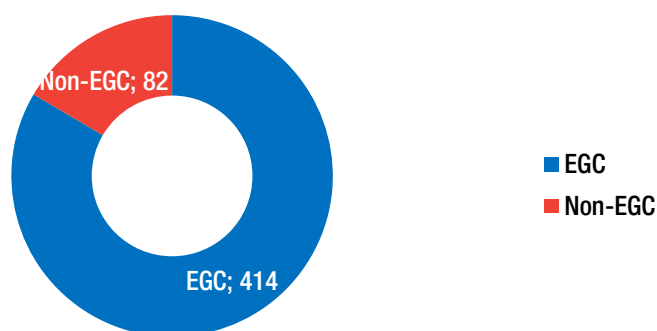
<sup>5</sup> Both the NYSE and the Nasdaq define a “controlled company” as one in which more than 50% of the voting power is controlled by an individual, a group, or another company. See Appendix E for additional information about “controlled companies.”

exempt controlled companies from certain requirements. To the extent “control” was relevant, we note that below.

## EGC versus Non-EGC IPO Filings

(By Frequency)

(January 1, 2013 - December 31, 2014)

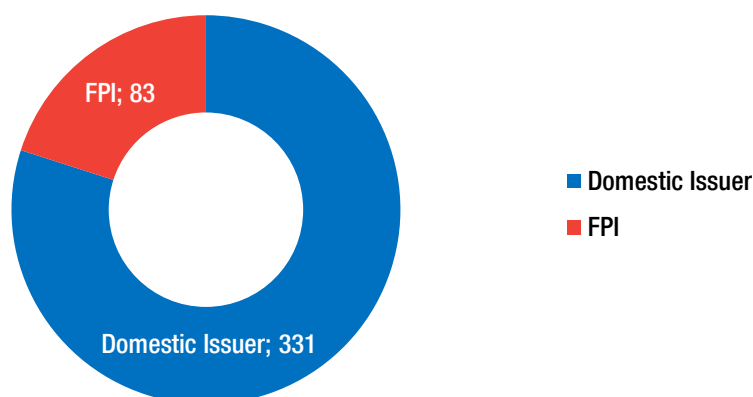


**Figure 1: N=532.**

*Both the NYSE and the Nasdaq define a “controlled company” as one in which more than 50% of the voting power is controlled by an individual, a group, or another company. See Appendix E for additional information about “controlled companies.”*

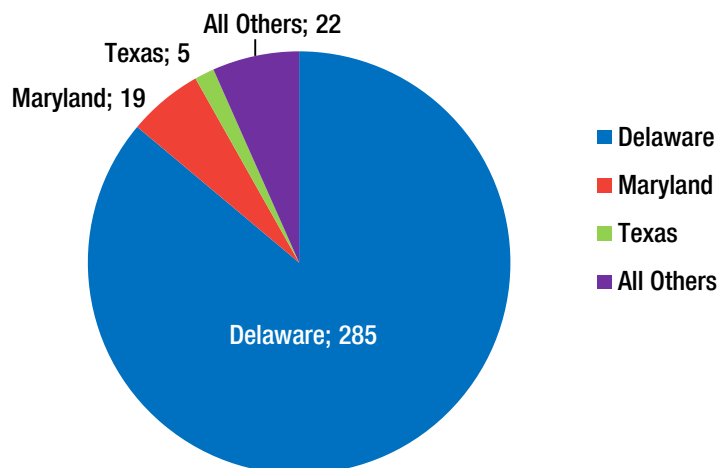
## Domestic Issuers vs. Foreign Private Issuers (FPIs)

(By Frequency)



**Figure 2: N=414.**

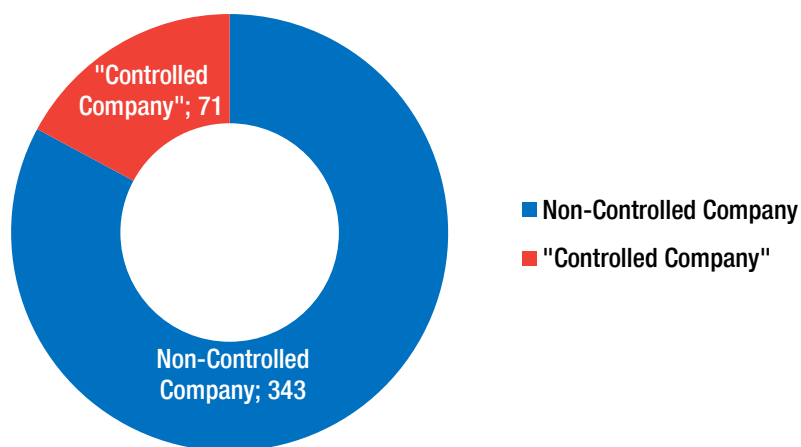
## State of Incorporation (By Frequency)



**Figure 3:** N=331.

All of the Maryland-incorporated issuers were real estate investment trusts, or REITs, because Maryland's corporate law has specific accommodations for REITs.<sup>6</sup>

## Frequency of "Controlled Companies"



**Figure 4:** N=414.

<sup>6</sup> For additional information, see our Frequently Asked Questions about Real Estate Investment Trusts [http://www.mofo.com/files/Uploads/Images/FAQ\\_REIT.pdf](http://www.mofo.com/files/Uploads/Images/FAQ_REIT.pdf) and our Quick Guide to REIT IPOs <http://media.mofo.com/docs/pdf/Quick-Guide-to-REIT-IPOs>.



Four of the “controlled companies” were controlled by non-U.S. parents, two of which were Chinese. Of the 71 “controlled companies,” three disclosed that they were controlled by venture capital funds, 39 disclosed that they were controlled by private equity funds and one was controlled by both.

## Exchange Listing Choice

The following table analyzes the markets within the NYSE and the Nasdaq or other markets on which the EGCs listed their common stock or on which their common stock was quoted.

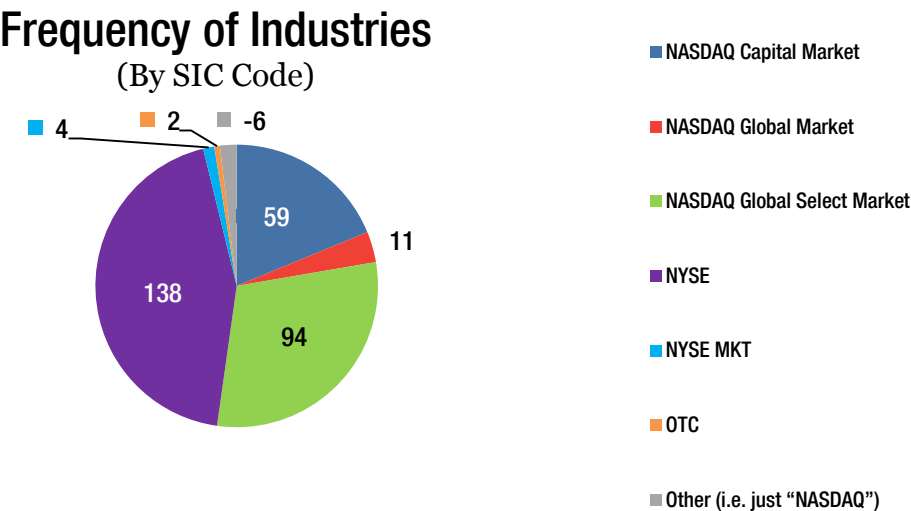


Figure 5: N=414.

Of the 414 EGCs, based on SIC codes,<sup>7</sup> 23.7% were pharmaceutical companies, 8.2% were software companies, 4.3% were biological products companies, and 4.1% were “blank check” companies.

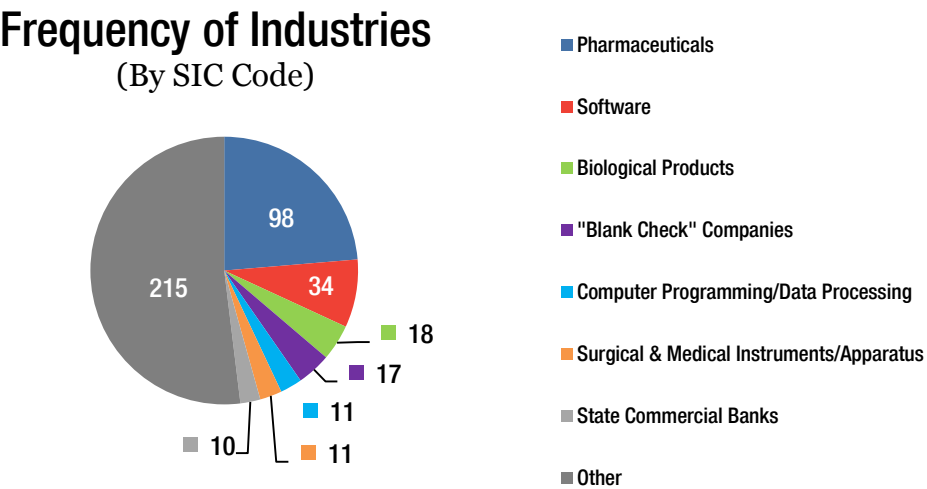


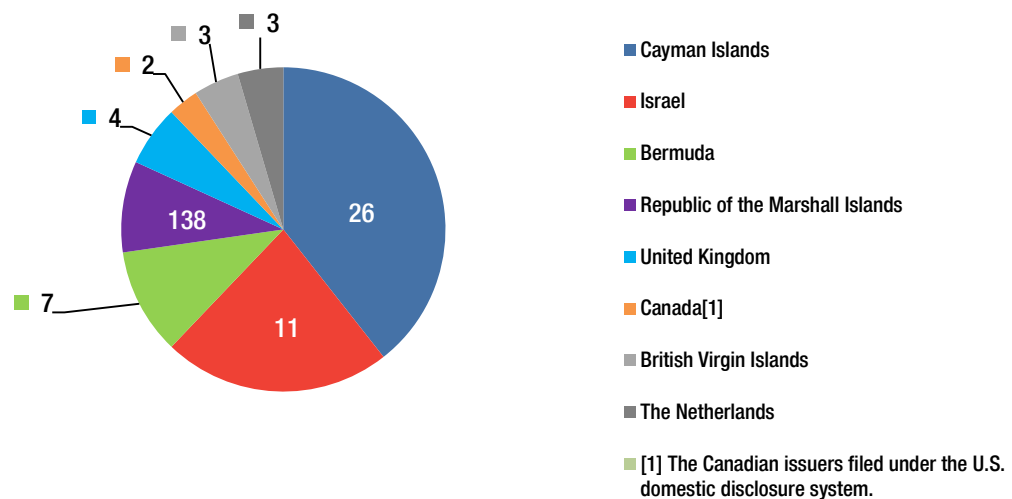
Figure 6: N=414.

<sup>7</sup> A registration statement filed with the SEC must identify the issuer’s primary “Standard Industrial Classification,” or SIC code, which is a four-digit number that classifies a company by its industry.

## Foreign Private Issuers

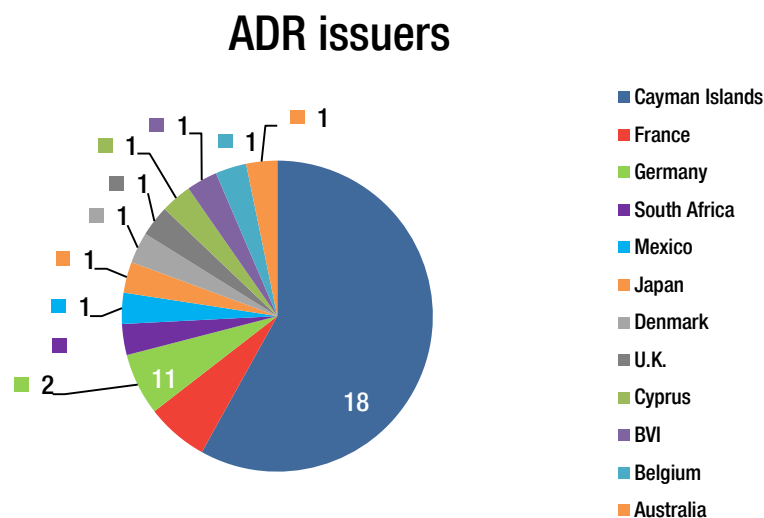
The largest percentage of FPI EGCs, 31.3%, were companies incorporated in the Cayman Islands, and approximately 15.7% were companies incorporated in either the Republic of the Marshall Islands or Bermuda. These three jurisdictions are welcoming to foreign companies, because they offer favorable tax and other attributes unrelated to the underlying business operations of the issuer. Based on the sample surveyed, 18 of the 24 Cayman Islands issuers were based in China. The next largest percentage of FPI, 18.1%, were incorporated in Israel, and those issuers typically have their primary operations in Israel.

**FPI Country of Incorporation (N=83)**  
(By Frequency)



FPIs usually may choose to issue and sell their shares directly or through American Depositary Shares or Receipts (“ADRs”).<sup>8</sup> Of the 83 FPI EGCs, 62.7% issued common or ordinary shares directly to investors in the IPO, and the balance issued ADRs in the IPO. Of the 31 FPIs that issued ADRs, 18 were incorporated in the Cayman Islands. Approximately 20.5% of the FPI EGCs were listed on both a foreign exchange as well as a U.S. exchange.

<sup>8</sup> An ADR is a negotiable instrument issued by a U.S. depository bank that represents an ownership interest in a specified number of securities that have been deposited with a custodian, typically in the issuer’s home country. ADRs can represent one or more shares or a fraction of a share.



FPIs Issuing ADRs  
(By Frequency)

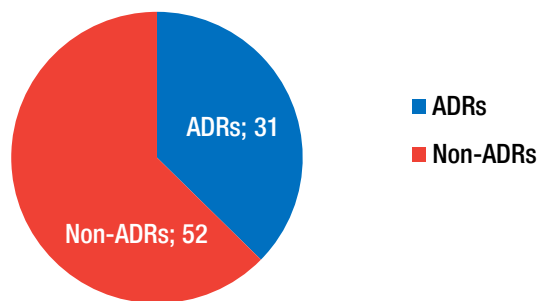


Figure 7: N =83.

FPI Dual-Listing Exchange  
(By Frequency)

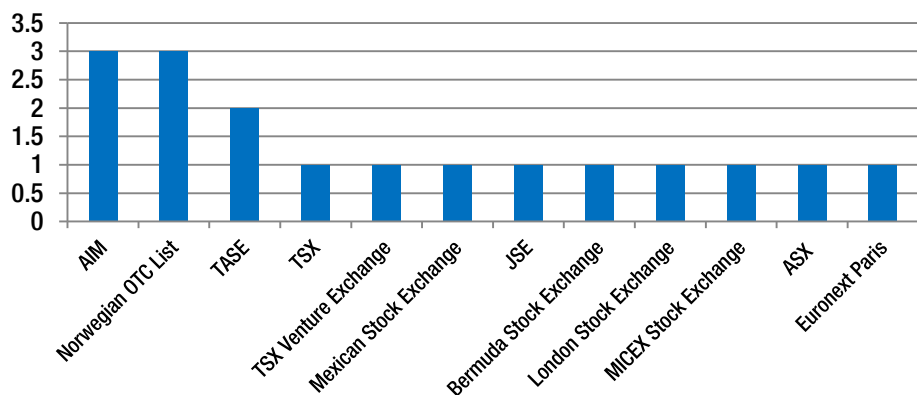


Figure 8: N=17.



The U.S. securities laws permit FPIs to choose to follow U.S. domestic or home country governance principles for most matters although there are specific U.S. requirements relating to Audit Committees that all FPIs must satisfy. Among other exemptions, FPIs do not have to comply with U.S. proxy rules or ownership reporting pursuant to Sections 14 and 16, respectively, of the U.S. Securities Exchange Act of 1934, as amended (the “Exchange Act”). All FPI EGCs chose to follow the home country governance principles.

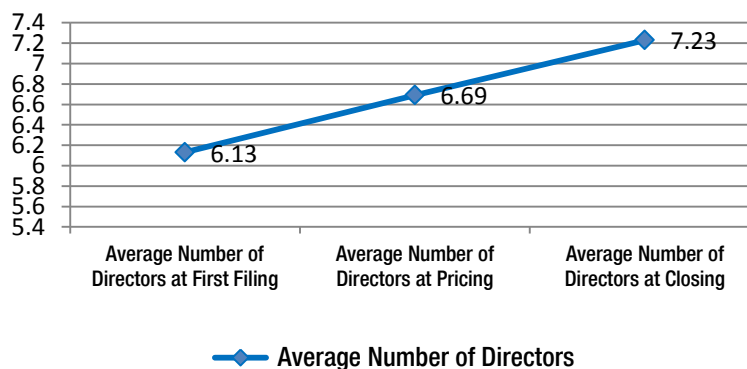
## Capital Structure

Fifty-seven of the EGCs we reviewed had dual classes of common stock, including four issuers that had three classes of common stock. The primary reason for dual classes was for insiders to maintain control, and most classes differed only by the number of votes per share, although in some cases, a class might not be entitled to certain economic benefits, such as dividend payments. Thirteen of the dual-class EGCs were FPIs.

## Board of Directors

The size of the boards of directors ranged from two to 15 members. The number of directors also grew from first filing to closing of the IPO – from an average of 6.13 at first filing to 6.69 at pricing to 7.23 at closing of the IPO. The growth of the board of directors over time probably reflects the liability and perhaps even reputational concerns that independent directors may have about joining a board of directors before an IPO closes.

**Growth in Average Number of Directors**  
(From First Filing through Closing)

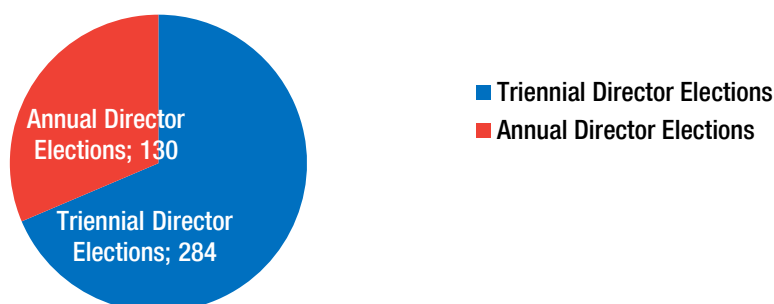


**Figure 9:** N=414.

At or immediately following the pricing of the IPO, 85.8% of the non-controlled company issuers (345 companies) had a majority of independent directors.<sup>9</sup> The average number of non-independent directors was 2.5 (based on 408 companies for which data was available), and only 7.7% of the 414 issuers had the chief financial officer as a member of the board of directors.

Over 68% of the 414 issuers had a staggered or classified board of directors. That is in sharp contrast to the trend in Fortune 500® companies to eliminate staggered boards of directors in response to shareholder activism and concerns that classified boards entrench management and are a potent anti-takeover device.

## Triennial Director Elections v. Annual Director Elections (By Frequency)



**Figure 10:** N=414.

Approximately 70.3% of the issuers provided that directors could be removed only for “cause” (based on 411 companies for which data was available).<sup>10</sup> Nearly 97% of the issuers gave the board the authority to fill vacancies and change the number of directors.

## Election of Directors

Nearly 87% of the issuers had “advance notice” bylaw provisions that require shareholders to follow specific procedures and timelines in order to nominate potential board members.

*In order to provide for an orderly shareholder meeting, a corporation often designates in advance certain procedures to be followed for shareholders to initiate business and specify matters that are appropriate for consideration at the meeting. The procedures typically specify advance notice of intent to bring business before the annual meeting and the contents of the notice. Any business attempted to be brought for consideration at the annual meeting other than in compliance with the advance notice procedures would not be acted upon.*

<sup>9</sup> Generally, the NYSE and the Nasdaq standards for director independence are similar. See Appendix D for a summary of differences between the NYSE and the Nasdaq listing requirements.

## Frequency of Advance Notice Provisions in By laws

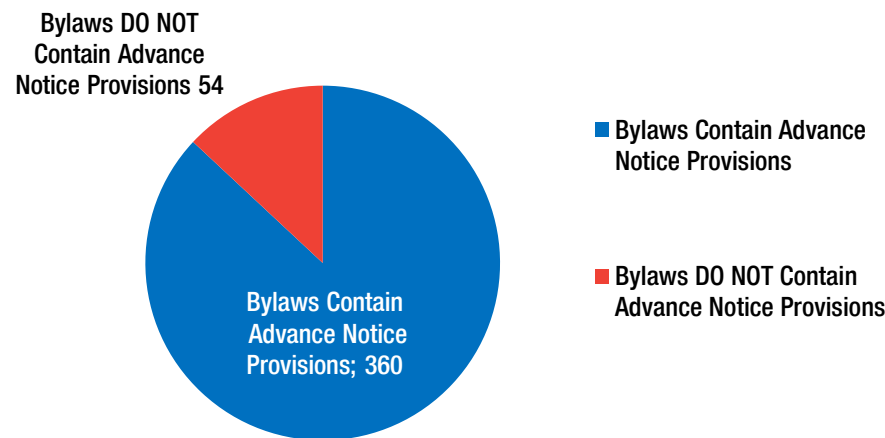


Figure 11: N=411.

Two-thirds of the issuers required a majority vote in order to elect directors in an uncontested election, consistent with the trend towards majority voting.

## Type of Voting for Director Elections (By Frequency)

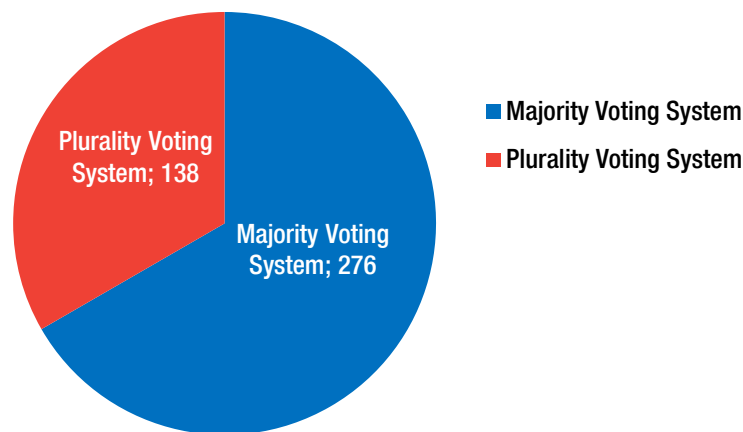


Figure 12: N=414.

## CEO and Board Chair

Based on 395 companies for which data was available, 60% separated the positions of chief executive officer and board chair. Of the 158 companies that did not separate the roles, only 34.2% designated a lead independent director.

Separation of CEO and Chair of the Board Positions  
(By Frequency)

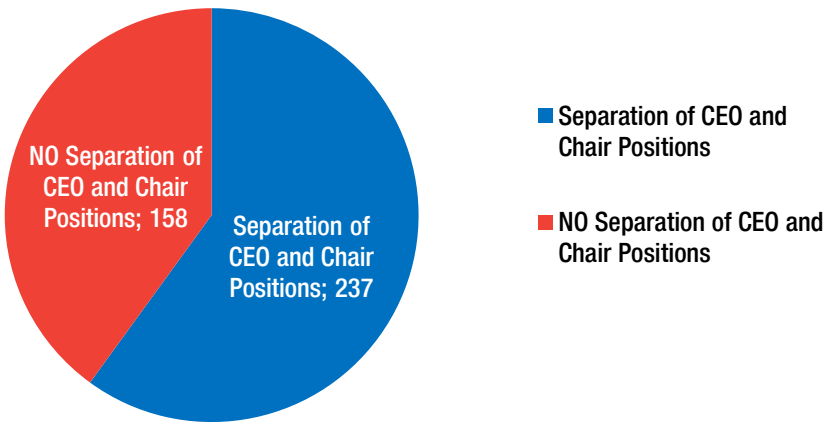


Figure 13: N=414.

Designated Lead Independent Director  
(If CEO and Chair Positions NOT Separated; By Frequency)

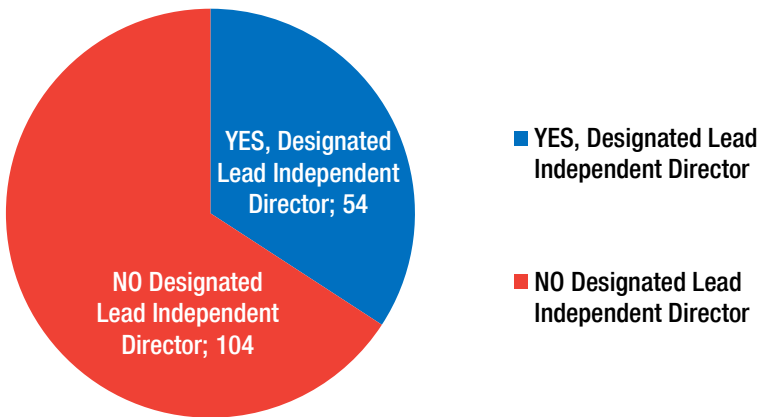
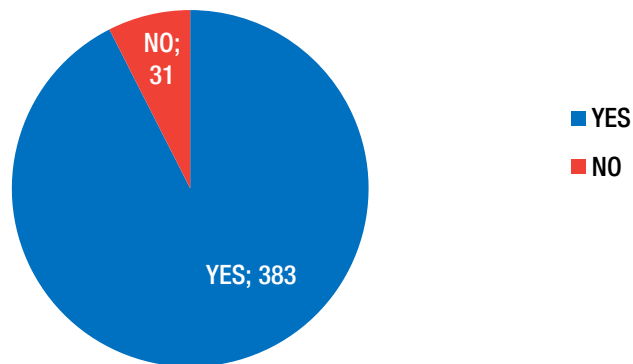


Figure 14: N=158.

## Committees and Corporate Governance

The three standard committees—Audit, Compensation, and Nominating and Governance—were typically established prior to or upon completion of the IPO. Audit Committees are nearly universal at 99.8% (one Japanese company had a “board of statutory auditors”), and 92.5% had a “financial expert” on the Audit Committee by pricing. Upon completion of the IPO, 88.9% of the 414 EGCs had a Nominating and Governance Committee and 94.7% had a Compensation Committee. Approximately 10.9% of the issuers also identified additional committees in their filings although there are no specific disclosure obligations relating to such committees.

### "Financial Expert" on Audit Committee at Pricing



**Figure 15:** N=414.

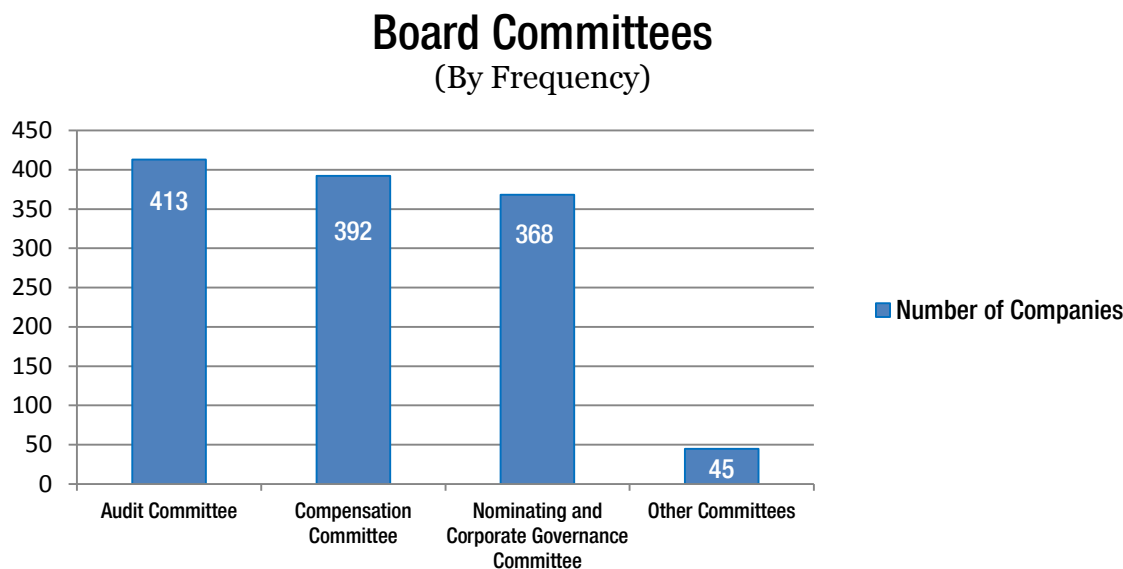


Figure 16: N=414.

The filings reference a large range of committees, including strategic planning, various risk and compliance related, executive, finance and investment, conflicts, human resources, M&A, technology, and quality and innovation committees.

### All Independent Directors on Committees Upon Completion of IPO (By Frequency)

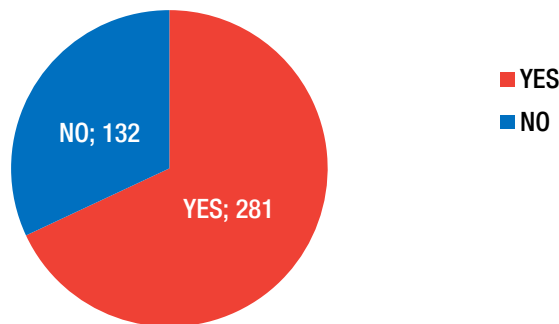


Figure 17: N=413.<sup>11</sup>

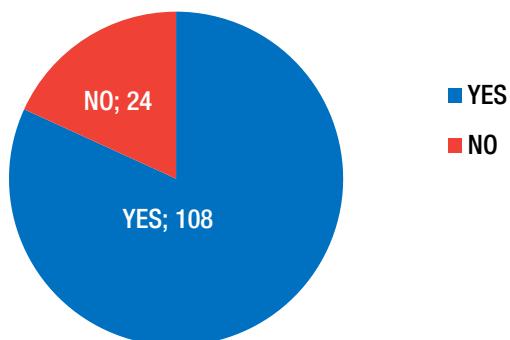
Upon completion of the IPO, approximately 68.0% of the companies had appointed all independent directors to the three standard committees.

<sup>11</sup> One company did not disclose information about board committees.



Of the 132 companies that did not have all independent directors on the three standard committees, 81.8% relied on the permitted “phase-in” provisions of the applicable exchange.<sup>12</sup>

### Reliance on "Phase-in" Provisions (By Frequency)



**Figure 18: N=132.**

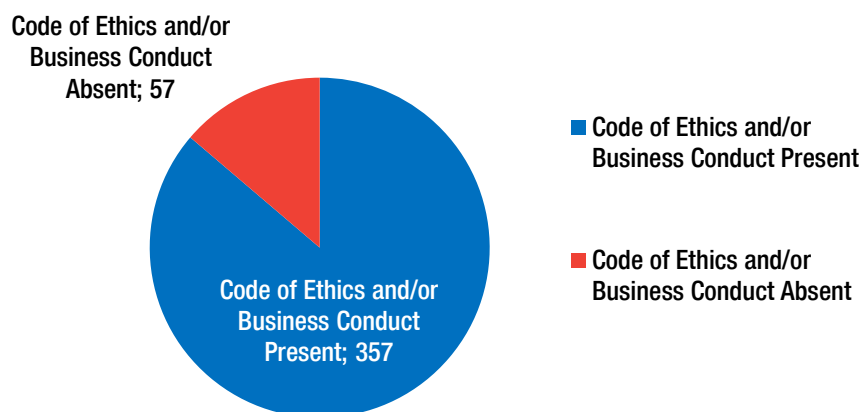
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<sup>12</sup> The balance of companies that did not have all independent directors on committees upon completion of the IPO were either FPIs relying on home corporate governance standards or “controlled companies.”

By completion of the IPO, 86.2% of the companies reviewed disclosed their code of ethics and/or code of business conduct.<sup>13</sup>

## Code of Ethics and/or Business Conduct Disclosed

(By Frequency)



**Figure 19: N=414.**

## Relationship with Shareholders

In addition to the majority voting provision for uncontested director elections, the EGC filings revealed other provisions affecting the relationships between the EGCs and their stockholders. Nearly three-quarters of the issuers had super-majority voting requirements for certain actions and transactions. Only slightly more than half permitted stockholders to take action by written consent. And less than one-third permitted stockholders to call special meetings of stockholders with the percentage required to call the meeting varying from 5% to 51%. Last, in light of recent case law upholding exclusive forum provisions for litigation by stockholders if the requirement is effective before the acquisition of shares,<sup>14</sup> slightly more than one-third of the issuers (35.0%) included exclusive forum provisions in their bylaws.

<sup>13</sup> See Appendix D for a summary of differences between the NYSE and the Nasdaq listing requirements, including differences in requirements for a code of ethics and/or a code of business conduct.

<sup>14</sup> *Boilermakers Local 154 Retirement Fund v. Chevron Corp.*, No. 7220-CS (Del. Ch. June 25, 2013).

### Exclusive Forum Provision in Bylaws (By Frequency)

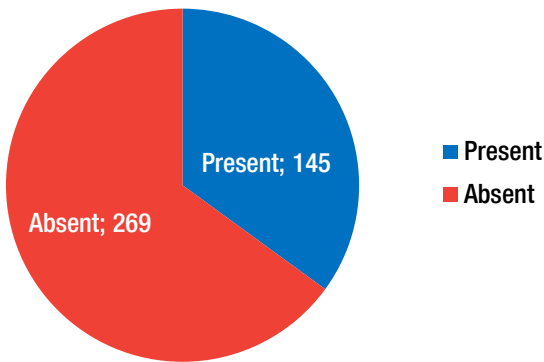


Figure 20: N=414.

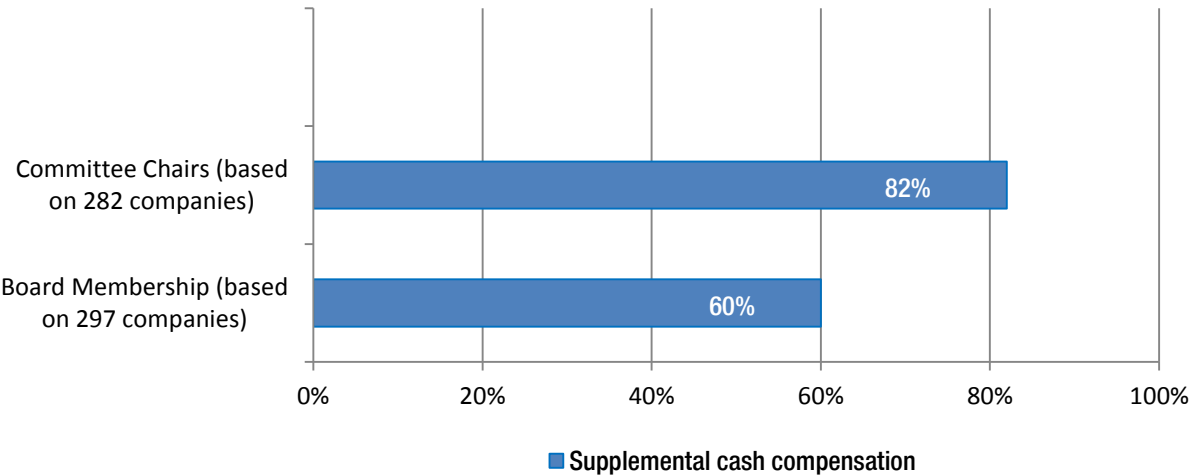
### Compensation of Directors

Three-quarters of the companies provided for cash compensation to board members. Four of the 414 companies indicated that they had not yet determined the compensation package for board members.

Approximately 60% (based on 297 companies) provided for supplemental cash compensation to board members for the membership on committees or attendance at board or committee meetings.

Approximately 82% (based on 282 companies) provided for supplemental cash compensation for committee chairs.

### Compensation package for board members



Stock-based compensation consists of options, restricted stock and restricted stock units. Approximately 13.4% of the companies reported providing all three kinds of compensation. The companies providing each type of stock-based compensation was roughly equal – 41.3% provided for options, 39.1% provided for restricted stock, and 42% provided for restricted stock units.

There were 387 companies that reported some form of stock-based compensation, with approximately eight companies reporting that they had not yet determined specific stock-based compensation. Approximately 30% of the companies provided additional stock-based compensation to directors serving on committees, with 9.6% of the companies providing additional compensation to directors serving as committee chairs.

## **The Influence of Proxy Advisory Services**

When designing corporate governance policies and procedures, EGCs must carefully consider the voting policies of institutional investors and the proxy advisory services which provide voting advice to institutional investors. The two principal proxy advisory services are Institutional Shareholder Services Inc. (“ISS”) and Glass Lewis & Co. (“Glass Lewis”). ISS is the most influential proxy advisory service, typically influencing 20 percent to 30 percent of the votes at a typical annual meeting. Glass Lewis, on the other hand, has much less influence on the outcome of voting.

Both ISS and Glass Lewis make voting recommendations in accordance with voting guidelines, which provide a roadmap as to how the proxy advisory service will vote on a particular matter. These voting guidelines change over time, as the proxy advisory services seek to improve their approach to particular issues or to add guidelines for dealing with new issues. ISS and Glass Lewis have adopted specific voting guidelines addressing, e.g., voting on: the election of directors; advisory votes on executive compensation; the ratification of auditors; the approval of compensation plans; changes to the certificate of incorporation or bylaws; and shareholder proposals. In many cases, EGCs need to consider what governance policies and procedures should be implemented prior to going public in order to avoid seeking a shareholder vote after going public when the proxy advisory services and institutional investors may be opposed to a particular provision, as well as the impact of governance policies and procedures adopted prior to going public which may negatively impact the EGC’s governance profile, leading to potential negative vote recommendations by the proxy advisory services on a wide range of issues.



# APPENDIX A

## EMERGING GROWTH COMPANY IPOs

JANUARY 1, 2013 – DECEMBER 31, 2014

NAME	DATE OF OFFERING	OFFERING SIZE	EXCHANGE LISTING	STATE OF INCORPORATION	INDUSTRY CODE
1347 Capital Corp.	7/15/2014	\$40,000,000	Nasdaq Capital Market	Delaware	6770
1347 Property Insurance Holdings, Inc.	3/31/2014	\$15,100,000	Nasdaq Capital Market	Delaware	6331
2U, Inc.	3/27/2014	\$119,275,000	Nasdaq Global Select Market	Delaware	7372
500.com Limited	11/21/2013	\$75,218,000	NYSE	Cayman Islands	7990
58.com Inc.	10/31/2013	\$187,000,000	NYSE	Cayman Islands	7370
A10 Networks, Inc.	3/21/2014	\$187,500,000	NYSE	Delaware	3576
AAC Holdings, Inc.	10/1/2014	\$75,000,000	NYSE	Nevada	8093
Abengoa Yield plc	6/12/2014	\$720,650,000	Nasdaq Global Select Market	England/Wales	4911
Accelaron Pharma Inc.	9/18/2013	\$83,700,000	Nasdaq Global Market	Delaware	2836
Achaogen, Inc.	3/11/2014	\$72,000,000	Nasdaq Global Market	Delaware	2834
Adamas Pharmaceuticals, Inc.	4/9/2014	\$48,000,000	Nasdaq Global Market	Delaware	2834
Adeptus Health Inc.	6/24/2014	\$107,800,000	NYSE	Delaware	8060
ADMA Biologics, Inc.	10/16/2013	\$28,499,998	Nasdaq Capital Market	Delaware	2836
Aerie Pharmaceuticals, Inc.	10/24/2013	\$67,200,000	Nasdaq Global Market	Delaware	2836
Aerohive Networks, Inc.	3/27/2014	\$75,000,000	NYSE	Delaware	7373
Agile Therapeutics, Inc.	5/22/2014	\$55,000,002	Nasdaq Global Market	Delaware	2834
Agios Pharmaceuticals, Inc.	7/23/2013	\$105,999,984	Nasdaq Global Select Market	Delaware	2834
Akebia Therapeutics, Inc.	3/19/2014	\$100,000,001	Nasdaq Global Market	Delaware	2834
Akers Biosciences, Inc.	1/23/2014	\$14,998,500	Nasdaq Capital Market	New Jersey	2835
Alcobra Ltd.	5/21/2013	\$25,000,000	Nasdaq Global Market	Israel	2834
Alder BioPharmaceuticals, Inc.	5/7/2014	\$80,000,000	Nasdaq Global Market	Delaware	2834
Aldeyra Therapeutics, Inc.	5/1/2014	\$12,000,000	Nasdaq Capital Market	Delaware	2834
Amber Road, Inc.	3/20/2014	\$96,090,345	NYSE	Delaware	7372
Ambit Biosciences Corporation	5/15/2013	\$65,000,000	Nasdaq Global Market	Delaware	2834
Amedica Corporation	2/12/2014	\$20,125,000	Nasdaq Capital Market	Delaware	3841



## A Survey and Related Resources

NAME	DATE OF OFFERING	OFFERING SIZE	EXCHANGE LISTING	STATE OF INCORPORATION	INDUSTRY CODE
American Homes 4 Rent	7/31/2013	\$705,882,352	NYSE	Maryland	6798
American Residential Properties, Inc.	5/8/2013	\$287,710,500	NYSE	Maryland	6798
Amphastar Pharmaceuticals, Inc.	6/24/2014	\$56,000,000	Nasdaq Global Select Market	Delaware	2834
Antero Resources Corporation	10/9/2013	\$1,571,900,000	NYSE	Delaware	4922
Applied Genetic Technologies Corporation	3/26/2014	\$50,000,004	Nasdaq Global Market	Delaware	2836
Applied Optoelectronics, Inc.	9/25/2013	\$36,000,000	Nasdaq Global Market	Delaware	3674
Aquinox Pharmaceuticals, Inc.	3/6/2014	\$46,200,000	Nasdaq Global Market	Delaware	2834
AR Capital Acquisition Corp.	10/1/2014	\$240,000,000	Nasdaq Capital Market	Delaware	6770
Aratana Therapeutics, Inc.	6/26/2013	\$34,500,000	Nasdaq Global Market	Delaware	2834
Ardelyx, Inc.	6/18/2014	\$60,004,000	Nasdaq Global Market	Delaware	2834
Ardmore Shipping Corporation	7/31/2014	\$130,200,000	NYSE	Marshall Islands	4412
Argos Therapeutics, Inc.	2/6/2014	\$45,000,000	Nasdaq Global Market	Delaware	2834
Arista Networks, Inc.	6/5/2014	\$225,750,000	NYSE	Delaware	3576
Armada Hoffer Properties, Inc.	5/7/2013	\$190,037,500	NYSE	Maryland	6500
Artisan Partners Asset Management Inc.	3/6/2013	\$331,624,680	NYSE	Delaware	6282
Aspen Aerogels, Inc.	6/12/2014	\$82,500,000	NYSE	Delaware	5030
Atara Biotherapeutics, Inc.	10/15/2014	\$55,000,000	Nasdaq Global Select Market	Delaware	2836
Athlon Energy Inc.	8/1/2013	\$315,789,480	NYSE	Delaware	1311
Atlas Financial Holdings, Inc.	2/11/2013	\$24,131,250	Nasdaq Capital Market	Cayman Islands	6331
Auris Medical Holding AG	8/5/2014	\$56,400,000	Nasdaq Global Market	Switzerland	2834
Auspex Pharmaceuticals, Inc.	2/4/2014	\$84,000,000	Nasdaq Global Market	Delaware	2834
Autohome Inc.	12/10/2013	\$132,940,000	NYSE	Cayman Islands	7374
Avalanche Biotechnologies, Inc.	7/30/2014	\$102,000,000	Nasdaq Global Market	Delaware	2836
Aviv REIT, Inc.	3/20/2013	\$264,000,000	NYSE	Maryland	6798
Avolon Holdings Limited	12/11/2014	\$272,727,260	NYSE	Cayman Islands	-7359
Bankwell Financial Group, Inc.	5/15/2014	\$48,648,654	Nasdaq Global Market	Connecticut	6022
Barracuda Networks, Inc.	11/5/2013	\$74,520,000	NYSE	Delaware	3577
Bellicum Pharmaceuticals, Inc.	12/17/2014	\$139,650,000	Nasdaq Global Market	Delaware	2834
Benefitfocus, Inc.	9/17/2013	\$130,777,500	Nasdaq Global Market	Delaware	7372
BIND Therapeutics, Inc.	9/19/2013	\$70,500,000	Nasdaq Global Select Market	Delaware	2834
Bio Blast Pharma Ltd.	7/30/2014	\$35,200,000	Nasdaq Global Market	Israel	2834
BioAmber Inc.	5/9/2013	\$80,000,000	NYSE	Delaware	2860
Biocept, Inc.	2/4/2014	\$19,000,000	Nasdaq Capital Market	Delaware	8071
Blackhawk Network Holdings,	4/18/2013	\$230,000,000	Nasdaq Global	Delaware	6199

## A Survey and Related Resources

NAME	DATE OF OFFERING	OFFERING SIZE	EXCHANGE LISTING	STATE OF INCORPORATION	INDUSTRY CODE
Inc.			Select Market		
Blue Capital Reinsurance Holdings Ltd.	11/5/2013	\$125,000,000	NYSE	Bermuda	6331
bluebird bio, Inc.	6/18/2013	\$100,999,992	Nasdaq Global Select Market	Delaware	2836
Boot Barn Holdings, Inc.	10/29/2014	\$80,000,000	NYSE	Delaware	5661
Borderfree, Inc.	3/20/2014	\$80,000,000	Nasdaq Global Market	Delaware	7389
Boulevard Acquisition Corp.	2/12/2014	\$210,000,000	Nasdaq Capital Market	Delaware	6770
Bright Horizons Family Solutions Inc.	1/24/2013	\$222,200,000	NYSE	Delaware	8351
C1 Financial, Inc.	8/13/2014	\$44,736,643	NYSE	Florida	6022
Cachet Financial Solutions, Inc.	7/9/2014	\$6,750,000	OTC	Delaware	6770
Calithera Biosciences, Inc.	10/1/2014	\$80,000,000	Nasdaq Global Select Market	Delaware	2834
Cambridge Capital Acquisition Corporation	12/17/2013	\$70,000,000	Nasdaq Capital Market	Delaware	6770
Cancer Genetics, Inc.	4/4/2013	\$6,000,000	Nasdaq Capital Market	Delaware	8071
Capitol Acquisition Corp. II	5/10/2013	\$180,000,000	Nasdaq Capital Market	Delaware	6770
Capnia, Inc.	11/12/2014	\$10,725,000	Nasdaq Capital Market	Delaware	3845
Cara Therapeutics, Inc.	1/30/2014	\$55,000,000	Nasdaq Global Market	Delaware	2834
Care.com, Inc.	1/23/2014	\$90,950,000	NYSE	Delaware	7200
CareDx, Inc.	7/16/2014	\$40,000,000	Nasdaq Global Market	Delaware	8071
Castlight Health, Inc.	3/13/2014	\$177,600,000	NYSE	Delaware	7374
CB Pharma Acquisition Corp.	12/12/2014	\$40,000,000	Nasdaq Capital Market	Cayman Islands	-6770
Celladon Corporation	1/29/2014	\$44,000,000	Nasdaq Global Market	Delaware	2836
Cellular Dynamics International, Inc.	7/24/2013	\$46,152,000	Nasdaq Global Market	Wisconsin	2836
Century Communities, Inc.	6/17/2014	\$103,040,000	NYSE	Delaware	1531
Cerulean Pharma Inc.	4/10/2014	\$59,500,000	Nasdaq Global Market	Delaware	2834
ChannelAdvisor Corporation	5/22/2013	\$80,500,000	NYSE	Delaware	7372
Cheetah Mobile Inc.	5/7/2014	\$168,000,000	NYSE	Cayman Islands	7372
Chegg, Inc.	11/12/2013	\$187,500,000	NYSE	Delaware	8200
Cherry Hill Mortgage Investment Corporation	10/3/2013	\$130,000,000	NYSE	Maryland	6798
Chimerix, Inc.	4/10/2013	\$95,306,400	Nasdaq Global Market	Delaware	2834
China Commercial Credit, Inc.	8/13/2013	\$8,905,000	Nasdaq Capital Market	Delaware	6021
City Office REIT, Inc.	4/14/2014	\$72,500,000	NYSE	Maryland	6798
ClubCorp Holdings, Inc.	9/19/2013	\$252,000,000	NYSE	Nevada	7997
Coherus BioSciences, Inc.	11/12/2014	\$85,000,050	Nasdaq Global Market	Delaware	2836
Committed Capital Acquisition Corporation II	4/10/2014	\$35,000,000	OTC Bulletin Board	Delaware	6770

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NAME	DATE OF OFFERING	OFFERING SIZE	EXCHANGE LISTING	STATE OF INCORPORATION	INDUSTRY CODE
Conatus Pharmaceuticals Inc.	7/24/2013	\$66,000,000	Nasdaq Global Market	Delaware	2834
Concert Pharmaceuticals, Inc.	2/12/2014	\$84,000,000	Nasdaq Global Market	Delaware	2834
ConnectOne Bancorp, Inc.	2/11/2013	\$44,800,000	Nasdaq Global Select Market	New Jersey	6022
Connecture, Inc.	12/11/2014	\$53,080,000	Nasdaq Global Market	Delaware	7372
Continental Building Products, Inc.	2/4/2014	\$164,710,000	NYSE	Delaware	3270
ContraFect Corporation	7/28/2014	\$36,000,000	Nasdaq Capital Market	Delaware	2834
Control4 Corporation	8/1/2013	\$64,000,000	Nasdaq Global Select Market	Delaware	3670
Controladora Vuela Compañía de Aviación, S.A.B. de	9/17/2013	\$346,153,848	NYSE	Mexico	4512
Corium International, Inc.	4/2/2014	\$52,000,000	Nasdaq Global Market	Delaware	2834
Coupons.com Incorporated	3/6/2014	\$168,000,000	NYSE	Delaware	7310
Covisint Corporation	9/26/2013	\$64,000,000	Nasdaq Global Select Market	Michigan	7374
Criteo S.A.	11/4/2013	\$250,559,980	nasdaq global market	France	7311
Cvent, Inc.	8/8/2013	\$117,600,000	NYSE	Delaware	7372
Cyan, Inc.	5/8/2013	\$88,000,000	NYSE	Delaware	7373
CyberArk Software Ltd.	9/23/2014	\$85,760,000	Nasdaq Global Select Market	Israel	7372
CyrusOne Inc.	1/17/2013	\$315,500,000	Nasdaq Global Select Market	Maryland	6798
Dave & Buster's Entertainment, Inc.	10/9/2014	\$94,117,648	Nasdaq Global Market	Delaware	5812
DBV Technologies S.A.	10/21/2014	\$92,572,155	Nasdaq Global Select Market	France	2836
Dermira, Inc.	10/2/2014	\$125,000,000	Nasdaq Global Select Market	Delaware	2834
Diamond Resorts International, Inc.	7/18/2013	\$217,000,000	NYSE	Delaware	7011
Dicerna Pharmaceuticals, Inc.	1/29/2014	\$90,000,000	Nasdaq Global Select Market	Delaware	2834
Dipexium Pharmaceuticals, Inc.	3/12/2014	\$33,000,000	Nasdaq Capital Market	Delaware	2834
Dorian LPG Ltd.	5/7/2014	\$134,999,997	NYSE	Marshall Islands	4412
DT Asia Investments Limited	9/30/2014	\$60,000,000	Nasdaq Capital Market	British Virgin Islands	6770
Eagle Pharmaceuticals, Inc.	2/11/2014	\$50,250,000	Nasdaq Global Market	Delaware	2834
Eclipse Resources Corporation	6/19/2014	\$818,100,000	NYSE	Delaware	1311
Egalet Corporation	2/5/2014	\$50,400,000	Nasdaq Global Market	Delaware	2834
eHi Car Services Limited	11/17/2014	\$120,000,000	NYSE	Cayman Islands	7510
El Pollo Loco Holdings, Inc.	7/24/2014	\$107,142,855	Nasdaq Global Select Market	Delaware	5812
Eleven Biotherapeutics, Inc.	2/5/2014	\$50,000,000	Nasdaq Global Market	Delaware	2834

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NAME	DATE OF OFFERING	OFFERING SIZE	EXCHANGE LISTING	STATE OF INCORPORATION	INDUSTRY CODE
Ellington Residential Mortgage REIT	5/1/2013	\$129,000,000	NYSE	Maryland	6798
Enanta Pharmaceuticals, Inc.	3/20/2013	\$56,000,000	Nasdaq Global Select Market	Delaware	2834
Endurance International Group Holdings, Inc.	10/24/2013	\$252,612,000	Nasdaq Global Select Market	Delaware	7372
Energous Corporation	3/27/2014	\$24,000,000	Nasdaq Capital Market	Delaware	3663
Enzymotec Ltd.	9/26/2013	\$61,768,000	Nasdaq Global Select Market	Israel	2834
Epizyme, Inc.	5/30/2013	\$77,130,000	Nasdaq Global Market	Delaware	2834
Eros International Plc	11/14/2013	\$51,425,000	NYSE	Isle of Man	7822
Esperion Therapeutics, Inc.	6/25/2013	\$65,100,000	Nasdaq Global Market	Delaware	2834
Essent Group Ltd.	10/30/2013	\$335,072,006	NYSE	Bermuda	6351
EVERTEC, Inc.	4/11/2013	\$505,263,180	NYSE	Puerto Rico	7374
Everyday Health, Inc.	3/27/2014	\$100,100,000	NYSE	Delaware	7389
Evogene Ltd.	11/20/2013	\$73,750,000	NYSE	ISrael	2870
Evoke Pharma, Inc.	9/24/2013	\$25,200,000	Nasdaq Capital Market	Delaware	2834
Fairway Group Holdings Corp.	4/6/2013	\$177,745,000	Nasdaq Global Market	Delaware	5411
Farmland Partners Inc.	4/10/2014	\$53,200,000	NYSE MKT	Maryland	6798
Fate Therapeutics, Inc.	9/30/2013	\$40,000,002	Nasdaq Global Market	Delaware	2836
FCB Financial Holdings, Inc	7/31/2014	\$165,440,000	NYSE	Delaware	6021
FibroGen, Inc.	11/13/2014	\$145,800,000	NASDAQ	Delaware	2834
Fifth Street Asset Management Inc.	10/29/2014	\$102,000,000	Nasdaq Global Select Market	Delaware	6282
FireEye, Inc.	9/19/2013	\$303,500,000	Nasdaq Global Select Market	Delaware	3577
First NBC Bank Holding Company	5/9/2013	\$100,000,008	Nasdaq Global Select Market	Louisiana	6022
Five Oaks Investment Corp.	3/21/2013	\$60,499,995	Nasdaq Global Select Market	Maryland	6798
Five Prime Therapeutics, Inc.	9/18/2013	\$62,400,000	NYSE	Delaware	2834
Five9, Inc.	4/3/2014	\$70,000,000	Nasdaq Global Select Market	Delaware	7374
Flexion Therapeutics, Inc.	2/11/2014	\$65,000,000	Nasdaq Stock Market	Delaware	2834
FMSA Holdings Inc.	10/2/2014	\$400,000,000	Nasdaq Global Market	Delaware	1400
Foamix Pharmaceuticals Ltd.	9/17/2014	\$40,200,000	NYSE	Israel	2833
Forward Pharma A/S	10/14/2014	\$220,500,000	Nasdaq Global Market	FPI	2834
Foundation Medicine, Inc.	9/25/2013	\$105,999,984	Nasdaq Global Select Market	Delaware	8071
Fox Factory Holding Corp.	8/7/2013	\$128,571,435	Nasdaq Global Select Market	Delaware	3571
Freshpet, Inc.	11/6/2014	\$156,250,005	Nasdaq Global Select Market	Delaware	2040
Galmed Pharmaceuticals Ltd.	3/12/2014	\$38,304,900	Nasdaq Global Market	Israel	2834
Garnero Group Acquisition	6/25/2014	\$125,000,000	Nasdaq Capital	Cayman Islands	6770

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NAME	DATE OF OFFERING	OFFERING SIZE	EXCHANGE LISTING	STATE OF INCORPORATION	INDUSTRY CODE
Company			Market		
Genocea Biosciences, Inc.	2/4/2014	\$66,000,000	Nasdaq Capital Market	Delaware	2836
GeoPark Limited	2/6/2014	\$94,500,000	Nasdaq Global Market	Bermuda	1311
Gigamon Inc.	6/11/2013	\$128,250,000	NYSE	Delaware	7374
Gladstone Land Corporation	1/28/2013	\$50,000,000	NYSE	Maryland	6798
Global Defense & National Security Systems, Inc.	10/23/2013	\$60,000,000	Nasdaq Global Market	Delaware	6770
Globant S.A.	7/17/2014	\$58,500,000	Nasdaq Capital Market	Luxembourg	7374
Globelimmune, Inc.	7/1/2014	\$15,000,000	NYSE	Delaware	2834
GlycoMimetics, Inc.	1/9/2014	\$56,000,000	nasdaq capital market	Delaware	2834
Gogo Inc.	6/20/2013	\$187,000,000	Nasdaq Global Market	Delaware	4099
GoPro, Inc.	6/25/2014	\$427,200,000	Nasdaq Global Select Market	Delaware	3861
Great Basin Scientific, Inc.	10/8/2014	\$8,050,000	Nasdaq Global Select Market	Delaware	3841
Great Western Bancorp, Inc.	10/14/2014	\$288,000,000	Nasdaq Capital Market	Delaware	6022
Green Bancorp, Inc.	8/7/2014	\$70,312,500	NYSE	Texas	6021
GrubHub Inc.	4/3/2014	\$192,545,964	Nasdaq Global Select Market	Delaware	7389
GW Pharmaceuticals plc	5/1/2013	\$31,150,000	NYSE	England/Wales	2834
Hannon Armstrong Sustainable Infrastructure	4/17/2013	\$166,666,662	Nasdaq Global Market	Maryland	6798
Health Insurance Innovations, Inc.	2/7/2013	\$65,333,338	NYSE	Delaware	6411
HealthEquity, Inc.	8/5/2014	\$127,400,000	Nasdaq Global Market	Delaware	7389
Heat Biologics, Inc.	7/23/2013	\$25,000,000	Nasdaq Global Select Market	Delaware	2834
Hennessy Capital Acquisition Corp.	1/16/2014	\$100,000,000	Nasdaq Capital Market	Delaware	3713
Heritage Insurance Holdings, Inc.	5/22/2014	\$66,000,000	Nasdaq Capital Market	Delaware	6331
HF2 Financial Management Inc.	3/21/2013	\$153,000,000	NYSE	Delaware	6282
Histogenics Corporation	12/2/2014	\$65,000,000	Nasdaq Capital Market	Delaware	3842
Hortonworks, Inc.	12/11/2014	\$100,000,000	Nasdaq Global Market	Delaware	7372
HubSpot, Inc.	10/9/2014	\$125,000,000	Nasdaq Global Select Market	Delaware	7372
Hydra Industries Acquisition Corp.	10/24/2014	\$80,000,000	NYSE	Delaware	6770
Ideal Power Inc.	11/22/2013	\$15,000,000	Nasdaq Capital Market	Delaware	3620
iDreamSky Technology Limited	8/6/2014	\$115,500,000	Nasdaq Capital Market	Foreign	7372
iKang Healthcare Group, Inc.	4/8/2014	\$152,667,844	Nasdaq Global Select Market	British Virgin Islands	8011
Immune Design Corp.	7/23/2014	\$60,000,000	Nasdaq Global	Delaware	2834

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NAME	DATE OF OFFERING	OFFERING SIZE	EXCHANGE LISTING	STATE OF INCORPORATION	INDUSTRY CODE
			Select Market		
Imprivata, Inc.	6/24/2014	\$75,000,000	Nasdaq Global Market	Delaware	7372
INC Research Holdings, Inc.	11/13/2014	\$149,999,998	NYSE	Delaware	8731
Independence Contract Drilling, Inc.	8/7/2014	\$110,000,000	Nasdaq Global Select Market	Delaware	1381
Independent Bank Group, Inc.	4/2/2013	\$83,200,000	NYSE	Texas	3022
Innocoll AG	7/25/2014	\$58,500,000	Nasdaq Global Market	germany	2834
Inogen, Inc.	2/13/2014	\$70,588,208	Nasdaq Global Market	Delaware	3842
Installed Building Products, Inc.	2/12/2014	\$81,950,000	Nasdaq Global Select Market	Delaware	1520
Insys Therapeutics, Inc.	5/2/2013	\$32,000,000	NYSE	Delaware	2834
Intersect ENT, Inc.	7/23/2014	\$55,000,000	Nasdaq Global Market	Delaware	3841
Intrawest Resorts Holdings, Inc.	1/30/2014	\$187,500,000	Nasdaq Global Market	Delaware	7990
Intrexon Corporation	8/7/2013	\$159,999,984	NYSE	Virginia	8731
Investar Holding Corporation	6/30/2014	\$40,250,000	NYSE	Louisiana	6022
iRadimed Corporation	7/15/2014	\$12,600,000	NYSE	Delaware	3841
James River Group Holdings, Ltd.	12/11/2014	\$231,000,000	Nasdaq Capital Market		6331
JGWPT Holdings Inc.	11/8/2013	\$115,500,000	Nasdaq National Market	Delaware	6199
Jones Energy, Inc.	7/23/2013	\$187,500,00	NYSE	Delaware	1311
Jumei International Holding Limited	5/15/2014	\$245,080,000	NYSE	Cayman Islands	5990
Juno Therapeutics, Inc.	12/18/2014	\$246,550,008	NYSE	Delaware	2836
K2M Group Holdings, Inc.	5/7/2014	\$132,375,000	Nasdaq Global Select Market	Virginia	3841
KaloBios Pharmaceuticals, Inc.	1/31/2013	\$70,000,000	Nasdaq Global Select Market	Delaware	2834
Kamada Ltd.	5/30/2013	\$51,639,383	Nasdaq Global Market	Israel	2834
Karyopharm Therapeutics Inc.	11/12/2013	\$108,800,000	Nasdaq Global Select Market	Delaware	2834
Kindred Biosciences, Inc.	12/11/2013	\$52,500,000	Nasdaq Global Select Market	Delaware	2834
Kite Pharma, Inc.	6/19/2014	\$127,500,000	Nasdaq Capital Market	Delaware	2836
Kofax Limited	12/5/2013	\$11,700,000	Nasdaq Global Select Market	Bermuda	7370
La Quinta Holdings Inc.	4/8/2014	\$650,250,000	Nasdaq Global Select Market	Delaware	7011
Ladder Capital Corp	2/5/2014	\$225,250,000	NYSE	Delaware	6500
LDR Holding Corporation	10/8/2013	\$75,000,000	NYSE	Texas	3841
Leju Holdings Limited	4/16/2014	\$100,000,000	Nasdaq Global Select Market	Cayman Islands	6500
Levy Acquisition Corp.	11/13/2013	\$150,000,000	NYSE	Illinois	6770
LGI Homes, Inc.	11/6/2013	\$99,000,000	Nasdaq Capital Market	Delaware	1531
LightInTheBox Holding Co., Ltd.	6/11/2013	\$78,850,000	Nasdaq Global Select Market	Cayman Islands	5961
Liquid Holdings Group, LLC	7/25/2013	\$28,575,000	NYSE	Delaware	7372



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NAME	DATE OF OFFERING	OFFERING SIZE	EXCHANGE LISTING	STATE OF INCORPORATION	INDUSTRY CODE
Lombard Medical, Inc.	4/25/2014	\$55,000,000	Nasdaq Global Market	Cayman Islands	3841
Loxo Oncology, Inc.	7/31/2014	\$68,399,994	Nasdaq Global Market	Delaware	2834
Luxoft Holding, Inc	6/25/2013	\$69,565,190	Nasdaq Global Market	Foreign	7371
Macrocure Ltd.	7/30/2014	\$53,500,000	NYSE	ISrael	2836
MacroGenics, Inc.	10/16/2013	\$80,000,000	Nasdaq Global Market	Delaware	2834
Malibu Boats, Inc.	1/30/2014	\$100,000,012	Nasdaq Global Select Market	Delaware	3730
Marcus & Millichap, Inc.	10/30/2013	\$72,000,000	Nasdaq Global Select Market	Delaware	6531
Marin Software Incorporated	3/21/2013	\$105,000,000	NYSE	Delaware	7374
Marinus Pharmaceuticals, Inc.	7/31/2014	\$45,000,000	NYSE	Delaware	2834
Marketo, Inc.	5/16/2013	\$78,773,617	Nasdaq Global Market	Delaware	7372
Markit Ltd.	6/18/2014	\$1,283,336,472	Nasdaq Global Select Market	Bermuda	6200
Marrone Bio Innovations, Inc.	8/1/2013	\$57,000,000	Nasdaq Global Select Market	Delaware	2870
Materialise NV	6/24/2014	\$96,000,000	Nasdaq Global Market	Belgium	7372
Mavenir Systems, Inc.	11/6/2013	\$54,500,000	Nasdaq Global Select Market	Delaware	3576
Medical Transcription Billing, Corp.	7/22/2014	\$20,400,000	NYSE	Delaware	7372
MediWound Ltd.	3/19/2014	\$70,000,000	Nasdaq Capital Market	Israel	2833
Medley Management Inc.	9/23/2014	\$108,000,000	Nasdaq Global Market	Delaware	6282
MEDOVEX Corp.	12/19/2014	\$8,000,004	NYSE	Nevada	3841
MedWorth Acquisition Corp.	6/26/2013	\$52,800,000	Nasdaq Capital Market	New York	8082
Memorial Resource Development Corp.	6/12/2014	\$813,200,000	Nasdaq Capital Market	Delaware	1311
Minerva Neurosciences, Inc.	6/30/2014	\$32,727,270	Nasdaq Global Select Market	Delaware	2834
MiX Telematics Limited	8/9/2013	\$100,737,568	Nasdaq Global Market	South Africa	7372
MobileIron, Inc.	6/11/2014	\$99,999,999	NYSE	Delaware	7372
Mobileye N.V.	7/31/2014	\$889,725,000	Nasdaq Global Select Market	Israel	7372
Model N, Inc.	3/19/2013	\$104,470,000	NYSE	Delaware	7370
Moelis & Company	4/15/2014	\$162,500,000	NYSE	Delaware	6282
MOKO Social Media Limited	6/26/2014	\$8,250,000	NYSE	Australia	7370
MOL Global, Inc.	10/9/2014	\$168,750,000	Nasdaq Global Market	Cayman Islands	7389
Momo Inc.	12/10/2014	\$216,000,000	Nasdaq Global Market	Cayman Islands	7372
Montage Technology Group Limited	9/25/2013	\$71,000,000	Nasdaq Global Market	Cayman Islands	3674
NanoString Technologies, Inc.	6/25/2013	\$54,000,000	Nasdaq Global Market	Delaware	2836
Navigator Holdings Ltd.	11/20/2013	\$228,000,000	Nasdaq Global	Marshall Islands	4412

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NAME	DATE OF OFFERING	OFFERING SIZE	EXCHANGE LISTING	STATE OF INCORPORATION	INDUSTRY CODE
			Market		
Neff Corporation	11/20/2014	\$157,142,850	NYSE	Delaware	7359
Neothetics, Inc.	11/19/2014	\$65,100,000	NYSE	Delaware	2834
NephroGenex, Inc.	2/11/2014	\$37,200,000	Nasdaq Global Market	Delaware	2834
NeuroDerm Ltd.	11/13/2014	\$45,000,000	Nasdaq Capital Market	Israel	2834
Nevro Corp.	11/5/2014	\$126,000,000	Nasdaq Global Market	Delaware	3841
New Relic, Inc.	12/11/2014	\$115,000,000	NYSE	Delaware	7372
Nimble Storage, Inc.	12/12/2013	8,000,000	NYSE	Delaware	3572
NMI Holdings, Inc.	11/7/2013	2,103,395	NYSE	Delaware	6351
Noodles & Company	1/27/2013	5,357, 143	Nasdaq Global Market	Delaware	5812
Norcraft Companies, Inc.	15/6/13	6,397,073	Nasdaq Global Select Market	Delaware	
Nord Anglia Education, Inc.	3/25/2014	19,000,000	NYSE	Cayman Islands	8200
Nordic American Offshore Ltd.	6/11/2014	58,882,352	NYSE	Marshall Islands	4412
North Atlantic Drilling Ltd.	1/28/2014	57,552,074	NYSE	UK	1381
NRG Yield, Inc.	7/16/2013	19,575,000	NYSE	Delaware	4911
NV5 Holdings, Inc.	3/27/2013	14,000,000	NYSE	Delaware	7380
Ocular Therapeutix, Inc.	7/24/2014	5,000,000	Nasdaq Capital Market	Delaware	2834
Omthera Pharmaceuticals, Inc.	4/11/2013	8,000,000	Nasdaq Global Market	Delaware	2834
On Deck Capital, Inc.	12/16/2014	\$200,000,000	Nasdaq Global Market	Delaware	6199
OncoMed Pharmaceuticals, Inc.	7/17/2013	4,800,000	NYSE	Delaware	2834
Onconova Therapeutics, Inc	7/24/2013	5,166,667	Nasdaq Global Select Market	Delaware	2834
Ophthotech Corporation	9/24/2013	7,600,000	Nasdaq Global Market	Delaware	2834
Opower, Inc.	4/3/2014	6,100,000	Nasdaq Global Select Market	Delaware	7372
Orchid Island Capital, Inc. (REIT)	2/14/2013	2,360,000	NYSE	Maryland	6798
Otonomy, Inc.	8/12/2014	6,250,000	NYSE MKT	Delaware	2834
Oxford Immunotec Global PLC	11/21/2013	5,360,000	Nasdaq Global Select Market	England/Wales	2835
Papa Murphy's Holdings, Inc.	5/1/2014	5,833,333	Nasdaq Global Market	Delaware	5812
Paramount Group, Inc.	11/18/2014	\$2,292,500,000	Nasdaq Global Select Market	Maryland	6798
Parnell Pharmaceuticals Holdings Ltd	6/18/2014	5,000,000	NYSE	Australia	2834
Parsley Energy, Inc.	5/22/2014	50,000,000	NYSE	Delaware	1311
Pattern Energy Group Inc.	9/26/2013	16,000,000	NASDAQ Global Market	Delaware	4911
Paycom Software, Inc.	3/14/2014	6,645,000	NYSE	Delaware	7372
Paylocity Holding Corporation	3/18/2014	7,045,000	NASDAQ Global Select Market	Delaware	7372
Peak Resorts, Inc.	11/20/2014	\$90,000,000	NASDAQ Global Market	Missouri	7990
PennyMac Financial Services,	5/8/2013	11,111,111	NYSE	Delaware	6162

## A Survey and Related Resources

NAME	DATE OF OFFERING	OFFERING SIZE	EXCHANGE LISTING	STATE OF INCORPORATION	INDUSTRY CODE
Inc.					
Pfenex Inc.	7/23/2014	8,333,333	NYSE MKT	Delaware	2834
Phibro Animal Health Corporation	4/10/2014	12,745,392	NASDAQ	Delaware	2834
Physicians Realty Trust (REIT)	7/8/2013	10,434,782	NYSE	Maryland	6798
Portola Pharmaceuticals, Inc.	5/21/2013	8,422,758	NASDAQ Global Market	Delaware	2834
Potbelly Corporation	10/3/2013	7,500,000	NASDAQ Global Select Market	Delaware	5812
PRA Health Sciences, Inc.	11/12/2014	\$305,581,392	NASDAQ Global Select Market	Delaware	8731
Premier, Inc.	9/25/2013	28,151,958	NASDAQ Global Select Market	Delaware	8741
Professional Diversity Network, LLC	3/5/2013	2,625,000	NASDAQ Capital Market	Delaware	7370
ProQR Therapeutics B.V.	9/18/2014	7,500,000	NASDAQ Global Market	The Netherlands	2834
Prosensa Holding B.V.	6/27/2013	6,000,000	NASDAQ Global Select Market	The Netherlands	2834
Proteon Therapeutics, Inc.	10/21/2014	6,110,000	NASDAQ Global Market	Delaware	2836
PTC Therapeutics, Inc.	6/19/2013	8,372,000	NASDAQ Global Select Market	Delaware	2834
Q2 Holdings, Inc.	3/19/2014	7,760,870	NYSE	Delaware	7372
QIWI plc	5/2/2013	12,500,000	NASDAQ Global Select Market	Cyprus	7389
QTS Realty Trust, Inc.	10/8/2013	12,250,000	NYSE	Maryland	6798
Quartet Merger Corp.	10/28/2013	8,400,000	NASDAQ Capital Market	Delaware	6770
Quinpario Acquisition Corp.	8/8/2013	150,000,000	NASDAQ Capital Market	Delaware	6770
Qunar Cayman Islands Limited	10/31/2013	111,111,000	NASDAQ Global Market	Cayman Islands	7389
Quotient Limited	4/14/2014	5,000,000	NASDAQ Global Market	Jersey, Channel Islands	2835
Rally Software Development Corp.	4/11/2013	6,000,000	NYSE	Delaware	7372
RCS Capital Corporation	6/5/2013	2,500,000	NYSE	Delaware	6211
RE/MAX Holdings, Inc.	10/1/2013	10,000,000	NYSE	Delaware	6531
Receptos, Inc.	5/8/2013	5,200,000	NASDAQ Global Market	Delaware	2834
Recro Pharma, Inc.	3/6/2014	3,750,000	NASDAQ Capital Market	Pennsylvania	2834
Regado Biosciences, Inc.	8/22/2013	10,750,000	NASDAQ Capital Market	Delaware	2834
Relypsa Inc.	11/14/2013	6,850,000	NASDAQ Global Select Market	Delaware	2834
Resonant Inc.	6/3/2014	2,700,000	NASDAQ Capital Market	Delaware	3674
RetailMeNot, Inc.	7/18/2013	9,090,908	NASDAQ Global Select Market	Delaware	7310
Revance Therapeutics, Inc.	2/5/2014	6,000,000	NASDAQ Global Market	Delaware	2834
ReWalk Robotics Ltd.	9/11/2014	3,000,000	NASDAQ Global Market	ISrael	3842

## A Survey and Related Resources

NAME	DATE OF OFFERING	OFFERING SIZE	EXCHANGE LISTING	STATE OF INCORPORATION	INDUSTRY CODE
Rexford Industrial Realty, Inc. (REIT)	7/18/2013	16,000,000	NYSE	Maryland	6798
Rice Energy Inc.	1/23/2014	44,000,000	NYSE	Delaware	1311
RingCentral, Inc.	9/26/2013	7,500,000	NYSE	Delaware	7374
Rocket Fuel Inc.	9/19/2013	4,000,000	NASDAQ Global Select Market	Delaware	7370
ROI Acquisition Corp. II	9/16/2013	125,000,000	NASDAQ Capital Market	Delaware	6770
Roka Bioscience, Inc.	7/16/2014	5,000,000	NASDAQ Global Market	Delaware	3826
RSP Permian, Inc.	1/17/2014	20,000,000	NYSE	Delaware	1311
Ruthigen, Inc.	3/21/2014	2,650,000	NASDAQ Capital Market	Delaware	2834
Sage Therapeutics, Inc.	6/17/2014	5,000,000	NASDAQ Global Market	Delaware	2834
Scorpio Bulkers Inc.	12/11/2013	31,300,000	NYSE	Marshall Islands	4412
SCYNEXIS, Inc.	5/2/2014	6,200,000	NASDAQ Global Market	Delaware	2834
Second Sight Medical Products, Inc.	11/18/2014	\$31,500,000	NASDAQ Capital Market	CA	3845
Semler Scientific, Inc.	2/20/2014	1,430,000	NASDAQ Capital Market	Delaware	3845
SFX Entertainment, Inc.	1/8/2014	20,000,000	NASDAQ Global Select Market	Delaware	7900
Sientra, Inc.	10/28/2014	5,000,000	NASDAQ Global Select Market	Delaware	3842
Signal Genetics, Inc.	6/17/2014	850,000	NASDAQ Capital Market	Delaware	8071
Silver Eagle Acquisition Corp.	7/25/2013	30,000,000	NASDAQ Capital Market	Delaware	6770
Silver Spring Networks, Inc.	3/12/2013	4,750,000	NYSE	Delaware	3576
Silvercrest Asset Management Group Inc.	6/26/2013	4,790,684	NASDAQ Global Market	Delaware	6282
Sino Mercury Acquisition Corp.	8/26/2014	4,000,000	NASDAQ Capital Market	Delaware	6770
Sky Solar Holdings, Ltd.	11/18/2014	\$44,200,000	NASDAQ Capital Market	Cayman Islands	4931
Sophiris Bio Inc.	8/16/2013	13,000,000	NASDAQ Global Market	British Columbia	2834
Spark Energy, Inc.	7/28/2014	3,000,000	NASDAQ Global Select Market	Delaware	4931
Sportsman's Warehouse Holdings, Inc.	4/16/2014	12,500,000	NASDAQ Global Select Market	Delaware	5940
Square 1 Financial, Inc.	3/26/2014	5,781,126	NASDAQ Global Select Market	Delaware	6022
Stemline Therapeutics, Inc.	1/28/2013	3,317,644	NASDAQ Capital Market	Delaware	2834
Stock Building Supply Holdings, Inc.	8/8/2013	4,411,765	NASDAQ	Delaware	5211
Stonegate Mortgage Corporation	10/9/2013	7,100,000	NYSE	Ohio	6162
STORE Capital Corporation	11/17/2014	\$508,750,000	NYSE	Maryland	6798
SunEdison Semiconductor Limited	1/28/2013	3,317,644	NASDAQ Global Select Market	Delaware	2834
Sungy Mobile Limited	41,599	7,000,000	NASDAQ Global	Cayman Islands	7372

## A Survey and Related Resources

NAME	DATE OF OFFERING	OFFERING SIZE	EXCHANGE LISTING	STATE OF INCORPORATION	INDUSTRY CODE
			Market		
Superior Drilling Products, Inc.	5/23/2014	6,750,000	NYSE MKT	Utah	3533
Surgical Care Affiliates, Inc.	10/29/2013	9,777,778	NASDAQ	Delaware	8093
T2 Biosystems, Inc.	8/6/2014	5,200,000	NASDAQ Global Market	Delaware	3841
Tableau Software, Inc.	5/16/2013	8,200,000	NYSE	Delaware	7372
Talmer Bankcorp, Inc.	2/11/2014	7,142,858	NASDAQ Capital Market	Michigan	6021
Tandem Diabetes Care, Inc.	11/13/2013	8,000,000	NASDAQ Global Market	Delaware	3841
Tarena International, Inc.	4/2/2014	15,300,000	NASDAQ Global Select Market	Cayman Islands	8200
TCP International Holdings Ltd.	6/25/2014	7,142,858	NYSE	Switzerland	3640
TerraForm Power, Inc.	7/17/2014	20,065,000	NASDAQ Global Select Market	Delaware	4911
Terrapin 3 Acquisition Corporation	7/16/2014	185,000,000	NASDAQ Capital Market	Delaware	6770
TetraLogic Pharmaceuticals Corporation	12/11/2013	7,150,000	NASDAQ Global Market	Delaware	2834
Tetraphase Pharmaceuticals, Inc.	3/19/2013	10,714,286	NASDAQ Global Market	Delaware	2834
Textura Corporation	6/6/2013	5,000,000	NYSE	Delaware	7372
The Container Store Group, Inc.	10/31/2013	\$225,000,000	NYSE	Delaware	5700
The ExOne Company	2/6/2013	\$95,400,000	NASDAQ Global Market	Delaware	3355
The Habit Restaurants, Inc.	11/19/2014	\$90,000,000	NASDAQ Global Market	Delaware	5812
The Joint Corp.	11/10/2014	\$19,500,000	NASDAQ Capital Market	Delaware	6794
The New Home Company Inc.	1/30/2014	7,812,500	NYSE	Delaware	1531
The Rubicon Project, Inc.	4/1/2014	6,770,995	NYSE	Delaware	7370
Third Point Reinsurance Ltd.	8/14/2013	22,053,286	NYSE	Bermuda	6331
Tokai Pharmaceuticals, Inc.	9/6/2014	6,480,000	NASDAQ Global Market	Delaware	2834
Townsquare Media, Inc.	7/23/2014	8,333,333	NYSE	Delaware	4832
Transocean Partners LLC	7/31/2014	17,500,000	NYSE	Marshall Islands	1381
Tremor Video, Inc.	6/26/2013	7,500,000	NYSE	Delaware	7311
Trevena, Inc.	1/31/2014	9,250,000	NASDAQ Global Select Market	Delaware	2834
TRI Pointe Homes, Inc.	1/30/2013	13,689,000	NYSE	Delaware	1531
TriState Capital Holdings, Inc.	5/8/2013	5,700,000	NASDAQ Global Select Market	Pennsylvania	6022
Triumph Bancorp, Inc.	15/7/14	6,700,000	NASDAQ Global Select Market	Texas	6022
TriVascular Technologies, Inc.	4/15/2010	6,500,000	NASDAQ Global Select Market	Delaware	N/A
TrueCar, Inc.	5/21/2014	7,775,000	NASDAQ Global Select Market	Delaware	7370
Trupanion, Inc.	7/17/2014	7,125,000	NYSE	Delaware	6324
TubeMogul, Inc.	7/23/2014	6,250,000	NASDAQ Global Select Market	Delaware	7372
Tuniu Corporation	5/8/2014	8,000,000	NASDAQ Global Select Market	Cayman Islands	4700
Twitter, Inc.	11/13/2013	70,000,000	NYSE	Delaware	7370

## A Survey and Related Resources

NAME	DATE OF OFFERING	OFFERING SIZE	EXCHANGE LISTING	STATE OF INCORPORATION	INDUSTRY CODE
UBIC, Inc.	5/15/2013	1,100,000	NASDAQ Global Market	Japan	7374
UCP, Inc.	7/17/2013	7,750,000	NYSE	Delaware	1531
Ultragenyx Pharmaceutical Inc.	1/30/2014	5,760,369	NASDAQ Global Select Market	Delaware	2834
uniQure B.V.	2/5/2014	5,400,000	NASDAQ Global Select Market	The Netherlands	2834
Upland Software, Inc.	11/5/2014	3,846,154	NASDAQ Global Select Market	Delaware	7372
Varonis Systems, Inc.	2/27/2014	4,800,000	NASDAQ Global Select Market	Delaware	7372
Vascular Biogenics Ltd.	41,850	5,400,000	NASDAQ Global Select Market	Israel	2834
Veeva Systems Inc.	10/15/2013	13,045,000	NYSE	Delaware	7372
Veracyte, Inc.	10/29/2013	5,000,000	NASDAQ Global Market	Delaware	8071
Veritex Holdings, Inc.	10/8/2014	2,700,000	NASDAQ Global Market	Texas	6022
Versartis, Inc.	3/20/2014	6,000,000	NASDAQ Global Select Market	Delaware	2834
Vince Holding Corp.	11/21/2013	10,000,000	NYSE	Delaware	5600
Violin Memory, Inc.	9/26/2013	18,000,000	NYSE	Delaware	3572
Vitae Pharmaceuticals, Inc.	9/24/2014	6,875,000	NASDAQ Global Market	Delaware	2834
Vital Therapies, Inc.	4/17/2014	54,000,000	NASDAQ Global Market	Delaware	2834
Vivint Solar, Inc.	10/1/2014	20,600,000	NYSE	Delaware	3433
voxeljet AG (FPI)	10/17/2013	6,500,000	NYSE	Germany	3555
Wayfair Inc.	10/1/2014	\$319,000,000	NYSE	Delaware	5961
WCI Communities, Inc	7/24/2013	\$102,286,365	NYSE	Delaware	1531
Weibo Corporation	4/16/2014	\$285,600,000	NASDAQ Global Select Market	Cayman Islands	7370
Wix.com Ltd.	11/5/2013	\$127,050,000	NASDAQ Global Market	Israel	7370
WL Ross Holding Corp.	6/5/2014	\$435,000,000	NASDAQ Capital Market	Delaware	6770
Workiva Inc.	12/11/2014	\$100,800,000	NYSE	Delaware	7372
Xencor, Inc.	12/2/2013	\$70,015,000	NASDAQ Global Market	Delaware	2834
Xenon Pharmaceuticals Inc.	11/4/2014	\$36,000,000	NASDAQ Global Market	British Columbia	2834
xG Technology, Inc.	7/22/2013	\$7,364,544.96	NASDAQ Capital Market	Delaware	3669
Xoom Corporation	2/14/2013	\$101,200,000	NASDAQ Global Select Market	Delaware	6099
Xunlei Limited	6/23/2014	\$87,780,000	NASDAQ Global Select Market	Cayman Islands	7372
Yodlee, Inc.	10/2/2014	\$75,000,000	NASDAQ Global Select Market	Delaware	7372
YuMe, Inc.	8/6/2013	\$46,125,000	NYSE	Delaware	7311
Zafgen, Inc.	6/18/2014	\$96,000,000	NASDAQ Global Market	Delaware	2834
ZAIS Financial Corp.	2/7/2013	\$120,062,500	NYSE	Maryland	6798
Zendesk, Inc.	5/14/2014	\$99,999,999	NYSE	Delaware	7374
Zoe's Kitchen, Inc.	4/10/2014	\$87,499,995	NYSE	Delaware	5812



## A Survey and Related Resources

NAME	DATE OF OFFERING	OFFERING SIZE	EXCHANGE LISTING	STATE OF INCORPORATION	INDUSTRY CODE
ZS Pharma, Inc.	6/17/2013	\$106,999,992	NASDAQ Global Market	Delaware	2834
Zulily, inc.	11/14/2013	\$253,000,000	NASDAQ Global Select Market	Delaware	5961



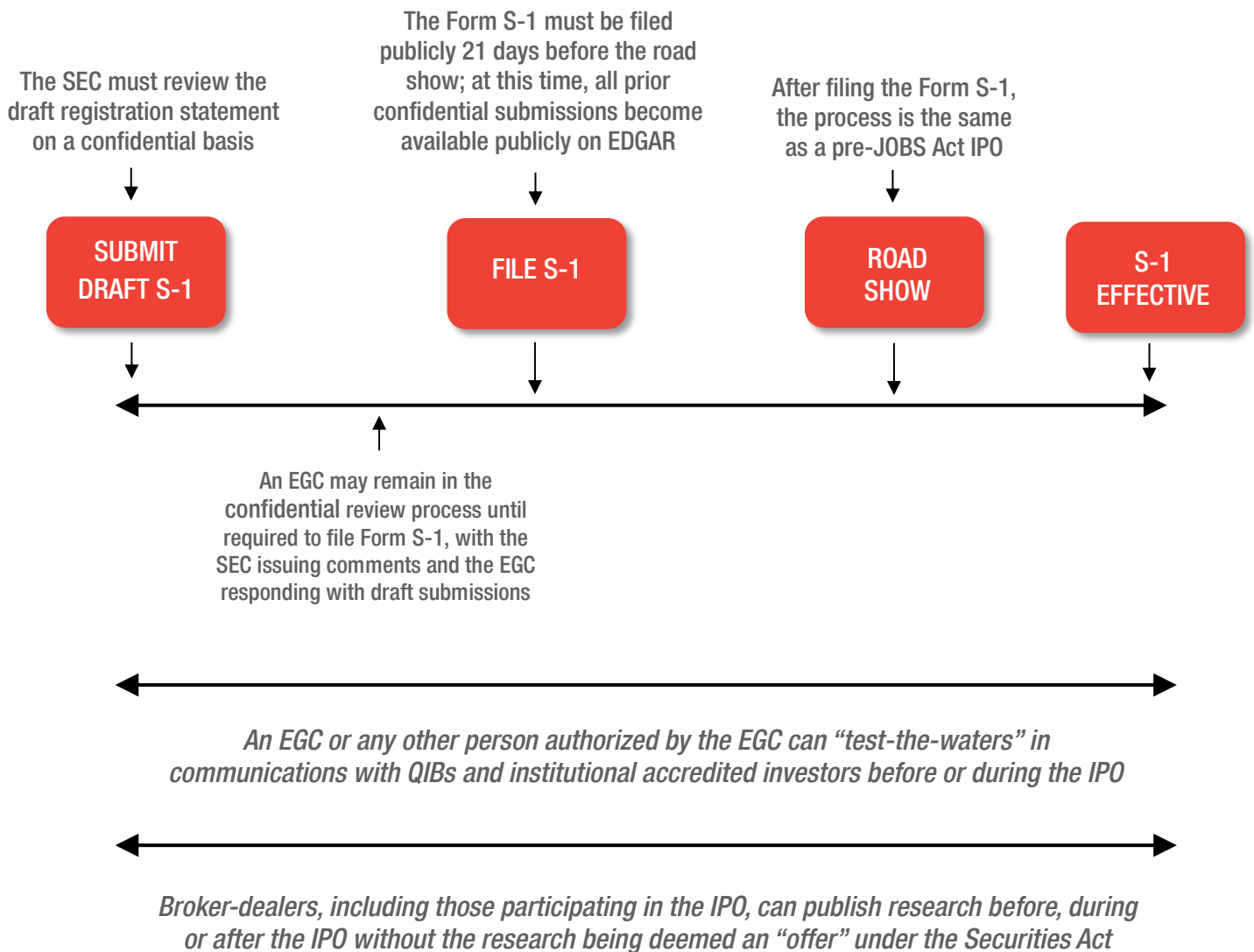
# APPENDIX B

## EMERGING GROWTH COMPANIES

### Emerging Growth Company – Benefits

- Permits filing a registration statement with the SEC on a confidential basis.
- Expands the range of permissible pre-filing communications made to qualified institutional buyers, or QIBs, or institutional accredited investors.
- EGCs may engage in oral or written communications with QIBs and institutional accredited investors in order to gauge their interest in a proposed IPO (i.e. “test-the-waters”) either prior to or following the first filing of the IPO registration statement.
- Requires EGCs to provide only two years of audited financial statements to the SEC (rather than three years), and delays the auditor attestation on internal controls requirement.
- Foreign Private Issuers that are EGCs will continue to be entitled to all of the other disclosure benefits available to them as FPIs (such as, for example, reduced compensation disclosure requirements, if permitted by home country practice).
- EGCs are exempt from:
  - The mandatory say-on-pay vote requirement;
  - The Dodd-Frank Act-required CEO pay ratio rules, and may use certain smaller reporting company scaled disclosure;
  - Any new or revised financial accounting standard until the date that such accounting standard becomes broadly applicable to private companies; and
  - Any rule requiring mandatory audit firm rotation or a supplement to the auditor’s report that would provide additional information regarding the audit of the company’s financial statements (no such requirements currently exist).
- An EGC may forego reliance on any exemption available to it. However, if it chooses to comply with financial reporting requirements applicable to non-EGCs, it must comply with all such standards and cannot selectively opt in or opt out of requirements.
- Any election must be made at the time the EGC files its first registration statement or Exchange Act report.

## EGC IPO Process



## Disclosure Requirements

	PRIOR TO JOBS ACT	UNDER THE JOBS ACT
Financial Information in SEC Filings	<ul style="list-style-type: none"> <li>3 years of audited financial statements</li> <li>2 years of audited financial statements for smaller reporting companies</li> <li>Selected financial data for each of 5 years (or for life of issuer, if shorter) and any interim period included in the financial statements</li> </ul>	<ul style="list-style-type: none"> <li>2 years of audited financial statements</li> <li>Not required to present selected financial data for any period prior to the earliest audited period presented in connection with an IPO</li> <li>Within 1 year of IPO, EGC would report 3 years of audited financial statements</li> </ul>
Confidential Submissions of Draft IPO Registration Statement	<ul style="list-style-type: none"> <li>No confidential filing for U.S. issuers</li> <li>Confidential filing for FPIs only in specified circumstances</li> </ul>	EGCs (including FPIs that are EGCs) may submit a draft IPO registration statement for confidential review prior to public filing, provided that the registration statement is publicly filed with the SEC not later than 21 days before the EGC conducts a “road show.” This supersedes the SEC’s December 2011 position on confidential submissions by FPIs.
Communications Before and During The Offering Process	<ul style="list-style-type: none"> <li>Limited ability to “test-the-waters”</li> </ul>	EGCs, either prior to or after filing a registration statement, may “test-the-waters” by engaging in oral or written communications with QIBs and institutional accredited investors to determine interest in an offering
Auditor Attestation on Internal Controls	<ul style="list-style-type: none"> <li>Auditor attestation on effectiveness of internal controls over financial reporting required in second annual report after IPO</li> <li>Non-accelerated filers not required to comply</li> </ul>	Transition period for compliance of up to 5 years
Accounting Standards	<ul style="list-style-type: none"> <li>Must comply with applicable new or revised financial accounting standards</li> </ul>	<ul style="list-style-type: none"> <li>Not required to comply with any new or revised financial accounting standard until such standard applies to companies that are not subject to Exchange Act public company reporting</li> <li>EGCs may choose to comply with non-EGC accounting standards but may not selectively comply</li> </ul>

## Disclosure Requirements (cont'd)

	PRIOR TO JOBS ACT	UNDER THE JOBS ACT
<b>Executive Compensation Disclosure</b>	<ul style="list-style-type: none"> <li>• Must comply with executive compensation disclosure requirements, unless a smaller reporting company (which is subject to reduced disclosure requirements)</li> <li>• Upon adoption of SEC rules under Dodd-Frank, will be required to calculate and disclose the median compensation of all employees compared to the CEO</li> </ul>	<ul style="list-style-type: none"> <li>• May comply with executive compensation disclosure requirements by complying with the reduced disclosure requirements generally available to smaller reporting companies</li> <li>• Exempt from requirement to calculate and disclose the median compensation of all employees compared to the CEO</li> <li>• FPIs entitled to rely on other executive compensation disclosure requirements</li> </ul>
<b>Say-on-Pay</b>	<ul style="list-style-type: none"> <li>• Must hold non-binding advisory stockholder votes on executive compensation arrangements</li> </ul>	Exempt from requirement to hold non-binding advisory stockholder votes on executive compensation arrangements for 1 to 3 years after no longer an EGC

## “Testing-the-Waters”

- Title I of the JOBS Act expands permissible communications during a securities offering by amending the Securities Act to permit an EGC, or any person authorized to act on behalf of an EGC, either before or after the filing of a registration statement, to “test-the-waters” by:
  - engaging in oral or written communications with potential investors that are QIBs or institutions that are accredited investors,
  - to determine whether such investors might have an interest in a contemplated securities offering.
- The Securities Act prohibits all “offers” in whatever form prior to the filing of a registration statement.
- Prior to the JOBS Act, non-public companies and most public companies were prohibited from communicating with potential investors about a proposed offering without having filed a registration statement (“gun jumping”).
- This concept changes the communications framework for offerings
  - “Test-the-waters communications” will not be considered “gun jumping;”
  - The communications may be oral or written;
  - If the communications are written, the communications need not comply with the requirements for a prospectus; and
  - However, these communications still are subject to securities law liability.
- An EGC can use these communications in order to gain important insights into the views of institutional investors.
- For an EGC that needs to raise capital while it is contemplating an IPO, this guidance is helpful.
- During this “test-the-waters” process, the underwriter cannot solicit/confirm an order without a preliminary prospectus.
- The content of these conversations should be discussed and perhaps scripted.
- To the extent that written materials are used, counsel will want to ensure that the materials are consistent with the disclosures that will ultimately be included in the issuer’s registration statement.



# APPENDIX C

## NYSE VS. NASDAQ GLOBAL MARKET PRINCIPAL QUANTITATIVE LISTING REQUIREMENTS

The following table summarizes the principal quantitative listing requirements; there are also qualitative requirements.

SELECTED LISTING REQUIREMENT	NYSE	NASDAQ GLOBAL MARKET <sup>115</sup>
Minimum Number of Shareholders	400 round lot holders	Same
Minimum Number of Publicly Held Shares	1,100,000* *Shares held by directors, officers, or immediate families and other concentrated holdings of 10% or	Same, with similar exclusions.
Minimum Aggregate Market Value of Publicly Held Shares	Generally \$40M*	Any of : <ul style="list-style-type: none"> <li>• Income Standard: \$8M;</li> <li>• Equity Standard: \$18M; or</li> <li>• Market Value Standard: \$20M</li> </ul>
Minimum per Price Share	At least \$4.00 at initial listing	Same
Minimum Number of Market Makers	N/A	Four; unless company qualifies for listing under the Income or Equity Standards, which each require three.

<sup>15</sup> The other tiers (Nasdaq Global Select Market and Nasdaq Capital Market) have similar requirements.



<p><b>Minimum Financial Standards</b></p>	<p>One of the following:</p> <ul style="list-style-type: none"> <li>• <b>Earnings Test:</b> Pre-tax earnings from continuing operations, subject to adjustments, must total (1) \$10M for the last three fiscal years, including a minimum of \$2M in each of the two most recent fiscal years and positive amounts in all three years, or (2) \$12M for the last three fiscal years, including a minimum of \$5M in the most recent fiscal year and \$2M in the next most recent fiscal year; <i>or</i></li> <li>• <b>Valuation/Revenue with Cash Flow Test:</b> \$500M in global market cap, (2) \$100M in revenues during the most recent 12-month period, and (3) \$25M aggregate cash flows for the last three fiscal years with positive amounts in all three years, subject to adjustment; <i>or</i></li> <li>• <b>Pure Valuation/Revenue Test:</b> (1) \$750M in global market cap and (2) \$75M in revenues during most recent fiscal year; <i>or</i></li> <li>• <b>Affiliated Company Test:</b> (1) \$500M in global market capitalization, (2) parent or affiliated company is a listed company in good standing, and (3) parent or affiliated company retains control of, or is under common control with, the entity; <i>or</i></li> <li>• <b>Assets and Equity Test:</b> (1) \$150M in global market cap, and (2) \$75M in total assets, including \$50M in stockholders' equity,</li> </ul>	<p>One of the following:</p> <ul style="list-style-type: none"> <li>• <b>Income Standard:</b> (A) \$1M in annual pre-tax income from continuing operations in most recently completed fiscal year or in two of the three most recently completed fiscal years and (B) stockholders' equity of \$15M; <i>or</i></li> <li>• <b>Equity Standard:</b> Stockholders' equity of \$30M; <i>or</i></li> <li>• <b>Market Value Standard:</b> N/A for IPO; <i>or</i></li> <li>• <b>Total Assets/Total Revenue Standard:</b> Total assets + total revenue of \$75M each for the most recently completed fiscal year or two of the three most recently completed fiscal years.</li> </ul>
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# APPENDIX D

## SUMMARY OF DIFFERENCES BETWEEN THE NYSE AND NASDAQ LISTING STANDARDS

The following chart summarizes some the key differences between the requirements for companies listed on the New York Stock Exchange (“NYSE”) and the requirements for companies listed on the NASDAQ Global Select Market (“NASDAQ”). The chart includes sections that summarize the differences between the two exchanges in their qualitative listing requirements, corporate governance standards, website posting requirements and listing costs. Please note that the chart does not necessarily include all of the detailed provisions of such rules.

INITIAL LISTING STANDARDS		
Initial Quantitative Listing Standards	<p>The company must meet one of the following financial criteria:</p> <p><u>Earnings Test</u>: pre-tax earnings from continuing operations, subject to certain adjustments, must total (1) at least \$10M in the aggregate for the last three fiscal years, including a minimum of \$2M in each of the two most recent fiscal years and positive amounts in all three years, or (2) at least \$12M in the aggregate for the last three fiscal years, including a minimum of \$5M in the most recent fiscal year and \$2M in the next most recent fiscal year. A company that is an emerging growth company and elects to report only two years of audited financial statements in its initial registration statement can qualify by having pre-tax earnings from continuing operations, subject to certain adjustments, must total \$10M in the aggregate for the last two fiscal years, including a minimum of \$2M in both years.</p> <p><u>Global Market Capitalization Test</u>: Global Market Capitalization of at least \$200 million.</p> <p>The must also meet the following requirements:</p> <ol style="list-style-type: none"> <li>1. 400 round lot shareholders</li> <li>2. 1,100,000 publicly held shares</li> <li>3. \$40 M market value of publically held shares.</li> </ol>	<p>The company must meet <u>one</u> of the following criteria:</p> <p><u>Earnings</u>: (A) Greater than \$11M in aggregate pre-tax income from continuing operations in previous three fiscal years, and greater than \$2M in aggregate pre-tax income from continuing operations in each of the last two fiscal years and the company must have had positive income for each of the past three fiscal years</p> <p><u>Capitalization with Cash Flow</u>: (1) Aggregate cash flows of greater than \$27.5M for the prior three fiscal years and positive cash flows for the prior three fiscal years; (2) market capitalization average of \$550M over the prior 12 months (for an IPO, this will be based on the company’s market capitalization at the time of listing); and (3) revenue of greater than \$110M during the previous fiscal year.</p> <p><u>Capitalization with Revenue</u>: (1) Market Capitalization of \$850M over the prior 12 months (for an IPO, this will be based on the company’s market capitalization at the time of listing); and (2) revenue of greater than \$90M for the previous fiscal year.</p> <p><u>Assets with Equity</u>: (1) Market capitalization of \$160M; (2) Total assets of \$80M; and (3) Stockholders’ equity of \$55M.</p> <p>The company must also meet the following requirements:</p> <ol style="list-style-type: none"> <li>1. 450 round lot shareholders or 2,200 total shareholders</li> <li>2. 1,250,000 publically held shares</li> <li>3. \$45 M market value of publicly held shares.</li> </ol>
Market Makers	The company must select a Designated Market Maker.	The company must have either three or four active Market Makers.

### CORPORATE GOVERNANCE STANDARDS

<b>Director Independence Standard<sup>16</sup></b> (Generally, the NYSE and NASDAQ standards for independence are the same, except as noted)	<p>The board of directors must make an affirmative determination as to whether or not each director is independent after reviewing each director's relationship with the company. Among other criteria, the board's review includes evaluating whether the director has a relationship with the company or is an officer, partner or stockholder of a company that has a relationship with the company.</p> <p>Under the NYSE standard for director independence, a director is not independent if:</p> <p>The director served as an employee or the immediate family member served as an executive officer for a company that has made or received the greater of \$1M or 2% of gross revenues worth of payments to/from the listed company.</p> <p>For purposes of the above rules, "Family Member" includes a person's spouse, parents, children, siblings, mothers- and fathers-in-law, sons- and daughters-in-law, brothers- and sisters-in-law, and anyone (other than domestic employees) who shares such person's home. References to "company" include any parent or subsidiary in a consolidated group with the company.</p>	<p>The board of directors must make an affirmative determination as to whether or not each director is independent. Among other criteria, the board's review includes evaluating whether the director has a relationship with the company or is an officer, partner or stockholder of a company that has a relationship with the company.</p> <p>Under the NASDAQ standard for director independence, a director is not independent if:</p> <p>The director is or has a Family Member who is a controlling shareholder or an executive officer of a company that has made or received the greater of \$200,000 or 5% of gross revenues worth of payments to/from the listed company.</p> <p>For purposes of the above rules, "Family Member" means a person's spouse, parents, children and siblings, whether by blood, marriage or adoption, or anyone residing in such person's home.</p>
<b>Disclosure of Independence Determination</b>	<p>The board must disclose the basis for its determination in its annual proxy statement or, if the company does not file an annual proxy statement, in the company's annual report filed with the SEC. Alternatively, the board may adopt and disclose standards for determining director independence and make a general disclosure that a given individual meets those standards.</p>	<p>No disclosure requirement regarding the basis for independence determination; only whether the determination has been made that a director is independent.</p>
<b>Independent Compensation Committee</b>	<p>Required</p>	<p>Required</p>
<b>Independent Nominating/Corporate Governance Committee</b>	<p>Required</p>	<p>Company has the option to have nominating decisions made by independent directors</p>
<b>Audit Committee Independence and Financial Literacy Requirements</b>	<p>The committee must have at least three members, each of whom is or will become financially literate, as "interpreted by the listed company's board in its business judgment." In addition, at least one member must have accounting or related financial management expertise. Note, while the NYSE does not require such person to be an "audit committee financial expert," "a board may "presume that such a person has accounting or related financial management expertise." Further, a listed company must disclose whether an audit committee member serves on more than three audit committees of public companies.</p>	<p>The committee must have at least three members, each of whom is financially literate (unlike the NYSE where members need not be financially literate at the time they begin service). At least one of the members must have past employment experience in finance or accounting field or requisite professional certification in accounting. None of the members may have participated in preparing the listed company's (or any current subsidiary of the company's) financial statements at any time during the past three years.</p>
<b>Audit Committee Charter</b>	<p>The written charter must address:</p>	<p>The written charter must address:</p>

<sup>16</sup> Under the rules of both NYSE and NASDAQ, company listing in connection with its initial public offering has one year to become fully compliant with the independence standards. Each committee must have one independent director at the initial listing, have a majority of independent directors within 90 days of the initial listing and be fully independent within one year of the initial listing. Additionally, a Company listing in connection with its initial public offering shall have twelve months from the date of listing to comply with the majority independent board requirement.

	<ul style="list-style-type: none"> <li>• The committee's purpose, which must be to: <ul style="list-style-type: none"> <li>○ assist the board with oversight of: the integrity of the financial statements; compliance with legal and regulatory requirements; the independent auditor's qualifications and independence; and the performance of the internal audit department and the independent auditors; and</li> <li>○ prepare the disclosure required by Item 407(d)(3)(i) of Regulation S-K (the audit committee report).</li> </ul> </li> <li>• Annual performance self-evaluation of the committee.</li> <li>• Committee duties and responsibilities, which must include those set out in Rule 10A-3(b)(2), (3), (4) and (5) of the Exchange Act as well as to: <ul style="list-style-type: none"> <li>○ at least annually obtain and review a report by the independent auditor regarding the auditor's internal quality control procedures, any material issues raised by the auditor's most recent internal quality control review or any government investigation within the past five years regarding any audits carried out by the auditor and steps taken to deal with any issues, and all relationships between the auditor and the company;</li> <li>○ review and discuss the company's annual audited financial statements and quarterly financial statements with management and the independent auditor;</li> <li>○ discuss the company's earnings press releases and any financial information and earnings guidance provided to analysts and rating agencies;</li> <li>○ discuss risk assessment and risk management policies;</li> <li>○ meet periodically with each of management, internal auditors and the independent auditors;</li> <li>○ review any audit problems or difficulties and management's response with the independent auditors;</li> <li>○ set hiring policies for current or former employees of the independent auditor; and</li> <li>○ report regularly to the board.</li> </ul> </li> </ul> <p>For those companies that do not yet have an internal audit function (because they are relying on the one year transition period), the charter must also provide that the committee must:</p> <ul style="list-style-type: none"> <li>• Assist with board oversight of the design and implementation of an internal audit function.</li> <li>• Meet periodically with the company personnel primarily responsible for designing and implementing the internal audit function.</li> <li>• Review with the independent auditors the company's plans for implementing the internal audit function, including management's plans for internal audit's budget, staff and responsibilities.</li> </ul>	<ul style="list-style-type: none"> <li>• Scope of the committee's responsibilities and how it carries out those responsibilities, including its structure, processes and membership requirements.</li> <li>• Responsibility for receiving a formal written statement from the outside auditors regarding all relationships between the auditor and the company, discussing with the auditor any relationships or services that may affect the objectivity and independence of the auditor, and taking or recommending that the board take action to oversee the independence of the auditor.</li> <li>• Purpose of overseeing the accounting and financial reporting processes of the company and the audits of the financial statements.</li> <li>• Specific responsibilities and authority to comply with Rule 10A-3(b)(2), (3), (4) and (5) of the Exchange Act regarding: <ul style="list-style-type: none"> <li>○ oversight of registered public accounting firms;</li> <li>○ complaints relating to accounting, internal accounting controls or auditing matters;</li> <li>○ authority to engage advisors; and</li> <li>○ funding.</li> </ul> </li> </ul>
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	<ul style="list-style-type: none"> <li>Report regularly to the board regarding the design and implementation of internal audit.</li> </ul>	
<b>Compensation Committee Charter</b>	<p>The charter must address the following rights and responsibilities:</p> <ul style="list-style-type: none"> <li>The compensation committee may, in its sole discretion, retain or obtain advice of a compensation consultant, independent legal counsel or other adviser.</li> <li>The compensation committee must be directly responsible for the appointment, compensation and oversight of any compensation adviser.</li> <li>The listed company must provide appropriate funding for payment of reasonable compensation to a compensation adviser, as determined by the compensation committee.</li> <li>In selecting compensation advisers, the compensation committee must take into consideration all factors relevant to that person's independence from management, including: <ul style="list-style-type: none"> <li>the provision of other services to the listed company by the person that employs the compensation adviser;</li> <li>the amount of fees received from the listed company by the person that employs the compensation adviser, as a percentage of that person's total revenue;</li> <li>the conflict of interest policies and procedures of the person that employs the compensation adviser;</li> <li>any relationship of the compensation adviser with a member of the compensation committee;</li> <li>any stock of the listed company owned by the compensation adviser; and</li> <li>any business or personal relationship of the compensation adviser with an executive officer of the company.</li> </ul> </li> </ul> <p>Compensation advisers do not need to be independent, but the compensation committee must undertake an evaluation of their independence.</p>	<p>Each listed company must adopt a formal written charter (or board resolution) for its compensation committee that includes, among other provisions:</p> <ul style="list-style-type: none"> <li>The scope of the compensation committee's responsibilities and how it will carry out its responsibilities.</li> <li>The compensation committee's responsibility for determining or recommending to the board of directors for determination, the compensation of the CEO and other executive officers.</li> <li>A provision that the CEO may not be present during voting or deliberations on his compensation.</li> <li>The specific compensation committee responsibilities and authorities set out in NASDAQ Listing Rule 5605(d)(3), which include: <ul style="list-style-type: none"> <li>The responsibility and authority to retain compensation consultants, legal counsel and other advisors.</li> <li>The provision that the listed company must provide appropriate funding for payment of reasonable compensation to a compensation advisor, as determined by the compensation committee.</li> <li>The responsibility and authority to consider the six independence factors itemized in Rule 10C-1(b)(4) under the Exchange Act (same as the six factors enumerated under the NYSE rules) before selecting or receiving advice from any compensation advisor.</li> </ul> </li> </ul> <p>The compensation committee must review and reassess the adequacy of the compensation committee charter annually</p>
<b>Nominating &amp; Corporate Governance Committee Charter</b>	<p>The written charter must address:</p> <ul style="list-style-type: none"> <li>Purpose and responsibilities, which must at a minimum include: <ul style="list-style-type: none"> <li>identifying individuals qualified to become board members consistent with criteria approved by the board and select, or recommend that the board select, the director nominees for the next annual meeting of stockholders;</li> <li>developing and recommending to the board a set of corporate governance guidelines for the company; and</li> <li>overseeing the evaluation of the board and management.</li> </ul> </li> <li>Annual performance self-evaluation of the</li> </ul>	<p>If the company has a N&amp;CG Committee, it must have a written charter addressing the director nominations process and any related matters as may be required under federal securities laws.</p> <p>If the company does not have a N&amp;CG Committee it must certify that it has adopted board resolutions addressing the director nominations process and any related matters as may be required under federal securities laws.</p>

	<p>committee.</p> <p>The charter should also address:</p> <ul style="list-style-type: none"> <li>• Committee member qualifications.</li> <li>• Appointment and removal of members.</li> <li>• Structure and operations, including the ability to delegate to subcommittees.</li> <li>• Reporting to the board.</li> <li>• Sole authority to retain and terminate any search firm to be used to identify director candidates, including authority to approve the search firm's fees and other retention terms.</li> </ul>	
<b>Internal Audit Function</b>	<p>The company must have an internal audit function that provides management and the audit committee with ongoing assessments of the company's risk management processes and internal controls. The company must adopt the internal audit function within one year of listing.</p>	Not Required.
<b>Corporate Governance Guidelines</b>	<p>Companies must adopt and disclose corporate governance guidelines that must address:</p> <ul style="list-style-type: none"> <li>• Director qualification standards. This should at a minimum reflect the director independence standards in Sections 303A.01 and 303A.02, and may also include other policies such as: <ul style="list-style-type: none"> <li>○ a limitation on the number of boards on which a director can sit; and</li> <li>○ director tenure, retirement and succession.</li> </ul> </li> <li>• Director responsibilities, including attendance at board meetings and advance review of meeting materials.</li> <li>• Director access to management and, as necessary and appropriate, independent advisors.</li> <li>• Director compensation, including general principles for determining the form and amount of compensation.</li> <li>• Director orientation and continuing education.</li> <li>• Management succession, including policies for: <ul style="list-style-type: none"> <li>○ selection of the CEO;</li> <li>○ performance review; and</li> <li>○ succession following an emergency or retirement.</li> </ul> </li> <li>• Annual performance self-evaluation of the board.</li> </ul>	Not Required.
<b>Code of Conduct/Business Conduct and Ethics</b>	<p>The code must provide the following:</p> <ul style="list-style-type: none"> <li>• Waiver of the code for executive officers or directors can be made only by the board or a board committee.</li> <li>• Compliance standards and procedures for the effective operation of the code.</li> </ul> <p>The code should also address the following topics:</p> <ul style="list-style-type: none"> <li>• Conflicts of interest. The code must prohibit conflicts of interest and provide a means for employees, officers and directors to report potential conflicts to the company.</li> </ul>	<p>The code must:</p> <ul style="list-style-type: none"> <li>• Comply with the definition of code of ethics in Section 406 of Sarbanes-Oxley and any related SEC regulations. This means the code must include standards reasonably necessary to promote: <ul style="list-style-type: none"> <li>○ ethical handling of conflicts of interest;</li> <li>○ full and fair disclosure; and</li> <li>○ compliance with laws, rules and regulations.</li> </ul> </li> <li>• Provide for an enforcement mechanism that ensures: <ul style="list-style-type: none"> <li>○ prompt and consistent enforcement of the</li> </ul> </li> </ul>

## A Survey and Related Resources

	<ul style="list-style-type: none"> <li>• Corporate opportunities.</li> <li>• Confidentiality. Employees, officers and directors must keep information confidential except when disclosure is authorized by the company or legally required.</li> <li>• Fair dealing. Employees, officers and directors must deal fairly with customers, suppliers, competitors and employees.</li> <li>• Protection and proper use of company assets.</li> <li>• Compliance with laws, rules and regulations, including insider trading laws.</li> <li>• Encouraging the reporting of any illegal or unethical behavior.</li> </ul>	<ul style="list-style-type: none"> <li>○ code;</li> <li>○ protection for persons reporting questionable behavior;</li> <li>○ clear standards for compliance; and</li> <li>○ a fair process for determining violations.</li> <li>• Require that any waiver of the code for executive officers or directors be made only by the full board.</li> </ul>
<b>Waivers from the Code of Conduct/Business Conduct and Ethics</b>	If the board of directors or a board committee grants a waiver of the code for an executive officer or director, the waiver must be disclosed to stockholders within four business days in a press release, on the company's website or by filing a Form 8-K.	<p>Generally the same, except:</p> <ul style="list-style-type: none"> <li>• Only the full board can grant the waiver.</li> <li>• The reasons for the waiver in addition to the waiver must be disclosed</li> </ul> <p>If the board of directors approves a waiver of the code for a director or executive officer, the waiver and the reasons for the waiver must be disclosed within four business days by filing a Form 8-K</p>
<b>Annual CEO Certification</b>	The CEO of a listed company must also annually certify in a written affirmation to the NYSE that he or she is not aware of any violations of NYSE corporate governance listing standards made by the company.	No annual certification process, but must amend initial certification if a change would cause the initial certification to be inaccurate.
<b>Meetings of Independent Directors</b>	The non-management directors (including non-independent directors) must meet at regularly scheduled executive sessions without management. However, the company can choose instead to hold meetings of only the independent directors. If the company does not choose this option, it should hold an executive session of only independent directors at least once a year.	There must be regularly scheduled meetings of only the independent directors. These should occur at least twice a year.
<b>Non-independent Members of Board Committees</b>	All committee members must meet SEC and NYSE independence standards.	All committee members must meet SEC independence standards. However, NASDAQ allows a listed company to appoint one non-independent director (one that does not satisfy NASDAQ's definition of independence) to the audit, compensation or nominating committee under certain circumstances.
<b>Stockholder Approvals</b>	<p>Stockholder approval is required for the following:</p> <ul style="list-style-type: none"> <li>• Equity compensation plans and any material revisions to those plans.</li> <li>• Issuing securities that would result in a change of control.</li> <li>• Issuing common stock or securities convertible into, or exchangeable for, common stock if: <ul style="list-style-type: none"> <li>○ the common stock will have voting power of 20% or more of the common stock outstanding before the issuance; or</li> <li>○ the number of shares of common stock to be issued is 20% or more of the number of shares of common stock outstanding before the</li> </ul> </li> </ul>	<p>Stockholder approval is generally required for issuing securities in:</p> <ul style="list-style-type: none"> <li>• Acquisitions of stock or assets of another company.</li> <li>• Equity-based compensation of officers, directors, employees or consultants.</li> <li>• A change in control of the company.</li> <li>• Private placements.</li> </ul> <p>In particular, stockholder approval is required for the following:</p> <ul style="list-style-type: none"> <li>• Issuing securities that will result in a change of control.</li> </ul>



	<p>issuance.</p> <ul style="list-style-type: none"> <li>• Issuing common stock or securities convertible into, or exchangeable for, common stock to any director, officer or substantial securityholder, any of their affiliates or subsidiaries or any entity in which they have a substantial interest in an amount that exceeds either 1% of the number of shares of common stock or 1% of the voting power outstanding before the issuance.</li> </ul> <p>Stockholder approval is not required for the following:</p> <ul style="list-style-type: none"> <li>• Equity plans that are made available to stockholders generally or that allow employees or directors to elect to buy shares on the open market or from the company for current fair market value.</li> <li>• Employment inducement awards, including grants to new employees in connection with a merger or acquisition.</li> <li>• Adjusting existing equity awards to reflect a merger or acquisition.</li> <li>• Issuances of shares under plans inherited in mergers or acquisitions to employees of the acquired entities.</li> <li>• Equity plans under Section 401(a) (such as employee stock option plans) or Section 423 (employee stock purchase plans) of the Internal Revenue Code (IRC) or "parallel excess plans" under ERISA and the IRC.</li> <li>• Public offerings of securities for cash.</li> <li>• Private placements of common stock for cash for a price that exceeds each of the market value and book value of the common stock.</li> <li>• Private placements of securities convertible into or exchangeable for common stock if the conversion or exercise price exceeds each of</li> </ul> <p>the market value and book value of the common stock.</p> <ul style="list-style-type: none"> <li>• Issuances where the delay in obtaining stockholder approval would seriously jeopardize the company's financial viability and the audit committee approves reliance on this exception.</li> </ul>	<ul style="list-style-type: none"> <li>• Issuing securities in an acquisition if any director, officer or substantial stockholder has a 5% or more interest in the company or assets being acquired and the issuance could result in an increase in outstanding common stock or voting power of 5% or more.</li> <li>• Issuing securities in an acquisition if: <ul style="list-style-type: none"> <li>○ the common stock to be issued will have voting power of 20% or more of the voting power outstanding before the issuance; or</li> <li>○ the number of shares of common stock to be issued will be 20% or more of the number of shares of common stock outstanding before the issuance.</li> </ul> </li> <li>• Stock option plans, stock purchase plans and other equity compensation arrangements by which officers, directors, employees or consultants can acquire stock and any material amendments to those plans and arrangements.</li> <li>• Issuing securities in a transaction that is not a public offering where: <ul style="list-style-type: none"> <li>○ the sale or issuance of common stock or securities convertible into or exchangeable for common stock is at a price less than the greater of book or market value and represents, together with sales by directors, officers or substantial holders, 20% or more of the number of shares or voting power outstanding before the issuance; or</li> <li>○ the sale or issuance of common stock or securities convertible into or exchangeable for common stock of 20% or more of the number of shares or voting power outstanding before the issuance is at a price less than the greater of book or market value.</li> </ul> </li> </ul> <p>Stockholder approval is not required for the following:</p> <ul style="list-style-type: none"> <li>• Issuance of warrants or rights generally to all securityholders of the company.</li> <li>• Stock purchase plans available on equal terms to all securityholders of the company (such as dividend reinvestment plans).</li> <li>• Tax qualified nondiscriminatory employee benefit plans, such as plans under <i>Section 401(a)</i> or <i>Section 423 of the IRC</i>, or parallel non-qualified plans, if these plans are approved by an independent compensation committee or a majority of the independent directors on the board.</li> <li>• Employment inducement awards to someone who was not an employee or director of the company before (including in connection with a merger or acquisition) if the awards are approved by an independent compensation committee or a majority of the independent directors on the board.</li> <li>• Adjusting existing equity awards to reflect a merger or acquisition.</li> <li>• Issuances of shares under plans inherited in</li> </ul>
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		<p>mergers or acquisitions to employees of the acquired entities.</p> <ul style="list-style-type: none"> <li>Public offerings.</li> <li>Issuances where the delay in obtaining stockholder approval would seriously jeopardize the company's financial viability and the audit committee or a similar body of independent disinterested directors approves reliance on this exception.</li> </ul>
<b>Website Posting Requirements</b>		
<b>Audit Committee Charter</b>	Website posting required	Website posting not required, but if not posted generally must publish in the proxy every 3 years or when materially amended.
<b>Compensation Committee Charter</b>	Website posting required	Website posting not required
<b>Nominating and Corporate Governance Committee Charter</b>	Website posting required	Website posting not required
<b>Code of Ethics</b>	Website posting required	Must be made publically available, but NASDAQ rules do not specify the means to do so.
<b>Changes to Code of Ethics</b>	The NYSE requires waivers from the code of ethics and business conduct to be disclosed to stockholders. This can be accomplished by, among other options, posting on the company's website.	NASDAQ requires waivers from the code of conduct to be disclosed. This can be accomplished by, among other options, posting on the company's website in a manner that satisfies Item 5.05(c) of Form 8-K.
<b>Company Contributions to Certain Tax Exempt Organizations</b>	The NYSE requires a listed company to disclose any contributions made by it to any tax exempt organization in which any independent director of the company serves as an executive officer if, within the past three years, contributions in any single fiscal year from the listed company to the organization exceeded the greater of \$1M or 2% of the tax exempt organization's consolidated gross revenues. This information can be posted on the company's website or disclosed in the company's proxy statement.	Not required
<b>Audit Committee Member Service on Other Companies' Boards</b>	If any member of a listed company's audit committee serves on the audit committees of more than three public companies, the NYSE requires the listed company to disclose its board's determination that this simultaneous service would not impair the ability of the director to effectively serve on its audit committee. This information can be posted on the company's website or disclosed in the company's proxy statement.	Not required
<b>Communications with Directors</b>	Method for interested parties (including stockholders) to communicate with the presiding director or with the company's independent or non-management directors as a group to be posted on the company's website or disclosed in company's proxy statement	Not required – However, under Item 407(f) of Reg. S-K, if a company has adopted a process for security holders to communicate with the board of directors, the company must describe how holders can communicate with the full board or individual directors. This information can be posted on the company's website or disclosed in the company's proxy statement.

Non-independent Members of Board Committees	N/A	A company that relies on the exception for its compensation or nominating committee must disclose the member's relationship and reasons for board's determination. This information can be posted on the company's website or disclosed in the company's proxy statement.
<b>Listing Fees</b>		
Initial Listing Fee	The minimum fee is \$125,000 and the maximum is \$250,000 based on the number of shares listed.	The minimum fee is \$125,000, and the maximum is \$225,000.
Annual Listing Fee	The minimum annual fee is the greater of \$45,000 or \$0.001 per share calculated based on the number of shares listed. The maximum aggregate fee is \$500,000 in any year.	The minimum fee is \$35,000, and the maximum is \$99,500.
Listing of Additional Shares	<p>\$0.0048 per share up to and including 75 million shares</p> <p>\$0.00375 per share for any additional shares over 75 million shares up to and including 300 million shares</p> <p>\$0.0019 per share for any additional shares over 300 million shares</p> <p>Minimum application fee is \$10,000.</p>	\$0.01 per share for any amount of shares exceeding 49,999 shares issued during a quarter, subject to a minimum fee of \$5,000 per quarter and a maximum fee of \$65,000 per year. <sup>17</sup>

<sup>17</sup> NASDAQ has announced its All-Inclusive Annual Listing Fee program, under which the annual fee is higher but there are no fees to issue additional shares, change name or symbol, requests a written rule interpretation, or make any other corporate change. Companies under the All-Inclusive program receive just one invoice per year for all listing-related activities. All companies will be subject to the All-Inclusive program beginning in January 2018; listed companies can elect to opt-in to this program earlier.



# APPENDIX E

## CONTROLLED COMPANY MATTERS

A “Controlled Company” is a company of which more than 50% of the voting power for the election of directors is held by an individual, a group or another company. The calculation of voting power held by a group can include shares covered under voting agreements between or among shareholders relating to the election of directors.<sup>18</sup>

A company elects to be Controlled Company in its initial listing application to an exchange.

A company that elects to become a “Controlled Company” and relies on the exchange-permitted exemptions must disclose such exemptions in its public filings pursuant to Regulation S-K, Item 407, Instruction 1.

A “Controlled Company” is not required to comply with the following exchange requirements:

- A company’s board of directors is required to have a majority of independent directors.<sup>19</sup>
- Independent directors must determine the compensation of the CEO and other executive officers.<sup>20</sup>
- Independent directors must select or recommend nominees for directors.<sup>21</sup>

## Phase-In Requirements After Losing Controlled Company Status

### NASDAQ Rule IM-5615-5

Upon ceasing to be a controlled company, the company must:

- have at least one independent director on its Nominating and Corporate Governance Committee and at least one independent director on its Compensation Committee by the date on which the company ceases to be a controlled company;
- have at least a majority of independent directors on each Committee within 90 days of the date on which the company ceases to be a controlled company;
- have fully independent committees within one year of the date on which the company ceases to be a controlled company; and
- have a majority of independent directors on the Board of Directors within one year of the date on which the company ceases to be a controlled company.

### NYSE Rule 303A.00

To the extent a controlled company ceases to qualify as such, the company must:

- satisfy the majority independent board requirement within one year of the date its status changed.
- make committee charters available on or through website by the date its status changed.
- have at least one independent member on its nominating committee and at least one independent member on its compensation committee by the date its status changed, at least a majority of independent members on each committee within 90 days of the date its status changed and fully independent committees within one year of the date its status changed.

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<sup>18</sup> Nasdaq Equity Rule 5615(c)(1) and NYSE Listed Company Manual §303A.00.

<sup>19</sup> Nasdaq Equity Rule 5605(b)(1) and NYSE Listed Company Manual §303A.01.

<sup>20</sup> Nasdaq Equity Rule 5605(d)(2) and NYSE Listed Company Manual §303A.05.

<sup>21</sup> Nasdaq Equity Rule 5605(e) and NYSE Listed Company Manual §303A.04.

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For other JOBS Act related resources, see, our dedicated JOBS Act page, [www.mofo.com/jumpstart](http://www.mofo.com/jumpstart) and our JOBS Act Blog, [www.mofojumpstarter.com](http://www.mofojumpstarter.com).

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