



IPO Executive Insights 2007

A Nixon Peabody LLP study of recent
IPO transactions and trends in association
with mergermarket



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Methodology

mergermarket was commissioned by Nixon Peabody LLP to conduct a survey of senior corporate executives that have recently taken their companies public. In February and March, mergermarket interviewed 100 CEOs and CFOs of companies who had undertaken an IPO in the past three years. The interviews were conducted by telephone, and the findings were delivered to Nixon Peabody LLP in aggregate and anonymously. The survey was designed to provide insights into key IPO market trends and issues relating to the process of going public in the current regulatory environment which emerged after the passage of the Sarbanes-Oxley Act of 2002.

Foreword

Welcome to the first edition of IPO Executive Insights, prepared by Nixon Peabody LLP in association with mergermarket.

While many media outlets publish historical data relating to IPOs, we believe the best way to gain insight into the current state of the IPO market is by talking to the senior executives themselves firsthand to understand the most important issues. In this survey, we have gone directly to the CEOs and CFOs that have led their companies through an IPO within the past three years. The study reflects their insights on a range of issues, including how they selected their advisors, their opinions on the process of going public, their views on the pluses and minuses of being publicly held as opposed to private ownership, and their outlook for future IPO market activity. In addition to the survey results, we have included a related article about the potential advantages and risks of listing a U.S. company's securities on the AIM market, written by John C. Partigan and Bradley T. Kamlet, securities lawyers in our Washington, DC office. We hope you will find these responses from corporate America's business leaders, together with the article, both perceptive and helpful.

The U.S. IPO market made a strong comeback in 2006 and continues to be strong in 2007. U.S. IPO market activity during the first quarter of 2007 reached a seven-year high in terms of both volume and proceeds, with \$12.1 billion raised through 64 IPOs. Although the U.S. IPO market has a long way to go before approaching the high water mark set during the first quarter of 2000, when there were 137 IPOs raising a total of \$21.8 billion, favorable IPO market conditions are expected to continue for the foreseeable future.

Top 10 IPOs (US\$ millions) in Q1 2007

Company	Industry	Transaction Value
Currency Shares Japanese Yen Trust	Financial services	\$1,642
National Cinemedia, Inc.	Advertising	798
Fortress Investment Group LLC	Financial services	634
Clearwire Corp.	Telecommunications	600
Employers Holdings, Inc.	Insurance	455
Meruelo Maddux Properties, Inc.	Real estate	400
Cellcom Israel Ltd.	Telecommunications	400
Gafisa S.A.	Real estate	390
Targa Resources Partners LP	Energy	353
Xinhua Finance Media Ltd.	Advertising	300

Top 10 IPOs (US\$ millions) in 2006

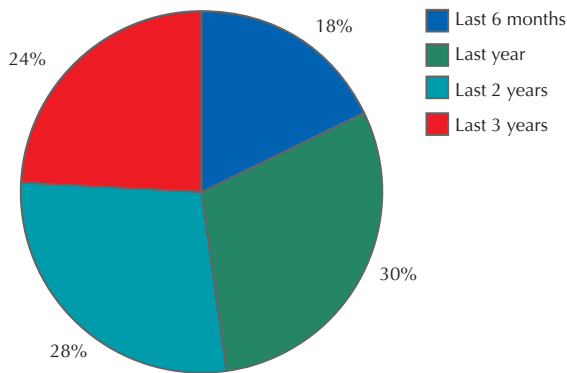
Company	Industry	Transaction Value
Mastercard	Financial services	\$2,399
Owens Corning	Industrial products	1,855
Spirit Aerosystems Holdings	Industrial products	1,432
Douglas Emmett Inc.	REIT	1,386
Hertz Global Holdings Inc.	Transportation	1,323
Melco PBL Entertainment (Macau) Ltd.	Leisure	1,145
SAIC, Inc.	Business services	1,125
Warner Chilcott Ltd.	Pharmaceuticals	1,059
Rosetta Resources Group	Energy	950
Pacific Airport Group	Transportation	871

Most respondents to the survey completed IPOs in the range of \$75 million to \$500 million and listed their company's securities on a U.S. Exchange. A wide range of industries was represented in the survey. Highlights from the survey are as follows:

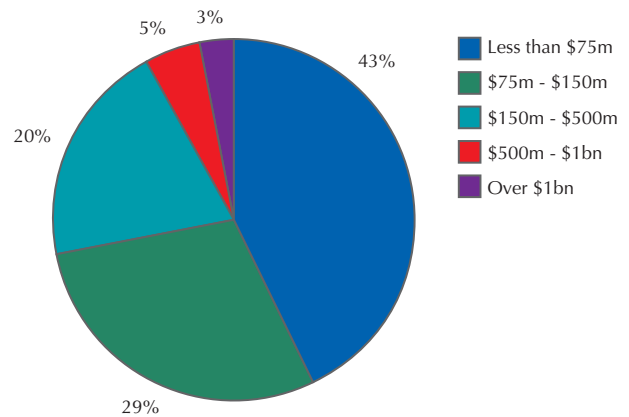
- Eighty-one percent of respondents believed the amount of capital to be raised by IPOs during the next 12 months will increase or remain the same.
- A majority of respondents expect the Nasdaq Capital Market (27%) and London Stock Exchange (AIM) (27%) to dominate new IPO listings in 2007.
- The respondents expect to see the most IPO activity in 2007 in the healthcare, e-commerce, financial services and energy industries.
- A majority of respondents (52%) were backed by venture capital.
- Management did not sell any shares in 52% of the IPO transactions surveyed.
- Management owned less than a quarter of the company's outstanding stock prior to the IPO in 64% of the IPO transactions surveyed, and less than a tenth in 36% of the IPO transactions surveyed.
- Bulge bracket underwriters dominated the market for small-sized and mid-sized IPOs, representing two-thirds of the respondents in their IPO transactions.
- The most challenging corporate governance issue was attracting qualified independent board members.
- The most challenging accounting issue was re-auditing prior accounting periods by new auditors, followed by advance compliance with Sarbanes-Oxley Act requirements.
- Increased access to capital was the primary reason for going public.

Respondent Information

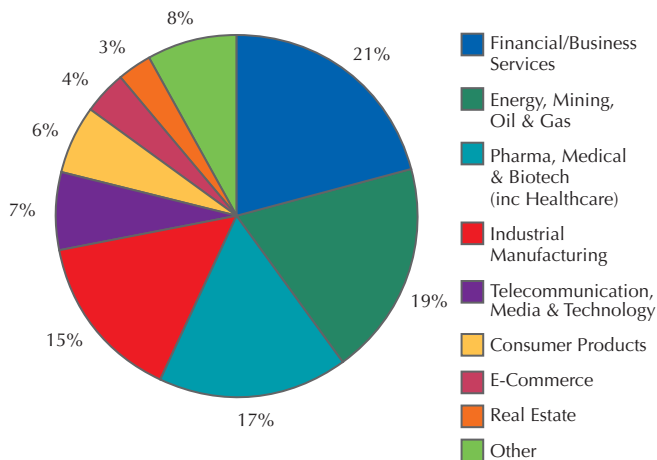
When did your company go public?



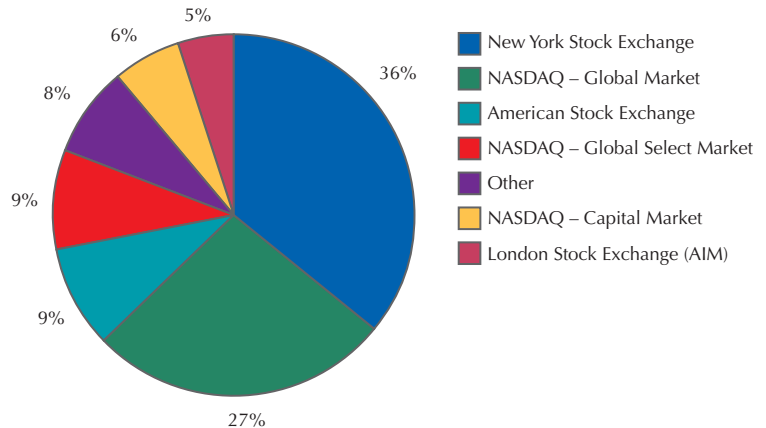
What was the size of your offering?



What is your company's industry?



Which exchange(s) did your company list on?

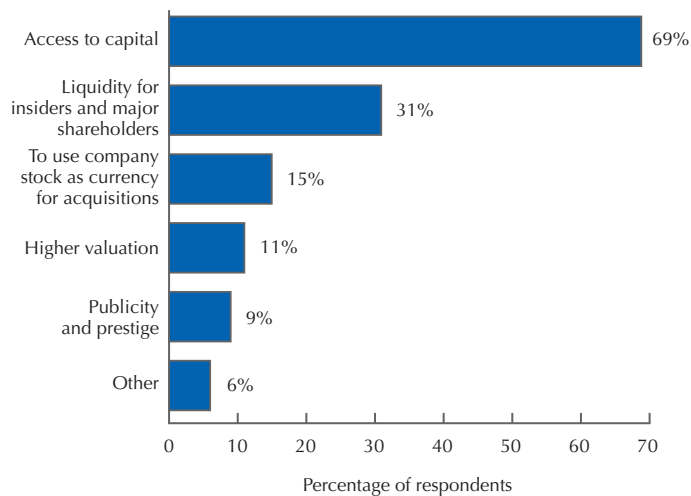


The NASDAQ Stock Market (consisting of the NASDAQ Global Market, Global Select Market and Capital Market) was the most popular exchange among the respondents, with 42% commenting that this is where their companies listed. This was followed closely by the New York Stock Exchange (36%). The American Stock Exchange (9%) and the London Stock Exchange (AIM) (5%) appeared to be less popular listing locations for respondents.

Survey Results | IPO Process

Access to capital is the main objective when going public

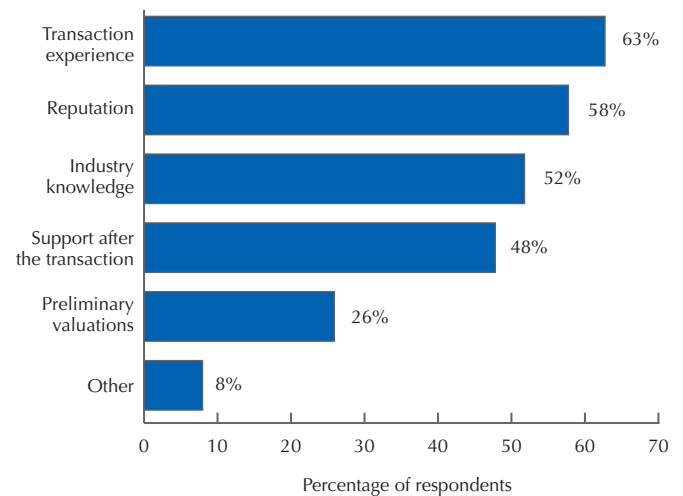
What were the company's main objectives in going public?



- Respondents identified increased access to capital as the principal reason behind their company's decision to go public.
- Just under a third of respondents (31%) cited liquidity for insiders and major shareholders as the main driver behind the decision to go public.
- Elsewhere, using company stock to finance acquisitions (15%), increasing the company's valuation (11%) and gaining publicity and prestige (9%) emerged as less important objectives that governed the decision to go public.

Qualities that matter in an underwriter: transaction expertise, reputation, industry knowledge, post-IPO support

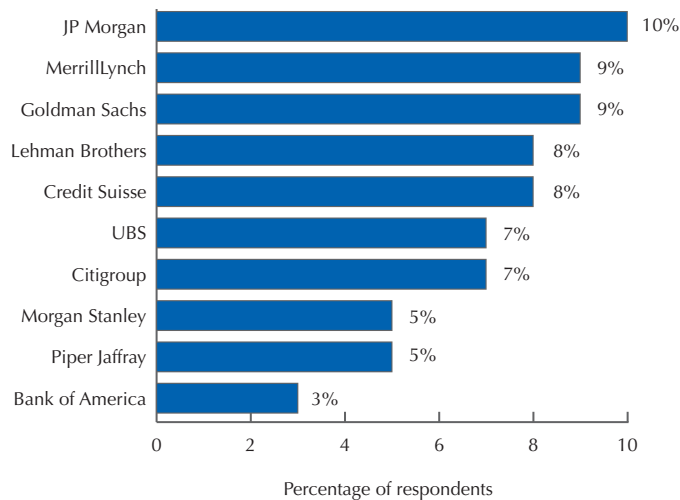
What qualities did you look for in an underwriter?



- A significant proportion of respondents identified several qualities that they looked for in an underwriter. The need for previous transaction experience was cited by 63% of respondents with one respondent commenting, "Transaction experience was vital for us, our IPO was relatively small and therefore finding an underwriter who was experienced with similar sized deals was imperative."
- Other valued qualities that emerged included reputation (58%), industry knowledge (52%) and post-transaction support (48%). Qualifying the importance of industry knowledge, one respondent added "An underwriter that has contacts within the industry helps a great deal." Amongst the 8% of respondents that selected a different quality than those listed, one respondent said, "It was important the underwriter understood [us]."

Bulge bracket banks are a typical source of underwriting services in two thirds of respondents

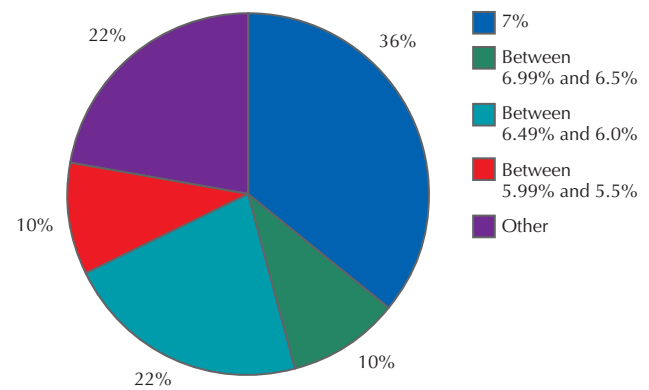
What was the name of the lead underwriter that you used and how did you select them?



- Respondents used a wide variety of underwriters for their IPOs. Perhaps unsurprisingly due to their size, JP Morgan, Merrill Lynch, Goldman Sachs, Lehman Brothers, Credit Suisse, UBS and Citigroup were the most frequently cited underwriters by respondents. However, a third of respondents used smaller underwriters not listed above.
- The most commonly espoused reasons for choosing the lead underwriter included their industry expertise, past experience, reputation and an existing relationship with the underwriter.

53% of respondents paid less than 7% for underwriting discounts and commissions

What were your underwriting discounts and commissions?



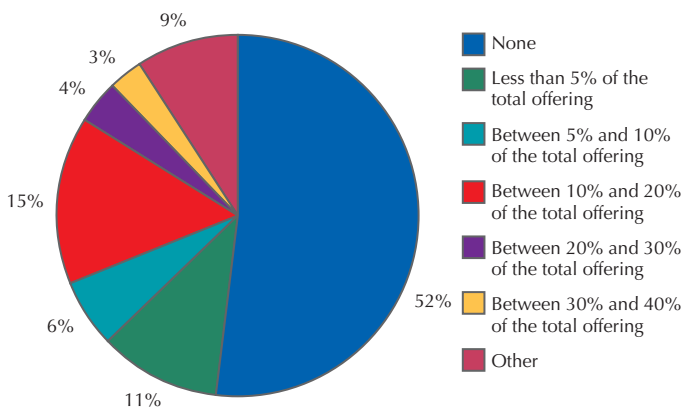
- 22% of respondents saw underwriting discounts and commissions between 6%-6.49%.
- 10% of respondents saw underwriting discounts and commissions between 5.5%-5.99%.
- Amongst the 22% of respondents that fell into the other category, an equal number noted that their company's underwriting discounts and commissions were either over 7% or below 5.5%.

What were your total transaction costs (excluding underwriting discounts and commissions)?

- Responses to this question varied greatly, as total transaction expenses ranged from \$120,000 to \$25 million. Nonetheless, the majority of respondents claimed to have incurred transaction costs in the region of \$1m and \$5m during the IPO process. Approximately 15% of respondents claimed they did not know the total transaction cost and one respondent commented that the cost encountered was "...way too much."

Over half of the IPO transactions surveyed did not see management or any existing shareholders cash out

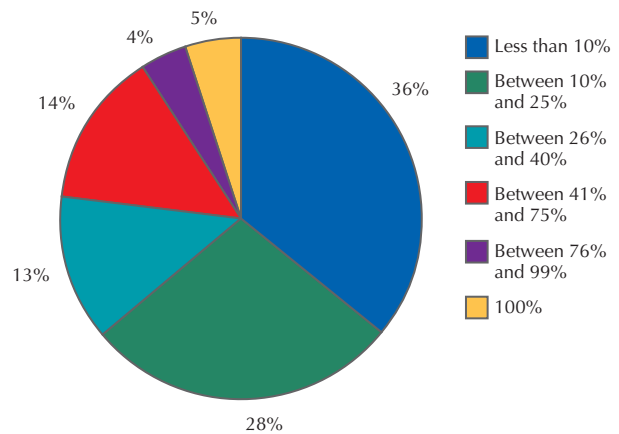
How many shares did management and other existing shareholders sell in the IPO?



- The slight majority of respondents (52%) noted that company management and other existing shareholders sold no shares throughout the IPO process. In two-thirds of the transactions in which management and existing shareholders sold shares in the IPO, their sales represented less than 20% of the total offering.

The majority (64%) of management teams surveyed owned under a quarter of their company prior to IPO

What percentage of the equity did the management team own immediately prior to the IPO?

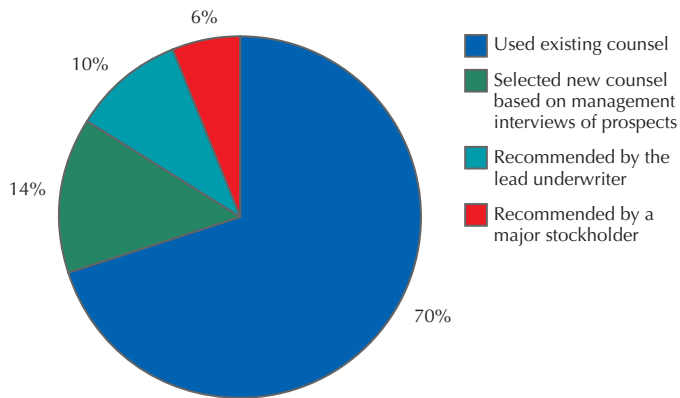


52% of respondent companies were backed by venture capital

- 52% of respondents said that their company was ventured backed. 48% answered that their company was not financed by venture capital.

Majority of respondents used existing counsel for their IPO

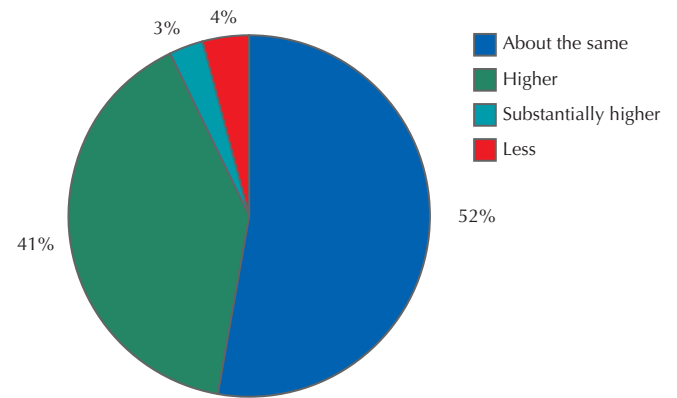
How did you select company counsel for the offering?



- The vast majority of respondents (70%) used the existing counsel for their IPO. Others selected a new counsel based on management interviews (14%) and recommendations from their lead underwriters (10%). A small percentage (6%) of firms followed a recommendation from a major stockholder.

53% of respondents saw IPO legal costs meet initial estimates, but 43% saw them higher than expected

How did your actual legal costs for the IPO compare with the initial estimates?



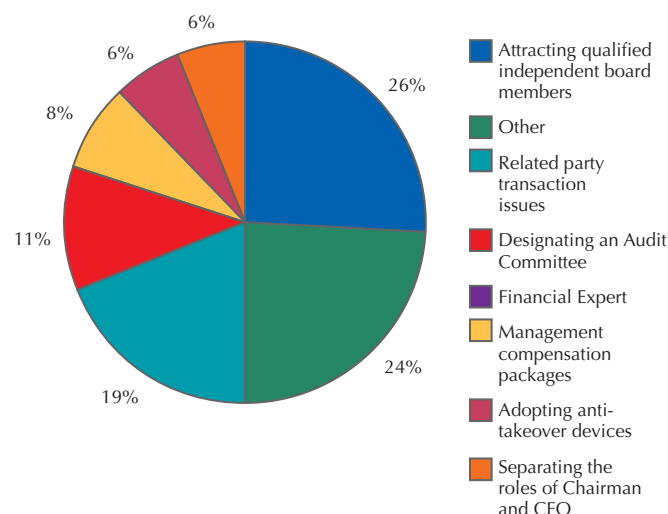
- 52% of respondents claimed that the initial estimates of the legal costs for the IPO were comparable to the actual costs. A significant 41% of respondents said the actual costs were higher than initial costs with 3% claiming they were significantly higher. Only 4% of respondents commented that the actual costs involved in the IPO were lower than initial estimates.

In retrospect, what would you have done differently in the IPO process?

- Over 40% of the respondents would not change anything about the IPO process. Of those that would have done something differently, the issue of timing appeared to be the most common response. Respondents either believed that they did not have enough time (or had poor time management) while others believed that the timing of their IPO, in relation to the market, was off.

Attracting qualified independent directors is the leading challenge in corporate governance

What was the most challenging corporate governance issue?



- Respondents also identified a number of challenging corporate governance issues that emerged in the IPO process. 26% cited attracting qualified independent board members as the most challenging problem encountered.
- Otherwise, 24% named a different option to those listed. These respondents recognized an array of issues that included compliance issues, establishing agreements with the parent company and problems that were encountered at board level. Moreover, a number of such respondents remarked that they did not encounter any notable corporate governance problems. Nearly one in five respondents (19%) ranked related party transaction issues as the most challenging corporate governance issue that their company faced during the IPO process.

How were these challenges resolved?

Attracting qualified independent board members

- “We implemented additional due diligence by the leadership team and the issues were resolved.”
- “Private equity helped us with this problem.”

Related party transaction issues

- “Proper back up documentation was provided by us and we had to argue our corner as to why they were compliant.”

Designating an audit committee financial expert

- “The issue was resolved simply by good research and suggestions.”

Management compensation packages

- “We hired consultants recommended by NASDAQ who managed to resolve the issue satisfactorily.”
- “An independent consultant was hired.”

Adopting anti-takeover devices

- “It was resolved by discussions between the management, the board compensation committee and our independent counsel with regard to change of control, authority and payments.”

Separating the roles of Chairman and CEO

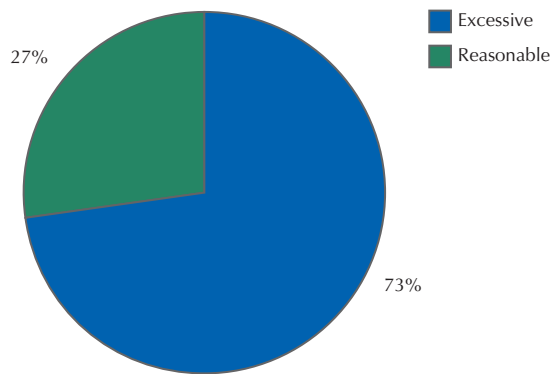
- “The issue was resolved after the IPO process was finished. Earlier there was a single individual acting as the Chairman and the CEO. After the IPO that person retired and the positions are now split up.”

Other

- “We had a number of compliance issues. We had to add additional board members and change the audit committee. Some of them were SEC requirements and the others were New York Stock Exchange requirements.”
- “For us corporate governance was not much of an issue. During our IPO we did not seem to have all these corporate governance policies and/or charters. However, separating the roles of Chairman and CEO was a slight issue.”

73% of respondents deem Sarbanes-Oxley regulation excessive

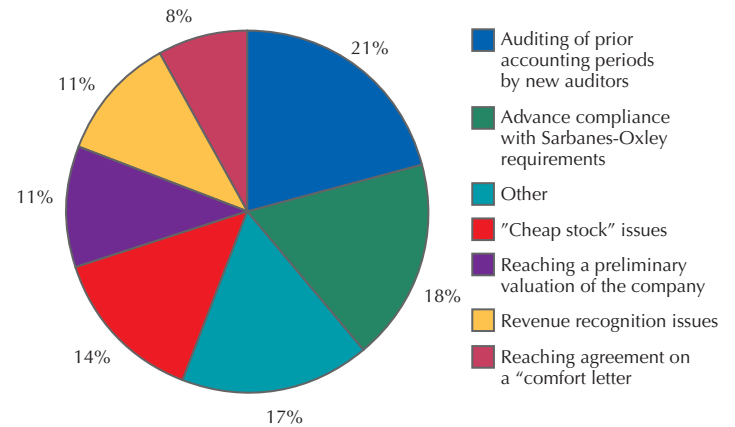
Do you feel that Sarbanes-Oxley is reasonable with regards to the degree of regulation and transparency it requires?



- Nearly three quarters of respondents (73%) feel that Sarbanes-Oxley imposes an excessive degree of regulation and transparency on companies. Only 27% believe that the level of regulation is reasonable. However, a number of respondents did allude to the fact that recent revisions have resulted in Sarbanes-Oxley becoming more reasonable. Such sentiments were typified by the following response, “The degree of regulation is still excessive but compared to last year it is heading in the right direction.”

Respondents encountered a wide range of challenging accounting issues during their IPO process

What was the most challenging accounting issue in the IPO process?



- Respondents identified a number of challenging accounting issues that emerged in the IPO process. Around one-fifth of respondents (21%) identified the auditing of prior accounting periods by new auditors, with a further 18% citing compliance with Sarbanes-Oxley requirements as the most challenging accounting issue in the IPO process.
- 17% selected a different option with one respondent commenting, “Ours was a highly leveraged transaction so the issue was convincing the accountants that we could dissolve the debt that we had.” It is worth noting that a significant minority who fell into the ‘other’ category professed that they encountered no accounting issues during the IPO process.

How were these challenges resolved?

Auditing of prior accounting periods by new auditors

- “We had to have three years re-audited. The main method of resolving this was putting in a lot of time and effort. This entire exercise was scheduled to be concluded in three or four months but took approximately a year. We kept providing as much information as we could to the auditors so that they could accomplish the task at hand.”
- “There were five different companies coming together with five different backgrounds. Combining all the details together and making one single financial statement was an arduous task but was finally resolved with hard work. It also required a lot of time and turned out to be a very expensive affair.”

Advance compliance with Sarbanes-Oxley requirements

- “We had to deploy a big team of people within our finance department to get the records clean on paper as per the Sarbanes-Oxley requirement.”
- “It is still not resolved completely. However, we have a team of internal people and consultants working on it and I am sure they will be able to resolve it.”

“Cheap stock” issues

- “In order to resolve the issue of “cheap stock” we had to contact a consultant. Together with the finance department and consultants we worked through the strategies and finally it was resolved.”
- “We worked closely with the accountants and got outside valuations.”
- “To resolve the problem we had extensive further discussions and dialogue with the SEC, aiming to find out what they were looking for before going into the IPO.”

Reaching a preliminary valuation of the company

- “Valuation is an art not a science. It is an interactive process; it took us three weeks to determine what the number was. We did not follow one single method; we followed at least a few different valuation techniques. For example, we followed the discounted cash flow method and used private market transaction analysis.”
- “It was difficult to come to or find a preliminary valuation because there were no other exact matches when it came to public comparables. The company and its investment bankers had to come up with a blend of companies with similar financially driven business models as well as those that offer similar services to come up with appropriate valuations.”
- “The issue was resolved by having different rounds of negotiations with the parties involved. We had negotiations with the lawyers, attorneys, existing shareholders, accountants and the underwriters about the goodwill of the organization.”

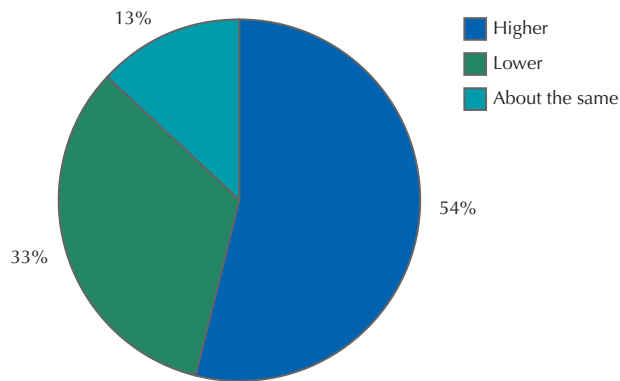
Revenue recognition issues

- “We made significant adjustment to our books and accumulated documentation to support the end numbers.”
- “We explained our position to the SEC and provided supporting documentations and they accepted that. The SEC questioned us why we didn’t report segments in a local rather than global basis but we explained the logic behind it. Ultimately, they agreed with our reasoning.”
- The major issue of revenue recognition was resolved through rounds of dialogue with the SEC. Revenue recognitions is a tough thing. The SEC had a lot of issues with it.”

Survey Results | POST IPO

The majority (54%) of respondents are trading higher than their first day close

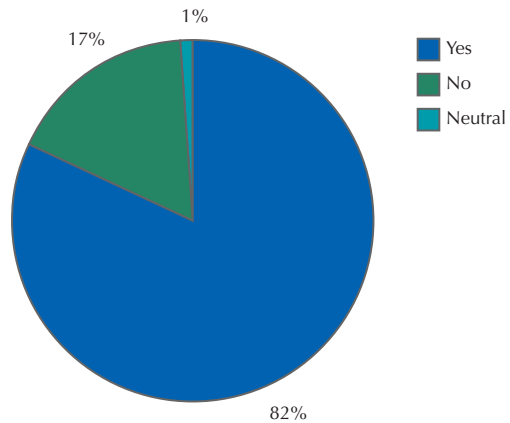
Is your company trading higher or lower than your first day closing price?



- More than half of respondents' companies are trading at a higher price than their first day closing. One-third, however, are trading at a lower price and 13% are trading at approximately the same price as their first day closing.

The majority of respondents are optimistic about forward market conditions for IPOs

Do you feel the current market conditions in North America are favorable for an IPO?



- The overwhelming majority of respondents (82%) believe that the current market conditions in North America are favorable for an IPO. Only 17% feel that current market conditions are less than favorable, while 1% of respondents feel conditions are neutral at present.

What advice can you give to companies that are thinking about conducting an IPO in the next year?

Respondents acknowledged a number of areas that they believe companies should recognize if they are thinking about conducting an IPO next year. Nevertheless, a number of common themes emerged and these can be broadly broken down into the following areas:

Be prepared, formulate your plan early

- “You have to be aware of market conditions daily and make sure your business plan is founded on solid assumptions and not on variables that need to occur in order for your business to become profitable. The business plan must be solid in all market and economic conditions.”
- “Have a plan of attack now. Our IPO was 5-6 years in the making and it did not disrupt our operations or core infrastructure. We were also in the enviable position that we did not need capital - we had the hammer. That is always nice. If I were remotely thinking of going public I would assess all aspects of the business and ask the question, how would this look to outsiders? If it would raise questions, then deal with it now. Last but not least, work the investment banker front. A pool to choose from is far better than being forced to find one. You will get a quick gauge on the attractiveness of your deal very quickly.”
- “Be careful to fully comply with Sarbanes-Oxley, also make sure to have enough people and money.”

Recognize the downfalls as well as benefits of going public

- “Going public is like standing in front of the X-Ray machine for ever. Once one goes public one cannot go back. In other words you are completely exposed; everything about the business is in the public domain and is in front of the competition. It is a very different environment than being a privately held company. There is a benefit in terms of access to capital but you lose a lot of freedom in terms of how you can operate as you no longer have the freedom to hide behind the veil of being a privately held company. Living under regulations like Sarbanes-Oxley can be crushing to a company that is not prepared to understand and manage such regulations...”

- “The most important advice I would give would be that the whole process might take longer than expected. For example we thought the IPO would be done in approximately 4-6 months but it took well over a year. Admittedly, organizations should be able to manage these delays in terms of finance but you should be aware of these pitfalls.”

Choose IPO team carefully

- “Choose a good law firm, underwriter and ensure that the offering size is large enough.”
- “Choose the right underwriter as they are a vital component in the process. If the process runs smoothly then obviously the results will be very desirable.”

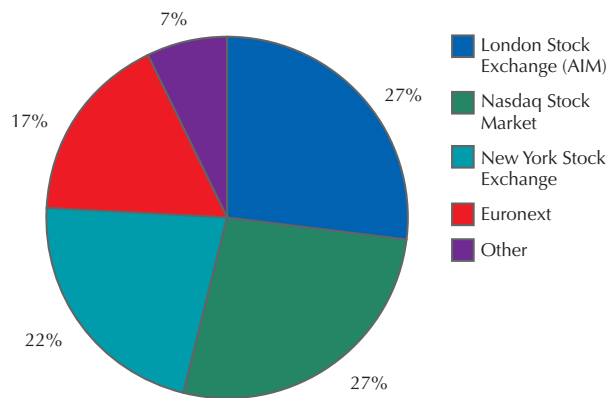
Focus on corporate governance and valuation issues

- “It is important to focus on corporate governance issues. This is the key - in a public company everything needs to be above board and transparent. Corporate governance, organizational behavior and management structure are key aspects of extreme importance for companies thinking about an IPO in the next year. Last, but not the least, it is also important to be appropriately valued.”

Survey Results | IPO Market Outlook

Despite talk of Hong Kong, LSE and NASDAQ are expected to dominate listings

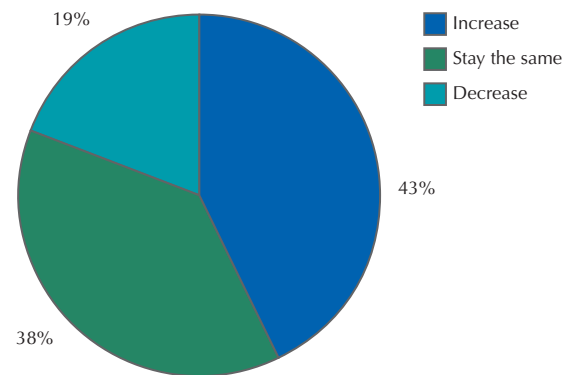
This year, Hong Kong is likely to end up as the number one market for stock offerings world-wide. Where do you expect to see the most IPO activity in 2007?



- The London Stock Exchange and the NASDAQ Stock Market (both 27%) emerged as the exchanges where respondents expect the most IPOs to take place this year. Elsewhere, 22% of respondents named the New York Stock Exchange as most likely to witness the most IPOs, 17% named Euronext.

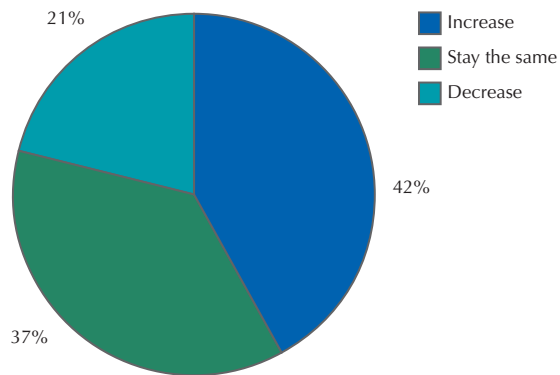
43% of respondents expect more capital to be raised by IPOs in 2007 – 38% expect it to be constant – similar outlook for IPO volumes

What do you expect to happen to the amount of capital raised through IPOs over the next 12 months?



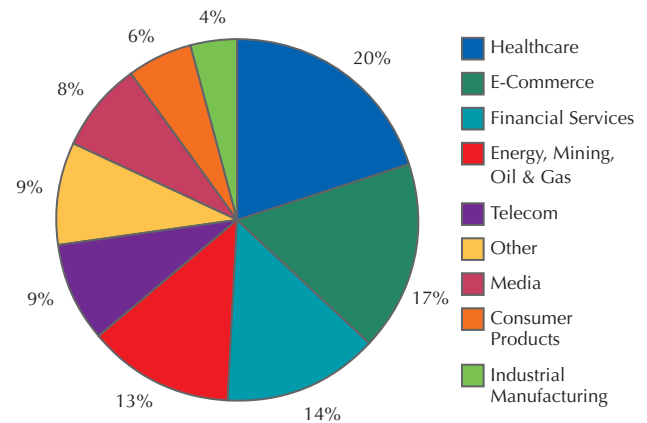
- 43% of respondents believe that the capital raised by IPOs will increase over the next 12 months, while 38% of them believe that the amount of capital raised will remain the same. However, nearly one in five respondents (19%) think that the amount raised will decrease.

What do you expect to happen to the number of IPOs in the next 12 months?



- Respondents are relatively bullish regarding the expected number of IPOs in the next 12 months with 42% predicting an increase. A further 37% of respondents believe that the number of IPOs will remain at the current level. Despite the general optimism, 21% of respondents still believe that the number of IPOs is likely to decrease over the next 12 months.

Which industry do you expect to see the most IPO activity in 2007?



- Several industries are cited by a number of respondents as likely to see the most IPO activity in 2007. 20% of the respondents believe that the healthcare industry will see the most IPO activity in 2007. This is followed closely by E-commerce (17%), Financial Services (14%) and Energy, Mining, Oil & Gas (13%). 9% of respondents chose other sectors with the information technology and alternative energy sectors being mentioned by a number of respondents.

U.S. Companies Listing on AIM: Rewarding or Risky?

The appeal of the London Stock Exchange's AIM as a destination for emerging growth companies has been a popular topic recently. Also known as the Alternative Investment Market, AIM was established in 1995 as a place for smaller companies to raise capital and develop a market following under a less rigid regulatory umbrella. In the wake of the passage of the Sarbanes-Oxley Act of 2002 ("SOX"), AIM has received increased attention as a market for companies that do not wish to list in the United States, and consequently, be subject to the increased regulation and scrutiny that has resulted after SOX.

Indeed, AIM has been successful in drawing companies to its market. Today, over 1600 companies are listed on AIM, and the market has seen increased success in attracting international companies. In 2006, AIM drew 77 foreign initial public offerings, including 30 from U.S.-based companies. Now, more than 60 U.S. companies are listed on the AIM, up from just five U.S. companies three years ago.

But, from the perspective of a U.S. company with growth prospects that is looking to the future, does a listing on the AIM make sense? There are a number of potential advantages and drawbacks that directors and officers of U.S. companies should consider before committing the company's resources to a listing on AIM.

AIM, a Brief Overview:

The main appeal of AIM for U.S. companies is the less restrictive regulatory and oversight environment and the decreased disclosure requirements enjoyed by companies listed on AIM. Based in London, AIM is also attractive to U.S. companies for cultural and linguistic reasons. Other commonly referenced advantages of AIM, when compared to other markets, include:

- No minimum number of shares or market capitalization required
- No minimum price per share trading requirement. By comparison, Nasdaq's market for smaller companies, the Nasdaq Capital Market, requires a share price of at least \$1
- No prior regulatory review of an admission document (a document similar to a prospectus) prior to listing
- No prior revenue history is required for listing
- In most cases, no shareholder approval is required for transactions (reverse mergers are an exception)
- Requirement of at least one analyst to focus on the company.

Establishing a listing on AIM can also be done faster than the time typically required in other markets. A company seeking admission on AIM will, among other things, have to prepare an admission document, retain a Nominated Advisor, or Nomad, and appoint an AIM broker. In general, the admission process can take from three to four months, depending upon the type of company and the amount of due diligence required to produce the admission document. The admission document contains detailed information about the company and its business and is similar to a prospectus used in U.S. markets. A Nomad will be the company's point of contact with AIM, and has a duty to advise on the suitability of admitting the company on AIM and to ensure the company's compliance with the AIM rules. An AIM broker will be responsible for trades in the company's shares. An admission fee of £4,535 is also required to be paid by the company prior to listing.

Risks and Potential Drawbacks of AIM Listing for U.S. Companies:

Since many of the companies attracted to AIM are emerging growth companies, a listing on AIM should be carefully considered by company management and the board before moving forward. Notwithstanding its attractiveness from a regulatory standpoint, U.S. companies considering an AIM listing should keep in mind the following risks prior to committing vital resources to an AIM listing.

- **Potential to Trigger Exchange Act Compliance:** Under Section 12(g) of the Securities Exchange Act of 1934 (the "Exchange Act"), U.S. companies that have more than \$10 million in assets will become subject to the provisions of the Exchange Act if they have 500 or more stockholders of record. While most AIM offerings are structured as private placements to less than 100 institutional investors, over time, liquidity from follow-on offerings, or secondary trading in a company's securities, can increase the number of stockholders of record. In addition, restricted stock grants and shares provided to employees as part of company stock option plans will count toward the stockholder limit. Upon exceeding 499 stockholders of record, a U.S. company would be required to file timely Exchange Act periodic reports with the SEC and comply with U.S. securities regulations, including SOX. Once shares are issued, a company may have difficulty controlling the number of stockholders of record who eventually own its stock.

- **Compliance with Regulation S:** Most AIM offerings are conducted by relying upon the exemption from registration under the Securities Act of 1933 (the “Securities Act”) provided by Regulation S. Regulation S provides an exemption from registration for offers and sales of securities to non-U.S. persons and places restrictions upon the resale of those securities back into the U.S. As a result, shares sold in AIM offerings by U.S. companies contain legends that indicate transfer of the shares is prohibited unless the proposed transfer is made pursuant to the provisions of Regulation S or under another exemption from registration, or pursuant to a registration statement filed with the SEC. U.S. companies must take care to comply with the provisions of Regulation S when conducting an AIM offering. For example, Regulation S will limit publicity in the U.S. during the course of the offering, and for one year following the offering in many cases.
 - **Time Commitment from Management:** Due to the nature of the AIM, and its large base of institutions that purchase shares initially and in the secondary market, it is important for management of a company to develop relationships with the institutions selling the company’s shares. This often requires the company’s management to invest significant time in cultivating these relationships. Due to the time required to travel back and forth to interact with and update U.K. investors, time-zone differences and other factors, the commitment required from management of a U.S. company (particularly a company without any U.K. operations) may be greater than initially anticipated.
 - **Potential for Reduced Liquidity:** AIM has a reputation for being illiquid, and, as a result, investors may have difficulty disposing of their securities. A listing on AIM also has the potential to provide reduced liquidity for substantial shareholders, directors and certain employees due to non-standardized “lock-in” agreements that prohibit secondary sales for a period of time following the placing on AIM. Lock-in agreements of one year are mandatory for a business which has not been independent and earning revenue for at least two years, and a Nomad and/or broker may require further lock-ins to protect prospective investors and maintain an orderly market.
 - **Poor Post-IPO Performance:** A recent study of technology companies listed on AIM suggests that the post-IPO price of AIM shares compares unfavorably with companies listed on Nasdaq. In addition, due to the nature of the AIM, there are generally fewer investors than would be the case if the company had listed on a U.S. exchange, which may lead to greater stock price volatility. Although the comparisons may not be fair because companies joining AIM are typically more early stage than Nasdaq companies, there is a perception among some analysts that companies listed on AIM are less stable than Nasdaq companies, in part because of the less stringent initial listing and maintenance criteria, corporate governance requirements and regulatory oversight.
 - **Restrictions on Using Company Stock as Currency for Acquisitions:** One of the potential benefits of an IPO is the ability to use the company’s stock as currency for an acquisition. If a U.S. company lists on AIM, it remains a private company for U.S. federal and state securities law purposes, and any issuance of securities to U.S. residents must meet the requirements of an exempt transaction (including applicable resale restrictions for restricted securities). Unless the stock is registered in the U.S., U.S. persons who are not affiliates of the issuer would need to wait at least two years after the closing of the acquisition before they could sell their company stock on AIM without restriction.
 - **Slowing Growth of AIM:** There is evidence that AIM’s growth has slowed down in 2007 relative to its growth in 2006. As of April 30, 2007, AIM had attracted 76 new admissions. This represents a drop of more than 50% from the 158 admissions through the first four months of 2006. In addition, profit warnings by AIM-listed companies increased by almost two-thirds for the first quarter of 2007 compared to the same period in 2006.
 - **Stronger Demand for Certain Industries:** Historically, demand on AIM has been strongest for energy or mining firms, technology companies and businesses offering financial services. Mining and energy-related stocks account for close to half (47%) of AIM’s total market value. A U.S. company that does not specialize in these fields may not garner the interest of the institutional investors who buy AIM stock or the attention the company otherwise could get in another marketplace.
- Utilizing AIM for an initial public offering does provide a company certain advantages due to its flexible regulatory approach, lower costs and streamlined admissions process. It may be the best available financing option for certain U.S. emerging growth companies. U.S. companies, however, should recognize the various other factors that can contribute to their success on the AIM over the long term. As with any business decision, the choice to list or raise equity on AIM should be made only after diligently studying the rewards and potential long-term risks of an AIM listing and the other available alternatives, including a registered initial public offering and listing on a U.S. exchange.



Initial Public Offering of
Common Stock
8,000,000 Shares
Price \$13 per Share
The undersigned served as counsel to
Bruker Daltonics
Nixon Peabody LLP



Initial Public Offering of
Common Stock
6,511,500 Shares
Price \$20 per Share
The undersigned served as counsel to
Placer Sierra Bancshares
Nixon Peabody LLP



Initial Public Offering of
Common Stock
1,350,000 Shares
Price \$6.50 per Share
The undersigned served as counsel to
Bruker AXS
Nixon Peabody LLP



Public Offering of
Common Stock
7,500,000 Shares
Price \$18 per Share
The undersigned served as counsel to
JetBlue Airways Corporation
Nixon Peabody LLP



Public Offering of
Common Stock
3,205,431 Shares
Price \$19 per Share
The undersigned served as counsel to the
Barnes Group Inc.
Nixon Peabody LLP

SANDLER O'NEILL + PARTNERS, L.P.

Underwriters in connection with
Initial Public Offering of
Hudson River BancCorp Inc.
(pending)
The undersigned served as counsel to
Sandler, O'Neil & Partners, L.P.
Nixon Peabody LLP

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Notes & Contacts

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Our Securities Practice provides counsel on matters ranging from public offerings and securitization transactions to dispositions and proxy contests, Rule 144A and Regulation S offerings, going-private transactions, hostile corporate takeover issues, and SEC disclosure and reporting requirements.

We represent companies listed on the New York Stock Exchange and NASDAQ, and are experienced in public equity and debt offerings, both as counsel to issuers and counsel to underwriters. Our attorneys listen closely to our clients and work together with them to analyze alternatives and evaluate risk so that decisions are always well-informed. Our focus is not on just the immediate transaction, but on our clients' success over the long term.

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