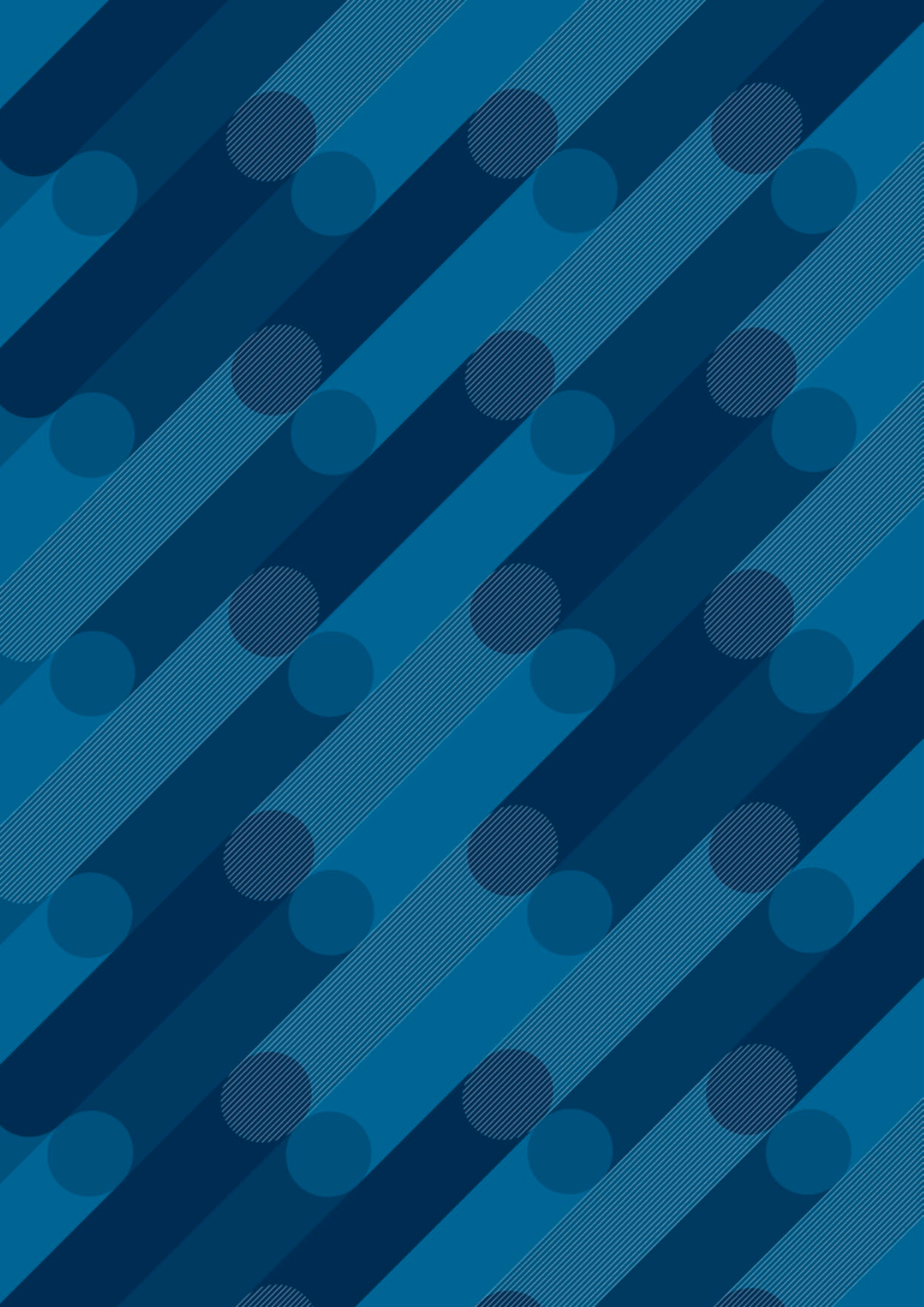
HERBERT SMITH FREEHILLS

NEW HORIZONS

THE 2017 AUSTRALIAN IPO REVIEW



Introduction

It gives us great pleasure to present *New Horizons: The 2017 Australian IPO Review.*

In this publication we cover:

- some key IPO themes of 2017;
- IPO activity across the Australian market;
- insights on the dual-track process;
- Australian regulatory developments;
- the use of 'greenshoe' structures in recent Australian IPOs;
- key US securities developments; and
- predictions for 2018.

We trust you will find value in it.

Should you have any questions in relation to IPOs in Australia, please contact our ECM partners who are listed on page 23.

The Herbert Smith Freehills ECM Team

2017: Some key themes

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The year that was

There were fewer market shocks in 2017 than in 2016. Developed world economies experienced growth, China continued to perform strongly and there was also growth in many developing economies.

Australia, with an economy dependent on China and the developed world economies, also experienced GDP growth (although not on a per capita basis), with commodities showing strong signs of resurgence. Nevertheless, the GFC has cast a long shadow and commentators have continued to refer to 'corrections' and 'bubbles' – recent market events play to these fears.

Despite a generally positive economic backdrop and strong and consistent share market performance, with low volatility levels, Australian IPO market activity was disappointing at the large and mid-cap end of the spectrum last year, although 2018 has started extremely positively. The lack of large listings was not for a lack of candidates – we are aware of a number of significant IPOs that were explored but which were either sold via trade sale or are on the horizon for 2018.

New ASIC Chair

In October 2017 the Federal Government announced the appointment of Mr James Shipton as Chair to the Australian Securities and Investments Commission (**ASIC**) for a five year period from 1 February 2018, succeeding Mr Greg Medcraft.

Mr Shipton has extensive international experience spanning academia, regulation, investment banking and the law. We expect ASIC under Mr Shipton's leadership will continue to actively monitor IPO activity, along with other areas of ASIC focus including the financial sector and corporate culture more generally.

Sell-side research

Following consultation, in December 2017 ASIC released its guidance on managing conflicts of interest and handling of inside information in the preparation of sell-side research on issuers undertaking capital raisings.

ASIC identified uneven market practice in this area and seeks to guide the industry to a more consistent approach. However, it has allowed for a 6 month transition period.

There are some elements of the new guidance that will involve at least a reassessment, and in most cases a change of approach, by sell-side research providers.

A key feature of the guidance is that issuers (and investment banking staff) will not be permitted to see valuation information prepared by researchers in draft form prior to its publication. The issuer may only see and comment on factual or legal content, with the final copy of the report that includes valuation information only being provided after it has been published to potential investors. This guidance raises practical challenges for research divisions and for investment banking staff in seeking to avoid 'surprises' in the IPO process, and may lead some banks to reassess the inclusion of valuations in research.

There is some helpful commentary in the guidance suggesting that the research division may provide some input to commitments committees or underwriting committees, to assist in informing underwriting decisions, but the specific guidance presents some timing issues that will need to be better understood with ASIC.

New frontiers

2017 saw the introduction of a new public company crowd-sourced funding regime in Australia.

The SEC in the United States and ASIC also provided information about their respective views on the regulation of initial coin offerings.

These developments are reflective of the scale of the public's interest in these new types of investments.

Tailoring of the securities regulation regime to meet crowd sourced funding requirements involves a balancing of investor protection and efficiency objectives. The new regime allows up to $10,000 per year to be raised from an individual investor in a crowd funded vehicle, with no aggregate limit on the amount the investor may invest across all crowd funded investments that he or she makes (unlike the position in some other jurisdictions). It is possible that regulators may reassess if small investors invest too heavily in crowd funding opportunities and losses result.

As for initial coin offerings, ASIC has stated that their legal status, and therefore the application of Australian law to them (including whether a particular scheme is a managed investment scheme), will depend on the type of offering as well as the rights that are attached to the coins that are issued. More clarity from the regulator in this space will be needed given the anecdotal popularity of coin offerings and the gyrations in the 'exchange rates' applying to the different coins. Regulators are likely to be alarmed at stories of self-managed superannuation funds investing half their assets in bitcoin and may move the mandate or clarify investor protections.

In search of sunrise

In December 2017 ASX announced its intention to replace the Clearing House Electronic Subregister System (**CHESS**) with distributed ledger technology (also known as blockchain) developed by Digital Asset over the next few years.

CHESS is ASX's post-trade clearing, settlement and asset registration system. When it was introduced it facilitated the move away from physical shares into an electronic format. ASX noted that CHESS is now over 25 years old and that it is time to introduce more contemporary technology.

ASX regards the adoption of distributed ledger technology as placing Australia at the forefront of innovation in financial markets. The technology is intended to make transactions cheaper, faster and more secure.

This will be a very significant development, although ASX has foreshadowed a period of further work and consultation to develop and test the new system.

2017: IPOs by the numbers

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All shapes and sizes

2017 seemed to be the year of the almost-IPO in the larger listings space and the data bears this out, showing there were no corporate listings with a market capitalisation of over $1 billion in quoted securities (although there was one listed investment trust that exceeded the $1 billion threshold).

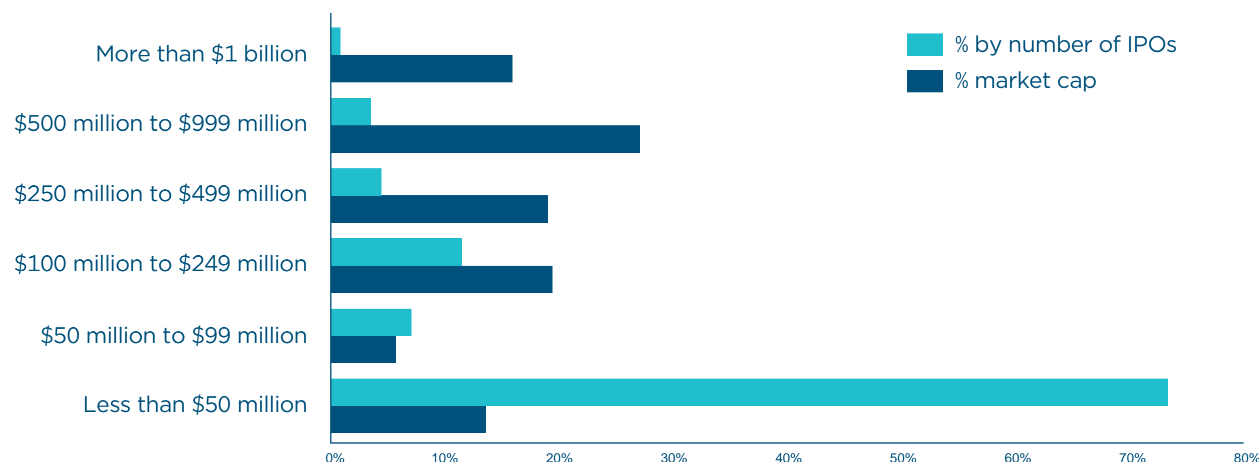
There were a range of reasons for the withdrawal of some of the expected large IPO prospects, including politics (Western Power), market conditions (Officeworks) and an opportunity to sell via trade sale (Alinta Energy and Origin Energy's gas and oil business, Lattice Energy). Lattice Energy was the subject of a successful dual track process. Herbert Smith Freehills acted on both the IPO and trade sale processes for Lattice Energy (see page 7 for further insights on this process).

The mid-market also had a quiet year following a number of family and private equity backed partial exits in the calendar 2016 year.

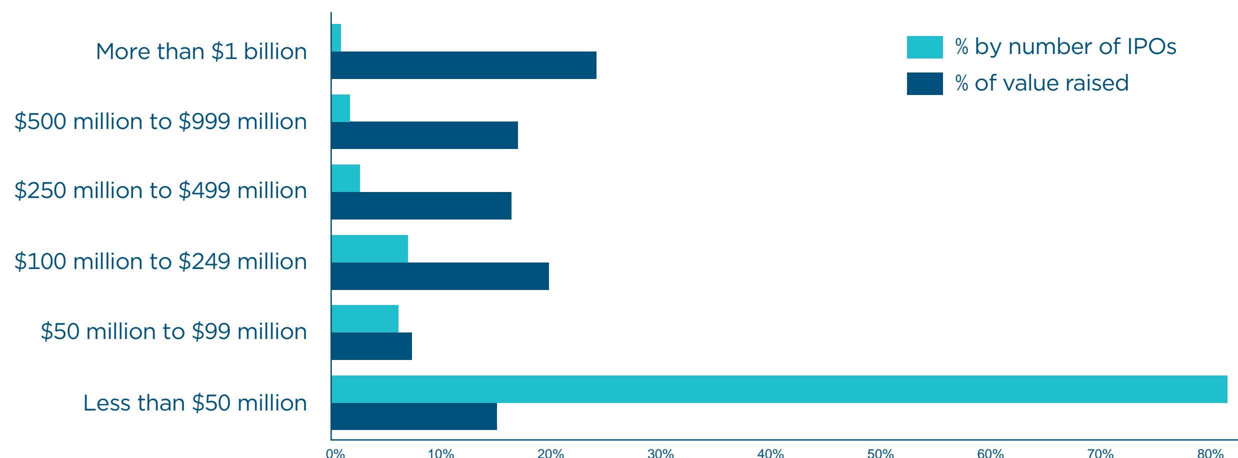
Despite the introduction of updated ASX admission requirements in November 2016 requiring new listings to satisfy higher profits or assets test thresholds, the smaller end of the market continued to shine with the majority of the listings on the ASX being for companies raising less than $50 million.

Overall the number of listings in 2017 was in the same vicinity as 2016 (at more than 100), but raised less capital, with total capital raised at around $6.3 billion as compared with $7 billion the previous year.

Market capitalisation on listing



Amount of capital raised on listing



Sector spotlights

Financial sector companies raised by far the most capital of all sectors in 2017 and represent the second most prevalent listing type in 2017. However these results are skewed higher by investment company listings, with more than half of the financial sector companies being investment entities.

The materials sector, predominantly mid to small cap mining explorers, accounted for the most listings in 2017, with almost a third of all listings. These companies raised around 7% of the capital raised by companies listing on the ASX in 2017. As the materials sector could be considered to be the ASX's traditional growth play sector, this is perhaps unsurprising.

What many would have us understand to be the emerging growth play sector – small cap IT listings – represented the third most frequent listing by sector. They represented over a tenth of the IPOs on the ASX in 2017 and were a notable choice for a number of companies from the deep tech markets in the United States and Israel.

The story the IT sector listings does not tell is the intersection of the other sectors with technology. Netwealth Group is a prime example of this combination. As a provider of superannuation and non-superannuation platform products to financial intermediaries and clients, Netwealth is a financial sector company and its platform is described as being at the core of its customer value proposition. Herbert Smith Freehills advised on the IPO of Netwealth Group. The examples also expand beyond FinTech, whether it is diagnostic technology development in the healthcare sector, commercialising precision agriculture technologies, or systems created to improve waste management and recycling services. It seems that having an active focus on technology is becoming as fundamental to the IPO story of companies across all sectors as having a website – once a differentiator and now the expectation.

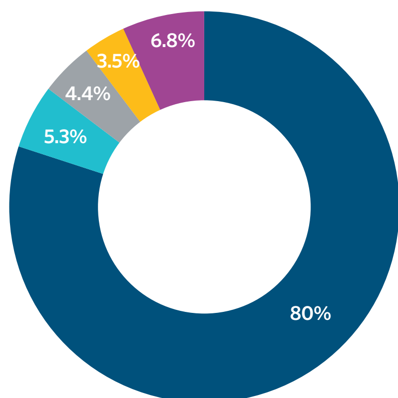
Top industry sectors for IPOs

2017: IPOs by the numbers

Geographic spread

Consistent with 2016, the data continues to show a strong theme of foreign companies listing on ASX. Approximately 20% of all listings in 2017 were of companies incorporated outside Australia. This included companies from Canada, China, Germany, Israel, Singapore, the United Kingdom, the USA and others. This figure does not take into account issuers incorporated in Australia that have significant strategic, commercial or investor links outside Australia, in which case the figure would be higher.

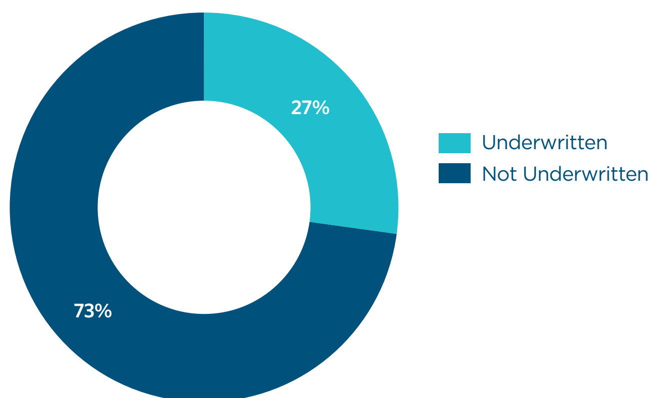
Jurisdiction of issuer incorporation



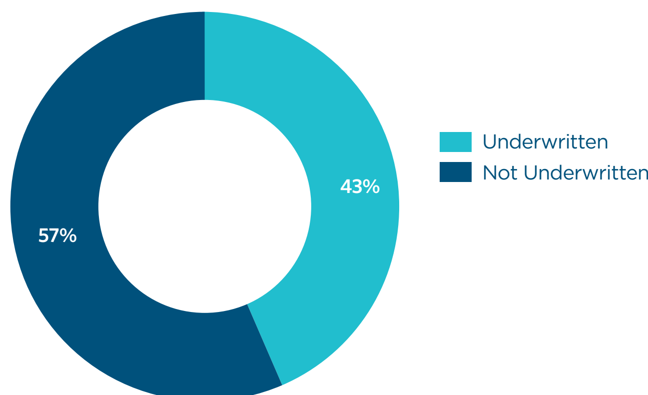
Underwriting

The proportion of underwritten IPOs for 2017 is almost exactly the same as it was for 2016. The same is true if underwriting for IPOs with a market capitalisation of over $100 million on listing are examined.

Number of all IPOs underwritten vs not underwritten



Number of IPOs underwritten vs not underwritten with a market capitalisation of over $100 million on listing



Note on methodology: All data in this '2017: IPOs by the numbers' section excludes ASX Foreign Exempt Listings, listings that did not raise capital, debt IPOs and demergers unless otherwise stated. Market capitalisation is based on the issue price of securities multiplied by the number of quoted securities.

Dual-tracks and spin-outs – running an 'IPO plus' process

The benefits of an 'IPO plus'

While a skittish market deferred some of the major potential IPOs of 2017, there was a much more positive reason for what were expected to be two of the most significant IPOs of 2017 not proceeding to listing on ASX: successful dual track process outcomes where ultimately the trade sale 'won'. Alinta and Lattice Energy were major successes with trade sales of $4 billion and $1.585 billion respectively.

Sometimes the plan all along is a dual track process. Equally often the plan starts as an IPO, then trade sale interest emerges along the way and the process is opened into a dual track. This can involve anything from one bidder against the IPO to a formal multi-party structured bidding process.

It is more complex and intensive to run a dual track process but the competitive tension can make that extra effort worthwhile.

Similarly, both the Lattice Energy process and the Domain separation from Fairfax Media involved spinning a new listed vehicle out of an existing listed vehicle. Managing the continuous and financial disclosure of the parent and the developing child in tandem brings both challenges and potential rewards. Spin-outs, whether through IPO, demerger or another structure have been reasonably common in the past, and we expect that theme to continue.

Dual track processes

Big issues in dual track processes include:

- **Management time**: for most companies, running an IPO process, a trade sale process and the business is a massive exercise and burden on the management team;
- **Maintaining competitive tension**: ideally (practical constraints can make it challenging) both processes remain on foot until there is either an underwritten IPO, or a high level of confidence in IPO pricing and demand, or a legally binding trade sale contract;
- **Assessment**: keeping the processes 'like for like' to the maximum extent possible to help compare the eventual offers and pricing indications;
- **Engagement I**: maintaining enthusiasm and energy across the management team, where their future may vary from being in charge of a new listed company to being redundant to a new owner;
- **Engagement II**: maintaining the engagement of the IPO and trade sale counterparties, where no-one wants to be a stalking horse;
- **Managing regulatory and contractual approvals**: often these approvals and the need for them operate differently for an IPO and a trade sale; and
- **Maintaining flexibility**: having potential IPO and trade sale structures settled and ready to go but not implemented so as to avoid punitive tax and stamp duty consequences.

Spin-outs from listed vehicles

Key issues for a listed issuer spinning a vehicle out to manage include:

- **Co-ordinating disclosure processes**: Is the spun-out vehicle and its performance material to the listed parent? If so, soundings, roadshows and pathfinder prospectus processes need to be carefully structured and sequenced to avoid the risk of a select group of investors receiving non-public material price-sensitive information about the parent ahead of the market.
- **Navigating the pre-prospectus advertising rules**: If the spin-out is structured as an IPO (as opposed to, say a demerger where no shares are issued to new shareholders) publicity before the prospectus is lodged is restricted by the Australian pre-prospectus advertising rules. If it is a major IPO and being marketed offshore, the equivalent United States restrictions may also apply. The listed vehicle has to balance that with its own continuous disclosure obligations. Difficult calls need to be made because the Australian regulatory regime allows disclosure of what is required for the parent to comply with continuous disclosure but nothing which goes beyond that.

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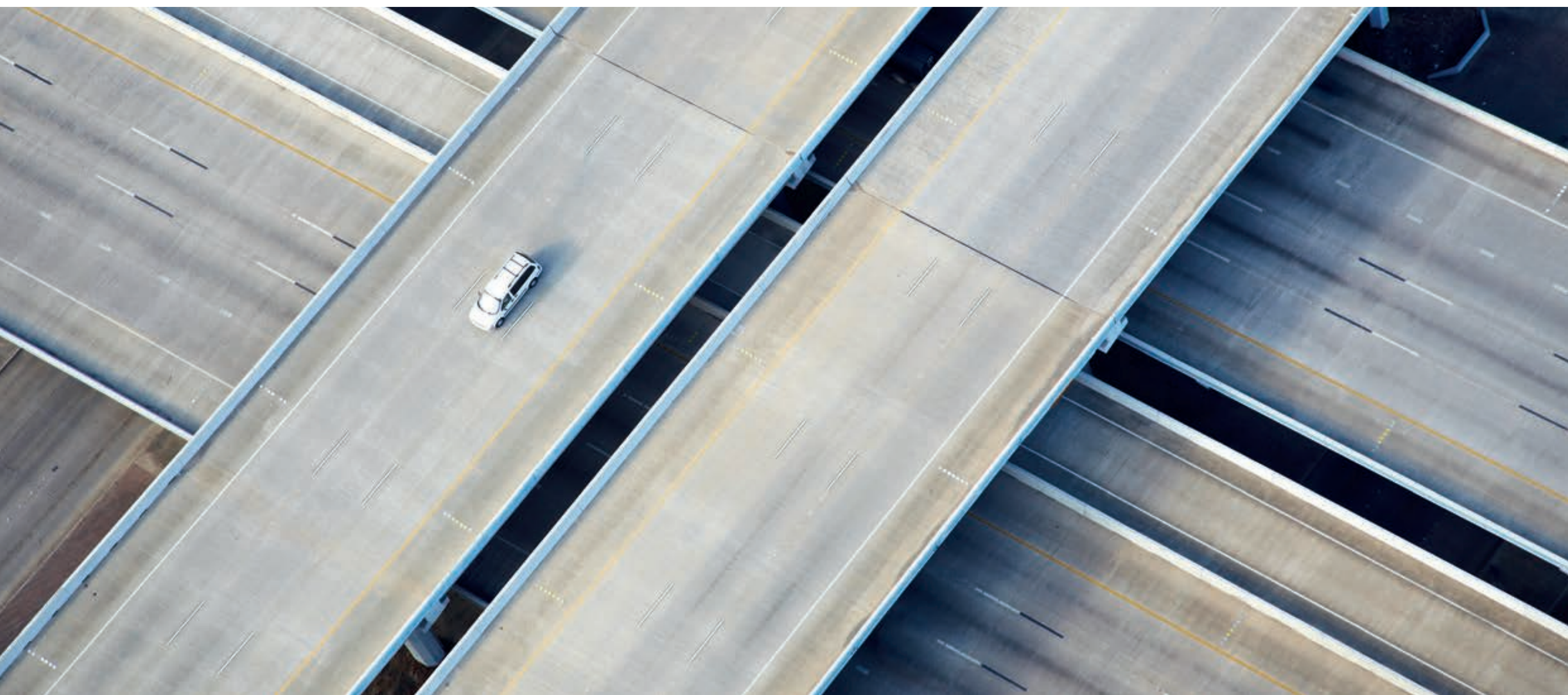
Dual-tracks and spin-outs – running an 'IPO plus' process

- **Separating the new vehicle from its existing parent**: This involves physical separation – from IT, to systems, to people – allocating historical liabilities between then (generally along historical business lines but the devil tends to be in the detail), and putting in place both transitional arrangements and arm's length contracts for anything they will still do together in the future.
- **Managing the ASX approval process for both the new listing and the impact on the parent**: ASX Listing Rule 11 can require shareholder approval for an IPO spin-out unless parent shareholders have an opportunity to participate. Migrating incentive scheme coverage for transferring employees to the new listed entity may require ASX waivers.

Secrets to success

It is important to bear in mind the enormous effort that running an IPO process plus the business alone requires – and then the further resourcing and demands for the 'extra' being that it is occurring out of a listed vehicle or is being run as a dual track process. They do not tend to be quick processes, but the rewards are there if the process is well planned and managed and the team remains energised to get the best outcome across the finish line.



Regulatory developments

Compared to 2016, 2017 was a relatively subdued year for Australian fundraising regulation. As we noted in our 2016 Australian IPO Review, both ASIC and ASX were keenly focused on improving listing practices of issuers, advisers and market participants during 2016. Whilst this focus continued in 2017 (for example ASIC's new **sell-side research regulatory guide** and inquiry into **how investors decide to invest in IPOs**), both regulators shifted gear in 2017 and took more of an interest in technological innovation, both as it relates to the market (see our comments in relation to both regulators' interest in **initial coin offerings**) and to the regulators themselves (see our comments in relation to ASX's proposed **replacement of CHESS with distributed ledger technology**). We expect that this trend will continue throughout 2018.

ASIC

Issuer and investor appetite for greater fundraising flexibility has been increasing in recent years, particularly with the proliferation of cryptocurrency and internet-based crowdfunding initiatives. ASIC has acknowledged the importance of regulation keeping pace with innovation within the market. Two significant innovation-driven regulatory developments this year have been the recent amendments to the *Corporations Act 2001* (Cth) (**Corporations Act**) to introduce a crowd-sourced equity funding regime (see the *Corporations Amendment (Crowd-sourced Funding) Act 2017*) and ASIC's consideration of how initial coin offerings may be regulated by the Corporations Act.

ASIC facilitates crowd-sourced funding by public companies

The new public company crowd-sourced funding (**CSF**) regime came into effect on 29 September 2017. The CSF regime allows eligible public companies to make offers of fully paid ordinary shares to retail investors via the online platform of a licensed intermediary. Companies can raise up to $5 million in any 12 month period and each investor can invest up to $10,000 per company in any 12 month period. It is intended to facilitate flexible and inexpensive access to equity capital for start-ups and other small to medium sized unlisted public companies by reducing the regulatory burden of traditional fundraising, whilst still supporting investor confidence by affording a level of protection to retail investors.

ASIC has released a guide to assist companies wishing to raise capital, which includes a template CSF offer document (see ASIC Regulatory Guide 261: Crowd-sourced funding: Guide for public companies), and a guide to assist platform operators to comply with their gatekeeper obligations, which include a requirement to perform checks on both issuers and investors (see ASIC Regulatory Guide 262: Crowd-sourced funding: Guide for intermediaries). Companies that register as or convert to a public company after commencement of the CSF regime may also be eligible for a number of temporary concessions from public company requirements including the requirements to: hold an AGM, appoint an auditor and have its accounts audited, and distribute its annual report to shareholders.

Initial coin offerings

In September 2017, ASIC released Information Sheet 225 on the potential application of the Corporations Act to initial coin offerings (**ICO**). An ICO is a form of fundraising whereby businesses or individuals can raise funds through the internet from investors who generally use cryptocurrency (such as bitcoin) to purchase 'coins' or 'tokens' under the offer. ICOs are often global offerings and the issuer and investors can remain anonymous.

The legal status of the ICO, and therefore the potential application of Australian law to it, will depend on the type of offering as well as the rights that are attached to the coins that are issued.

ASIC's view is that while in many circumstances ICOs will only attract the application of the general law, there are circumstances where the Corporations Act will apply. For example, the ICO may be a managed investment scheme if investors contribute assets to obtain an interest in a scheme and where the assets are pooled in a common enterprise over which the investors have no day to day control. An ICO may also be considered an issue of shares if the rights attaching to the coins are similar to the rights attaching to ordinary shares. They could also be offers of derivatives if the value of the coin is derived from an underlying instrument or reference asset. If the coin is considered a financial product, then any platform that enables investors to be issued with or trade those coins may constitute the operation of a financial market.

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Regulatory developments

As they become increasingly common, offerors and their advisers should be aware of the potential laws that may govern ICOs. We would expect that ASIC will continue its proactive monitoring and regulation of this space during 2018.

How investors decide to invest in IPOs

Proactively regulating IPOs to ensure investors have sufficient information to make informed decisions continues to be a key area of focus for ASIC. During 2016, ASIC interviewed institutional investors, and commissioned qualitative market research on retail investors, to gain further insight into the information and factors that influence their IPO investment decisions (see ASIC Report 540: Investors in initial public offerings, August 2017).

ASIC found that institutional investors rely heavily on the prospectus as the main source of information when assessing an IPO because it is a regulated document for which directors and others are liable, adding credibility and reliability to the document. Institutional investors also indicated that access to the IPO issuer's management, and the investor's own technical analysis of the offer, are influential in their assessment of an IPO.

In contrast, financial media, including mainstream media and subscription services, are key sources of information for retail investors. As a consequence, ASIC intends to increase their monitoring of these sources. While the prospectus is still a key source of information, retail investors consider them to be difficult to read or perceive them as a marketing document. ASIC is exploring options for improving retail investors' access to the issuer's management team, potentially via recording roadshows and making them available online. It would also like to improve retail investors' understanding of the IPO process, including ASIC's role. We would expect to hear more from ASIC on these matters during 2018.

New guidance on sell-side research

ASIC has continued its recent focus on improving the practices and processes implemented by Australian financial services (**AFS**) licensees in relation to the handling of material, non-public information and management of conflicts of interest, with the publication of ASIC Regulatory Guide 264: Sell-side research, December 2017 (**RG 264**). ASIC is giving industry until 1 July 2018 to ensure their compliance measures conform to the expectations described in the guidance.

That publication takes into account stakeholder feedback received through public consultation (see Consultation Paper 290: Sell-side research, June 2017) and a 2016 report (ASIC Report 486: Sell-side research and corporate advisory: Confidential information and conflicts, August 2016), which identified perceived shortcomings in the approaches taken by AFS licensees to manage conflicts and deal with confidential information during IPOs and secondary raisings (particularly when research divisions and corporate advisory divisions within the same investment bank or broker had divergent interests).

RG 264 sets out a series of guidelines on how to appropriately identify and handle confidential information, manage conflicts of interest across all stages of the capital raising process, and structure and fund research divisions. The guidance is intended to supplement ASIC Regulatory Guide 79: Research report providers: Improving the quality of investment research, November 2004 in its application to sell-side research.

Some key takeaways from RG 264 include:

Pre-solicitation – before a licensee decides to submit a proposal for a capital raising mandate to the issuer:

- if the transaction involves a listed company and the research analyst has been wall-crossed, the licensee's corporate advisory team and research analyst may discuss the capital raising or valuation information (which is now more broadly defined and includes the valuation of the issuer and the methodology used to produce the valuation such as valuation metrics and multiples, peer group comparable listed companies, discount rates and growth assumptions and financial information (including forecasts)); and
- while an issuer and research analyst may interact pre-solicitation, the research analyst should not volunteer valuation information, and licensees should advise issuers that they (and their advisers) should not ask research analysts for their views on valuation information. These interactions must stop at the earlier of: the licensee deciding to pitch, or seven days before a pitch presentation.

Transaction pitching – during the pitching stage for a mandate on a capital raising transaction:

- research analysts should not communicate with, or discuss the issuer or the potential transaction with, the licensee's corporate advisory team, or the issuer or its advisers, unless the research analyst has been wall-crossed and does not produce research on the issuer or transaction until the transaction has been completed;
- corporate advisory and research analysts should not be made aware of each other's opinions on valuation information or research analyst models; and
- the licensee should not commit to research coverage as part of the pitch, and mandates should not include any inducement or commitment (express or implied) to provide research coverage.

This period ends when the issuer has selected a licensee and transaction preparation commences (whether or not a formal mandate letter has been signed).

Post-appointment – research analysts can provide input into internal underwriting approval processes after an investor education report has been widely distributed to potential investors or as soon as practicable before any final underwriting decision is made (which is described as a day or two before). There remains some uncertainty around how and when analysts can participate in this process.

Investor education reports (IER) – RG 264 includes a range of guidelines regarding the preparation and review of IERs:

- an IER should not contain any issuer information, estimates or plans that could not or will not be disclosed in the prospectus;
- when preparing the IER:
  - interaction between research analysts and the corporate advisory team should be overseen by the licensee's compliance team, and limited to administrative matters;
  - research analysts may attend a briefing with the issuer, however, requests for additional information (and the responses) provided outside the briefing should be managed by compliance or another control function;
  - licensees should advise the issuer and its advisers that they may not ask the research analyst any questions; and
  - a licensee's corporate advisory team should not participate in or see any communication between research analysts, the issuer or its other advisers; and
- compliance or another control function should manage the distribution process of the IER for review, and the review of the IER before publication may only be undertaken by:
  - the licensee's compliance or another control function (and not the licensee's corporate advisory team); and
  - the issuer and its legal advisers for fact and legal checking only, provided all valuation information (as broadly defined) is redacted and the issuer and its legal advisers agree in writing not to share the IER or opinions expressed in it with any other party.

ASIC also notes that it may in the future revisit the inclusion of valuation information in IERs on the basis that it could provide advance notice of the valuation in any post-IPO research, which may be inside information.

Discretionary fees – where licensees are entitled to a discretionary fee that is determined after publication of a research report, extreme care should be taken to ensure that this does not create a conflict of interest or pressure to produce a report that is in line with the issuer's expectations.

ASX

ASX is also embracing technological change in the form of distributed ledger technology. It has also noticed an increase in the number of enquiries it is receiving in relation to ICOs of cryptocurrencies and has reminded prospective issuers that they will need to satisfy ASX that their operations are bona fide and that they will comply with all applicable legal requirements both in Australia and overseas.

Distributed ledger technology to replace CHESS

ASX has announced that it will replace CHESS with distributed ledger technology (**DLT**). The shift comes after two years of suitability testing, the building of enterprise-grade DLT software for core equity clearing and settlement functions and a stakeholder consultation program.

Regulatory developments

DLT is an electronic record of transactions maintained in decentralised form across different organisations, eliminating the need for a central authority. ASX regards the adoption of DLT as placing Australia at the forefront of innovation in financial markets, and is expected to make transactions cheaper, faster and more secure. ASX has indicated that it will release a consultation paper at the end of March 2018, and will announce the timing for the replacement of CHESS as well as the scope of DLT (including whether any existing functions or services of CHESS will be removed or replaced, or new functions or services added) at the end of June 2018.

In the meantime, the existing CHESS system will operate as usual.

Trading halts become history for sales of major shareholdings

ASX no longer allows trading halts to facilitate bookbuild processes for sales of major stakes in listed entities. ASX believes that this change is consistent with the general principles that interruptions to trading should be kept to a minimum, and that a trading halt should only be permitted where there is a material risk that trading might occur while the market as a whole is not reasonably informed or where it is needed to correct or prevent a false or disorderly market.

Despite this general position, if an entity is not aware of a sale of a major shareholding but becomes aware of it, it can still request a trading halt from ASX to allow enough time for an announcement to be made about the sale in order to ensure the entity is able to comply with its continuous disclosure obligations.

Other developments

Management accounts for shell companies now required in listing applications – ASX has included a new Annexure B to Guidance Note 1 (including a summary table) setting out an overview of the ASIC and ASX financial accounts requirements. One interesting new requirement is that ASX is asking applicants to provide it with management accounts for newly established or dormant shell 'ListCo' companies. The accounts to be provided will depend on ListCo's date of incorporation.

Working capital requirements tweaked – ASX has updated its guidance in relation to the working capital limb of the assets test. ASX's view is that working capital statements that appear in disclosure documents should be tied back to a clear statement of what objectives the business is trying to achieve using the funds raised in the IPO and making it clear that the entity will need to raise more funds once it achieves those objectives.

Process for receiving in-principle advice updated – When seeking in-principle advice from ASX on the application of Listing Rule 1.1 condition 1 and Listing Rule 1.19, a prescribed form from ASX's website is required. However, no prescribed form is needed when seeking in-principle advice about how a particular listing rule might apply. In both cases, a $5,000 fee (excluding GST) must be paid.

Medical cannabis, cryptocurrency and ICO listings – ASX is aware of increasing interest in medical cannabis businesses and businesses that invest in cryptocurrency or make ICOs. ASX notes that such businesses will need to consider whether they can operate their businesses legally in the jurisdictions they do business in and, particularly for early stage businesses, whether they can properly explain their business operations.

The return of the greenshoe?

Greenshoe structures (also known as over-allocation or stabilisation) are relatively rare in the Australian IPO market but are quite common in other jurisdictions such as the United States and Hong Kong. Reliance Worldwide Corporation (advised by Herbert Smith Freehills) was the last notable ASX issuer to use the greenshoe structure on its IPO in 2016.

Media reports suggest that in 2018 we could see a number of large IPOs brought to market including Chemist Warehouse, Latitude Financial, Nature's Care and PEXA. With large offers, lead managers and issuers often consider including a greenshoe structure as part of the offer structure. It is a mechanism that, subject to compliance with certain regulatory requirements, allows a lead manager to acquire shares in the issuer on-market in the 30 days after the IPO where the price of the issuer's shares has fallen below the IPO price. This helps cushion any decline in the share price, which in turn promotes investor confidence in the IPO, particularly from offshore institutional investors who may be allotted more shares than expected and who may then need to dispose of shares in the IPO aftermarket.

How does a greenshoe work?

The legal structure that a greenshoe takes will typically depend on whether the IPO involves a fresh issue of shares or a sell-down.

Examples of a fresh issue and a sell-down greenshoe mechanism are set out below. Interestingly, in both transactions, no stabilisation activities were undertaken – in other words, the greenshoe mechanism was not used because of the strong share price performances post listing meaning that 'stabilisation activities' were not required.

A greenshoe structure must comply with various procedures and conditions agreed between the issuer shareholders selling down, the lead managers, ASX and ASIC, including:

- the value of securities offered under the IPO must be greater than $50 million;
- the greenshoe must be for no greater than 15% of the total number of securities offered in the IPO;
- market stabilisation purchases may only be made for a maximum of 30 calendar days starting on the first day of trading of the securities;
- all bids by the stabilisation manager must be 'flagged' as such on ASX's trading system and must be priced at the lower of:
  - the current highest independent bid on ASX's trading system; or
  - the final IPO price;
- each day, the stabilisation manager must provide details of the number of securities purchased by it on the previous day and in total, and this will be disclosed to the market;
- receipt of a 'no-action' letter from ASIC regarding the application of the Corporations Act to the market stabilisation activities; and
- the stabilisation manager entering into an agreement with ASX regarding how the stabilisation activities may be undertaken.

Reliance Worldwide Corporation (2016)

Reliance and J.P. Morgan (the lead manager designated as the 'stabilisation manager') were allowed to designate up to 10% of the shares issued to successful applicants as 'over-allotment shares' and place the offer proceeds raised from issue of the over-allotment shares in a designated bank account.

During the 30 days following listing, the stabilisation manager was permitted to purchase shares on ASX using the offer proceeds held in the designated bank account in circumstances where the share price on ASX was below the final IPO price. Any shares purchased by the stabilisation manager would be placed in a nominee account.

The stabilisation manager was also permitted to sell any shares purchased during the 30 day stabilisation period, provided that the price at which those shares were sold was not less than the final IPO price. The proceeds of any such sales would be deposited in the designated bank account.

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The return of the greenshoe?

At the end of the 30 day stabilisation period:

- the stabilisation manager was required to transfer any shares remaining in the nominee account to the selling shareholder – although not the case in this IPO, to the extent the stabilisation manager was required to transfer shares held in the nominee account to the selling shareholder, the selling shareholder would have retained a larger interest in Reliance than originally anticipated; and
- the selling shareholder was entitled to withdraw any cash left in the designated bank account.

Spotless Group Holdings (2014)

Spotless, Spotless SaleCo, their selling shareholders and the lead managers were allowed to over-allocate additional shares in the offer to institutional investors, representing between 7.4% and 7.8% of the shares issued under the offer.

This over-allocation would initially be satisfied by the stabilisation manager (which was UBS) borrowing an equivalent number of shares from Spotless SaleCo (being the entity that facilitates the sell down of shares on behalf of the selling shareholders) at settlement of the institutional offer.

Ultimately, the stabilisation manager's obligation to return the borrowed shares would be satisfied by:

- requiring Spotless SaleCo to transfer shares under an option granted by Spotless SaleCo to the stabilisation manager to acquire the number of shares originally over-allocated (known as the 'over-allocation option'); or
- if the share price required stabilising, purchasing shares on the ASX at or below the final IPO price once trading in shares commenced; or
- by a combination of these means,

any time within the period of up to 30 days following listing.

The final number of shares sold by Spotless SaleCo would depend on whether the stabilisation manager exercises the over-allocation option (at all, in part or in full) – in other words, to the extent the over-allocation option is exercised, that option exercise cancels out the stabilisation manager's obligation to return shares borrowed from Spotless SaleCo.

This means that if the stabilisation manager fully exercises the over-allocation option, the selling shareholders will have sold into the IPO all of the shares they intended to sell into the IPO.

Finally, you may be wondering why it is called a 'greenshoe'. It is because the first company to use the greenshoe structure was called Green Shoe Manufacturing!

Key US securities developments

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The US capital markets continue to provide a valuable source of funding for Australian corporates. A number of the larger Australian IPOs and capital raisings have been structured to access the US capital markets, and our US securities practice has enabled us to act for our issuer and underwriter clients on both the Australian and US aspects of these transactions in 2017.

Access to the US capital markets will continue to be important for Australian companies in 2018. Developments in US federal securities law and, more generally, the policy direction of US lawmakers and the US Securities and Exchange Commission (the **SEC**) have significant implications for global execution practices, both in the context of IPOs and other offerings registered with the SEC and in relation to offerings exempt from SEC registration undertaken pursuant to Rule 144A and as private placements. Australian companies access the US capital markets through US listings, Australian IPOs open to US institutional investors and exempt secondary equity offerings, as well as through both SEC registered and exempt offerings of debt and convertible securities.

The past year has seen the SEC continue to focus on striking a balance between encouraging capital formation and ensuring adequate regulatory oversight. Together with other US federal regulators, the SEC is vigilantly monitoring initial coin offerings and other offerings involving cryptocurrencies, and has shown that it is willing to take enforcement action to protect investors against fraud and other manipulative practices. In the wake of significant data breaches and in recognition of the heightened impact of cyber violations on investors and the securities markets, the SEC is emphasising compliance with cybersecurity risk management and associated disclosure requirements. In 2017, the SEC continued its focus on improving disclosure effectiveness, proposing a series of amendments to modernise and simplify disclosure standards under Regulation S-K, which we recognise as welcome – albeit, incremental – revisions to the disclosure framework. The SEC has expanded the circumstances under which issuers may submit draft registration statements in relation to initial public offerings for non-public review, with the aim of encouraging non-US companies to participate in more IPOs involving listings on US exchanges. In addition, repealing or modifying significant provisions of the Dodd-Frank Act remains a top priority of Republican lawmakers.

SEC enforcement action in respect of initial coin offerings

The SEC is closely scrutinising initial coin offerings (**ICOs**) and offerings involving cryptocurrencies to ensure that these comply with the US federal securities laws.

In 2017, with the cryptocurrency market ballooning from roughly US$18 billion to more than US$450 billion, and initial coin offerings raising in excess of US$3.7 billion (compared to less than US$300 million in all prior years), the SEC issued a number of investor alerts and statements on ICOs and cryptocurrency-related investments, and undertook enforcement action against various issuers and other market participants. In December 2017, SEC Chairman Jay Clayton vigorously cautioned investors of the amplified risks associated with the cryptocurrency and ICO markets, highlighting that, as they are currently operating, these markets feature substantially less investor protection than available in traditional securities markets, with correspondingly greater opportunities for fraud and manipulation. Amidst mounting evidence of misappropriation of investor funds and material misrepresentations as to the value of cryptocurrencies on offer and the availability of genuine trading markets, the US Commodity Futures Trading Commission (**CFTC**) has also filed a number of anti-fraud enforcement actions in respect of virtual currency offerings.

Reinforcing prior SEC guidance, Chairman Clayton has also emphasised the applicability of the US federal securities laws to virtual organisations and entities that use distributed ledger or blockchain technology to facilitate capital raising and/or investment, and related offers and sales of securities. Whether or not a particular transaction involves the offer and sale of a security depends on the facts and circumstances. However, the SEC has concluded that various token offerings represent an investment of money in a common enterprise with a reasonable expectation that profits will be derived from the entrepreneurial or managerial efforts of others – and, therefore, 'securities' subject to the requirement to register with the SEC or qualify for an exemption from the registration requirements of the US federal securities laws. Any offering of a security is also subject to the applicable anti-fraud provisions of the US federal securities laws.

Key US securities developments

Our take

While committed to promoting capital formation and cognisant that the technology on which cryptocurrency and ICOs are based may prove to be disruptive, transformative and efficiency enhancing, the SEC remains wary of unregulated offerings involving unconventional structures and assets, and has shown that it is prepared to take enforcement action to protect investors in the ICO and cryptocurrency markets. The SEC's statements on ICOs have been made with an urgency and clarity that is not often seen in statements by the US regulator.

Warning that the structure of ICOs 'by and large' involve the offer and sale of securities and directly implicate the securities registration requirements and other investor protection provisions of the US federal securities laws, Chairman Clayton has urged that market participants (including lawyers, financial advisers and accountants, underwriters and dealers) thoughtfully consider products and platforms involving emerging technologies and new investor interfaces in light of the 'principles-based securities law framework, which has served . . . well in the face of new developments for more than 80 years.' Chairman Clayton has condemned recent structuring approaches under which tokens or coins are asserted to provide investors with 'utility' – such that investors would purchase tokens to use the network they power, and not necessarily because they expect the value of such tokens to increase – as elevating 'form over substance'. Indeed, marketing efforts emphasising the profits to be made based on the efforts of the token sellers or other parties could give so called 'utility' tokens the hallmarks of a security – even if, in the absence of such marketing, the token may have looked less like a security.

We expect the SEC's Division of Enforcement and the CFTC to vigorously police the ICO and cryptocurrency markets and to recommend enforcement actions against both issuers that conduct ICOs and system and platform operators that effect or facilitate transactions in coins or tokens in violation of the US federal securities and commodities laws, as well as other relevant market participants. The SEC and the CFTC are also coordinating with the US Department of the Treasury and the US Federal Reserve, and US federal regulators may seek the introduction of additional legislation to regulate virtual currency trading and investing, and clarify the scope of each agency's regulatory powers. Proactive focus from US federal regulators coincides with Financial Industry Regulatory Authority plans to review the mechanisms broker-dealer firms effecting transactions in cryptoassets and ICOs have in place to ensure compliance with US federal securities laws and regulations and FINRA rules, and an increase in regulatory oversight by US states, presaged, for example, by an announced exam sweep of entities engaged in ICOs by the Commonwealth of Massachusetts' Securities Division.

Cybersecurity remains a key focal point for the SEC, following data breaches

In the wake of the Equifax and EDGAR data breaches, the SEC continues to emphasise compliance with cybersecurity risk management and associated disclosure requirements. In recognition of the increasing frequency of cyber-related threats and misconduct, and the heightened impact of cyber violations on investors and the securities markets, the SEC announced the formation of a new Cyber Unit within the Division of Enforcement in September 2017. The SEC's Office of Compliance Inspections and Examinations (**OCIE**) has also flagged cybersecurity as an expanded examination priority in 2018.

The SEC has already brought a number of enforcement actions:

- in respect of cyber-related misconduct used to gain unlawful market advantage – such as hacking to access material, non-public information in order to trade in advance of an announcement or event and/or to manipulate the market for a particular security or group of securities; account intrusions in order to conduct manipulative trading using hacked brokerage accounts; and disseminating false information through electronic publication, such as SEC EDGAR filings and social media, in order to manipulate stock prices; and
- in relation to failures by registered entities to take appropriate steps to safeguard information or ensure system integrity.

To date, the SEC has not brought a disclosure-based cybersecurity enforcement action. However, both SEC Chairman Clayton and Stephanie Avakian, Co-Director of the Division of Enforcement, have emphasised the need for improved disclosure practices in relation to cybersecurity, and that, while recognising that this is a complex area subject to significant judgment and 'not looking to second-guess reasonable, good faith disclosure decisions', the SEC could 'absolutely' bring a cybersecurity disclosure enforcement action.

Chairman Clayton has reinforced the continuing relevance of principles-based guidance issued by the staff of the Division of Corporation Finance in 2011 in relation to companies' disclosure of issues related to cybersecurity. The staff guidance discusses, among other things, cybersecurity considerations relevant to an issuer's disclosure of risk factors, operating and financial review and prospects (ie, MD&A), description of business, discussion of legal proceedings, financial statements, and disclosure controls and

procedures. Material information regarding cybersecurity risks and cyber incidents is also required to be disclosed when necessary in order to make other disclosures, in light of the circumstances under which they are made, not misleading.

In determining whether risk factor disclosure in relation to cybersecurity risks is required, an issuer should evaluate the severity and frequency of any prior cyber incidents, the probability of cyber incidents occurring and the quantitative and qualitative magnitude of those risks, and the adequacy of preventative actions in the issuer's industry context; an issuer may need to disclose known or threatened cyber incidents to place the discussion of cybersecurity risks in context. An issuer should also address cybersecurity risks and cyber incidents in its MD&A if the costs or other consequences associated with one or more known incidents or the risk of potential incidents represent a material event, trend, or uncertainty that is reasonably likely to have a material effect on the issuer's results of operations, liquidity, or financial condition or would cause reported financial information not to be necessarily indicative of future operating results or financial condition.

Chairman Clayton has indicated that the SEC will continue to evaluate the 2011 staff guidance in light of the cybersecurity environment and its impacts on issuers and the capital markets generally.

Our take

In view of the importance it has attached to the topic, we expect that the SEC will bring enforcement action where issuers and other market participants fail to take cybersecurity preparedness and disclosure of cybersecurity risks and incidents seriously – and, specifically, that disclosure-based cybersecurity enforcement action is likely to be initiated where an issuer experiencing a material cyber breach has failed to make pre-hack disclosures in relation to cybersecurity risk (as was the case for Equifax).

Proposals to modernise and simplify Regulation S-K disclosure standards

Continuing its focus on improving disclosure effectiveness, in October 2017, the SEC proposed a series of amendments to modernise and simplify disclosure standards under Regulation S-K. The proposals are intended to enhance the readability and navigability of disclosure documents, to discourage repetition and the disclosure of immaterial information and to reduce the cost and burden of compliance, all while ensuring the disclosure of material information to investors. The proposing release largely implements the recommendations made by SEC staff in a November 2016 report mandated by the Fixing America's Surface Transportation Act (the **FAST Act**) and other proposals developed as part of the SEC's disclosure effectiveness initiative. We have previously described this initiative as 'evolution, not revolution'.

The proposed rules would amend requirements applicable to the disclosure of an issuer's operating and financial review and prospects (**MD&A**). MD&A is intended to enable investors to see the company through the eyes of management, and requires disclosure of information necessary to an understanding of a company's financial condition, changes in financial condition and results of operations – including an analysis of known trends and uncertainties that are reasonably likely to have a material effect on the company's financial condition or operating performance, key drivers for the business and critical issues facing the company.

Under current rules (for an issuer that is not an emerging growth company (ie, subject to conditions, an issuer with annual gross revenues of less than US$1.07 billion)) MD&A is required to address the three year period covered by the financial statements and either use year-to-year comparisons or any other format that, in the company's judgment, would enhance a reader's understanding. Under the proposed rules, discussion of the earliest year in the financial statements may be omitted if such disclosure is not material to an understanding of the company's financial condition, changes in financial condition and results of operations, and the company has filed an annual report containing MD&A in respect of that earliest year. These changes are intended to encourage companies to re-evaluate disclosures in their prior year MD&A and take a 'fresh look' to determine whether such disclosures remain material. Under the proposed rules, year-to-year

Key US securities developments

comparisons would no longer be required for companies that determine an alternative presentation of narrative disclosure would be more appropriate.

Relevantly, the proposals would also:

- eliminate risk factor examples currently enumerated in Regulation S-K, to encourage issuers to focus on their own risk identification processes;
- remove certain restrictions on incorporation by reference; and
- permit the omission of certain immaterial, competitively sensitive information that has not been made public.

Our take

The proposed amendments to Regulation S-K should continue to be viewed as 'evolution, not revolution', but as welcome revisions to modernise the disclosure framework.

While Regulation S-K disclosure requirements strictly apply only to SEC reporting companies, the refocus on materiality and updated disclosure standards are anticipated to influence disclosure practices in the Rule 144A market. We note, however, that the practical impact of the amendments to MD&A disclosure requirements may be limited for non-reporting companies, with issuers likely to be reluctant to omit discussion of the earliest year in the financial statements (even where such comparative disclosure has been assessed to be immaterial), given that prior year MD&A will not have been previously filed with the SEC. This will particularly be the case where the omitted disclosure continues to be required under non-US stock exchange and disclosure requirements.

We expect that the proposed amendments to Regulation S-K will not be the last of the SEC's disclosure-related initiatives, with the elimination of redundant, overlapping and outdated disclosure requirements consistently identified as a priority of the SEC. In particular, we anticipate that proposals to amend industry-specific disclosure requirements currently reflected in industry guides applicable to mining and bank holdings companies will be the subject of further rulemaking action during the course of 2018.

Proposed repeal or modification of key provisions of the Dodd-Frank Act

Repealing or substantially modifying the US Dodd-Frank Wall Street Reform and Consumer Protection Act (the **Dodd-Frank Act**) remains a top priority of Republican lawmakers. While the US Financial CHOICE Act of 2017 (the **CHOICE Act**), a comprehensive regulatory reform bill approved by the US House of Representatives on party lines in June 2017, is not expected to receive the required votes to pass the US Senate, this proposed legislation highlights the areas on which Republican lawmakers are focused and the Dodd-Frank provisions that may be targeted for repeal or modification.

Proposed repeal of the Volcker Rule

The CHOICE Act proposes to repeal section 619 of the Dodd-Frank Act (the so called Volcker Rule). The Volcker Rule prohibits US banking entities from sponsoring or holding an equity interest in a 'covered fund'. An investment fund organised outside the United States will constitute a 'covered fund' where such fund would have relied on either the section 3(c)(1) or the section 3(c)(7) exemption from registration under the US Investment Company Act had it raised capital from US investors – even where the fund only offers securities outside the United States pursuant to Regulation S. Under current requirements, US banking entities may only sponsor or hold an equity interest in such a fund if the fund could have availed itself of another exemption US Investment Company Act registration. A US banking entity may take an ownership interest in a covered fund in its capacity as an underwriter, but must set aside capital and undertake reasonable efforts to sell the underwriting position within a reasonable time.

Our take

The Volcker Rule has been a trap for the unwary and requires early planning by issuers and other transaction participants to ascertain whether other US Investment Company Act exemptions and/or other exemptions from the definition of 'covered fund' may be available. We would hope that the Volcker Rule's effects on capital formation and role in investor protection would be evaluated in connection with any proposed repeal. Repeal would remove a relatively recent and often cumbersome feature of offerings to which the Volcker Rule applies.

Proposed repeal of Dodd-Frank disclosure requirements

The CHOICE Act proposes the repeal of sections 1502, 1503 and 1504 of the Dodd-Frank Act, which provide the statutory authority for the SEC's rules in relation to conflict minerals, mine safety and resource extraction payments.

The conflict minerals rule requires that a SEC reporting company report on whether such company's sourcing of tin, tungsten, tantalum and/or gold is supporting armed groups in the Democratic Republic of the Congo or adjoining countries. In April 2017, following the determination by the US District Court for the District of Columbia that the conflict minerals rule violates the First Amendment to the US Constitution to the extent that it requires companies to report that any of their products have not been found to be 'DRC conflict free', the SEC Division of Corporation Finance confirmed that it would not recommend enforcement action where a company:

- includes disclosure in a Form SD filed with the SEC regarding the 'reasonable country of origin inquiry' undertaken by the company to determine the country of origin of identified conflict minerals in its products (or contracted-for-manufacture products), as required pursuant to items 1.01(a) and (b) of Form SD; but
- does not include disclosure regarding the company's supply chain due diligence in relation to the source and chain of custody of conflict minerals, file a conflicts minerals report or obtain an independent private sector audit, as required pursuant item 1.01(c) of Form SD.

The CHOICE Act proposes a complete repeal of the conflicts mineral rule, as well as disclosure obligations in relation to mine safety and resource extraction payments (ie, payments by the issuer or its subsidiaries of US$100,000 or more during a fiscal year to government entities in connection with the commercial development of oil, natural gas or minerals on a project-by-project basis).

In addition, the CHOICE Act would repeal section 953(b) of the Dodd-Frank Act, which requires reporting companies (other than emerging growth companies) to disclose (i) the median of annual total compensation of all employees, excluding the CEO, (ii) the annual total compensation of the CEO, and (iii) a ratio of the median employee annual total compensation to the CEO's annual total compensation.

Our take

While the conflict minerals, mine safety and resource extraction payments disclosure requirements apply directly only to reporting companies and the SEC's pay ratio disclosure requirements strictly bind US domestic registrants, determinations as to materiality in the context of Rule 144A offerings are heavily influenced by disclosure practices in the SEC registered market. Repeal of these specialised disclosure requirements would reduce the regulatory burden on reporting companies and, as a likely consequence, lessen the level of detail in relation to these issues deemed material in respect of a non-US issuer.

Irrespective of any potential repeal of the conflict minerals rule and the pay ratio disclosure requirements, we expect that companies will recognise continued value in undertaking country of origin and supply chain due diligence, and will apply a traditional materiality analysis in evaluating appropriate disclosures regarding conflict minerals and the structure of the senior executive compensation arrangements in their capital raisings.

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Expanded SEC relief allowing non-public review of IPO draft registration statements supports capital formation

Consistent with its commitment to improving access to capital markets, the SEC has expanded the circumstances under which issuers may submit draft registration statements in relation to initial public offerings for non-public review, with the aim of encouraging non-US companies to participate in more IPOs involving listings on US exchanges.

Extending relief previously available only to emerging growth companies and certain non-US issuers, the SEC's Division of Corporation Finance now accepts the submission of initial draft registration statements from all companies for non-public review. The expanded confidential submission process is available for IPOs as well as (in relation to the initial registration statement submission only) most offerings made in the first year after a company has become an SEC registrant. While certain categories of non-US issuers have historically been able to submit initial registration statements for non-public review, the relevant policy was limited in 2011 to non-US issuers being privatised by a non-US government and non-US issuers that are listed on or concurrently listing their securities on a non-US securities exchange.

The expanded relief enables all non-US issuers to take advantage of confidential submission. In practical terms, non-US issuers seeking to list equity securities only on the New York Stock Exchange or the NASDAQ will have greater flexibility in navigating SEC review and comment process, including:

- the ability to commence the SEC review process without publicly disclosing sensitive strategic or proprietary information; and
- the optionality to withdraw a draft registration statement without having made a public filing in the event that it is determined not to proceed with the IPO.

Our take

While the majority of IPOs by Australian issuers that are directed to the US capital markets are structured to be exempt from SEC registration, US listings offer particular attractions for sector-specific and significantly sized Australian issuers and other IPO candidates with particular capital raising objectives and/or requirements. The expanded SEC relief should better promote capital formation by enabling the SEC review process to be undertaken away from the public eye, and better incentivising non-US companies to pursue listings on US exchanges.

2018 predictions

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Domestic and international conditions

For the first time in a while, economic conditions have become particularly volatile. While this may not materially impact well credentialed IPOs, it will mean that earlier preparation is required so as to be ready to push the IPO button at the right time.

More smaller IPOs

The median market capitalisation of IPOs in calendar 2017 was 30% less than it was in calendar 2016 (Connect 4). This increase in smaller IPOs is likely to continue given the positive performance of smaller IPOs in 2017 and the proliferation of small cap funds.

Industries to watch

The technology, food, healthcare and mining services sectors are likely to see IPO activity in 2018. Within the technology sector, FinTech businesses in particular are expected to feature prominently among the IPOs of 2018, such as Prospa.

Cheap debt and private equity may curtail certain IPOs

Low debt financing costs and cashed up private equity houses will provide strong competing alternatives to an IPO. Overseas, we have seen this with large companies such as Uber and Airbnb. This may curtail certain IPOs.

Dual tracks remain a genuine alternative

In 2017, certain businesses realised more value on a trade sale as compared to an IPO (such as Alinta Energy's sale to Chow Tai Fook Enterprises). If businesses and private equity houses are prepared to pay the right price for a target, that could curtail the IPO pipeline (see 'Dual-Tracks and Spin-Outs' at page 7).

Sell-side research remains on ASIC's radar

ASIC is continuing its focus on sell-side research in 2018, so it is important that investment banks with research and corporate advisory areas maintain procedures that comply with ASIC's guidelines (see 'Regulatory Developments' at page 9).

Crowd-sourced funding will gain momentum

ASIC has issued licences to seven companies to act as intermediaries in respect of crowd sourced funding of public companies. This could diminish smaller IPOs as eligible companies can raise up to $5 million every 12 months through crowd-sourced funding.

Return of the mega IPO

There was a dearth of IPOs in 2017 which cracked the $1 billion barrier. 2018 may be the year to buck that trend with Latitude Financial Services and Property Exchange Australia planning listings. Larger IPOs may also mean the return of larger IPO features such as over-allocation or the greenshoe (see 'The return of the greenshoe?' at page 13).

Takeovers and block trades may free up money for IPOs

Large takeovers like the Cheung Kong Infrastructure Holdings takeover of DUET Group have resulted in more funds being available for investment by funds in capital markets, especially considering their investment mandates may require them to allocate certain portions of their portfolio to certain sectors. For example, in 2017 this enabled Shell to fully sell down its interest in Woodside, despite Shell initially intending to sell only half its interest in Woodside.

Foreign listings do not appear to be that prevalent

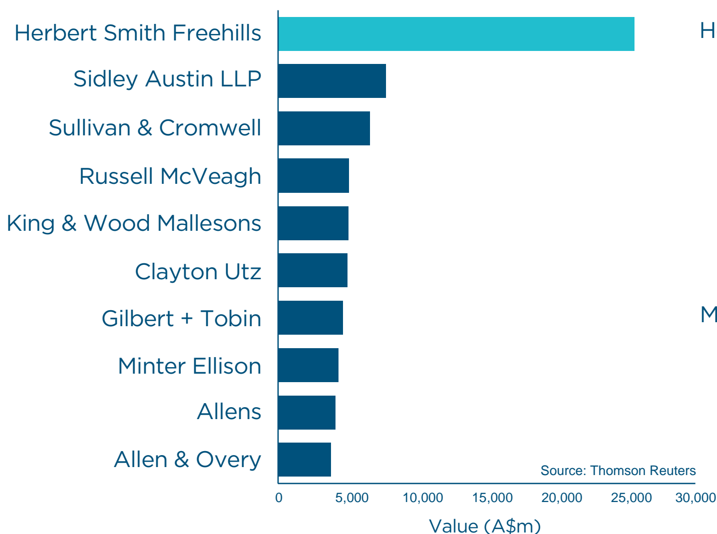
Indications from 2017 are that 2018 does not appear to be a year in which there will be many foreign companies listing on ASX.

About Herbert Smith Freehills

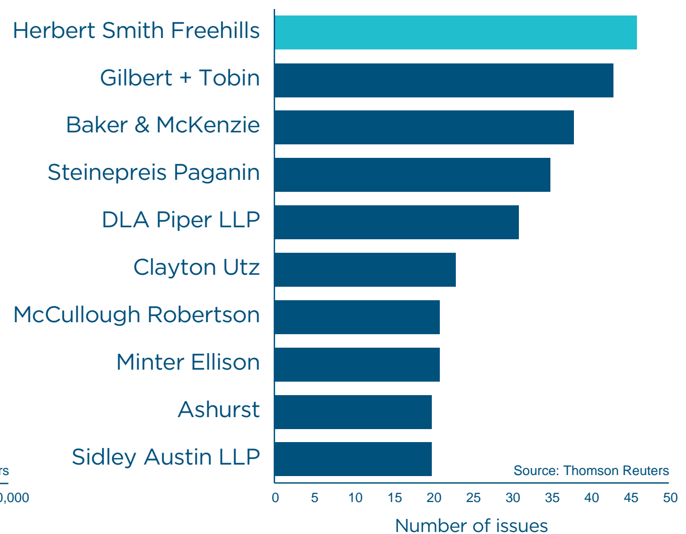
Herbert Smith Freehills is recognised as Australia's leading law firm for IPOs by value, and we have acted on more IPOs by number since 1998 than any other top tier law firm (according to Connect 4). In 2017, Herbert Smith Freehills' capital markets team was ranked Australia's number one equity capital markets team by deal value (Thomson Reuters 2017 – Equity & equity-related, Issuer Advisors).

Described as 'unmatched in quality as they have a team of giants' (IFLR 1000), Herbert Smith Freehills has been awarded the highest possible ranking in the area of Equity Capital Markets by Chambers Global, Asia Pacific Legal 500, IFLR 1000 and PLC Which Lawyer? every year from 2004.

2015-2017 Australian Equity Issuer Legal Advisors by Deal Value



2015-2017 Australian Equity Issuer Legal Advisors by Deal Count



Some of the Herbert Smith Freehills team's recent IPOs include advising:

- New Energy Solar Fund on its $205 million IPO and listing with a market capitalisation of $489.5 million
- Netwealth Group Limited on its $264 million IPO and listing with a market capitalisation of $879 million
- Moelis Australia Limited on its $59 million IPO and listing with a market capitalisation of $294 million
- Inghams Group Limited on its $596 million IPO and listing with a market capitalisation of $1.2 billion
- Autosports Group Limited on its $159 million IPO and listing with a market capitalisation of $482 million
- Reliance Worldwide Corporation Limited on its $919 million IPO and listing with a market capitalisation of $1.3 billion
- Propertylink Group on its $503.5 million IPO of triple-stapled securities and listing with a market capitalisation of $536 million
- Frontier Digital Ventures Limited on its $30 million IPO and listing with a market capitalisation of $108 million
- Adairs Limited on its $220 million IPO and listing with a market capitalisation of $400 million
- Mitula Group Limited its $27 million IPO and listing with a market capitalisation of $154 million
- Murray Goulburn on the establishment and listing on ASX of the MG Unit Trust and its $500 million capital raising
- Integral Diagnostics on its $133.7 million IPO and listing with a market capitalisation of $275 million
- Aventus Retail Property Fund on its $303 million IPO and listing with a market capitalisation of $687 million
- the Australian Government on Medibank Private's $5.9 billion IPO

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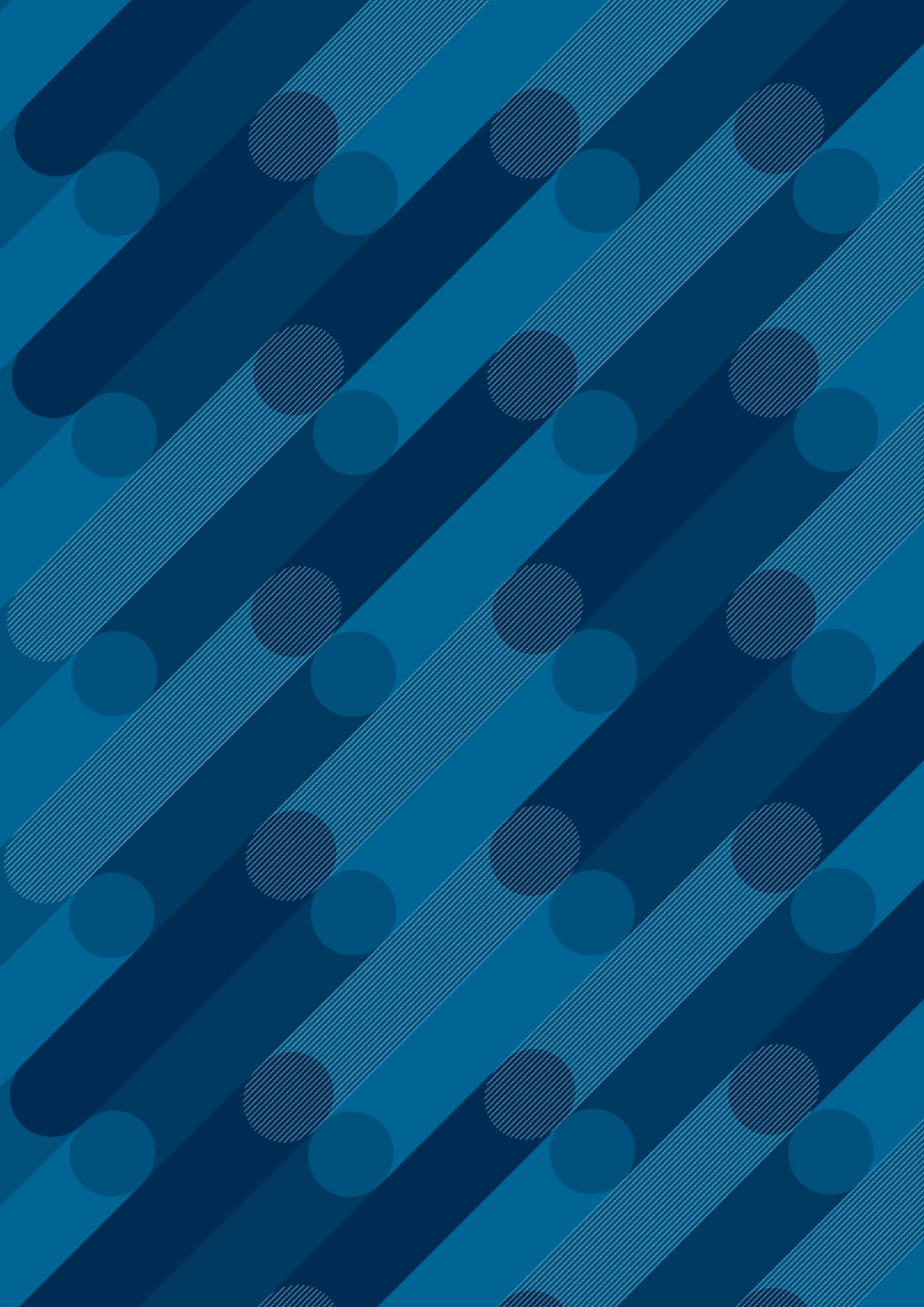
Notes



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