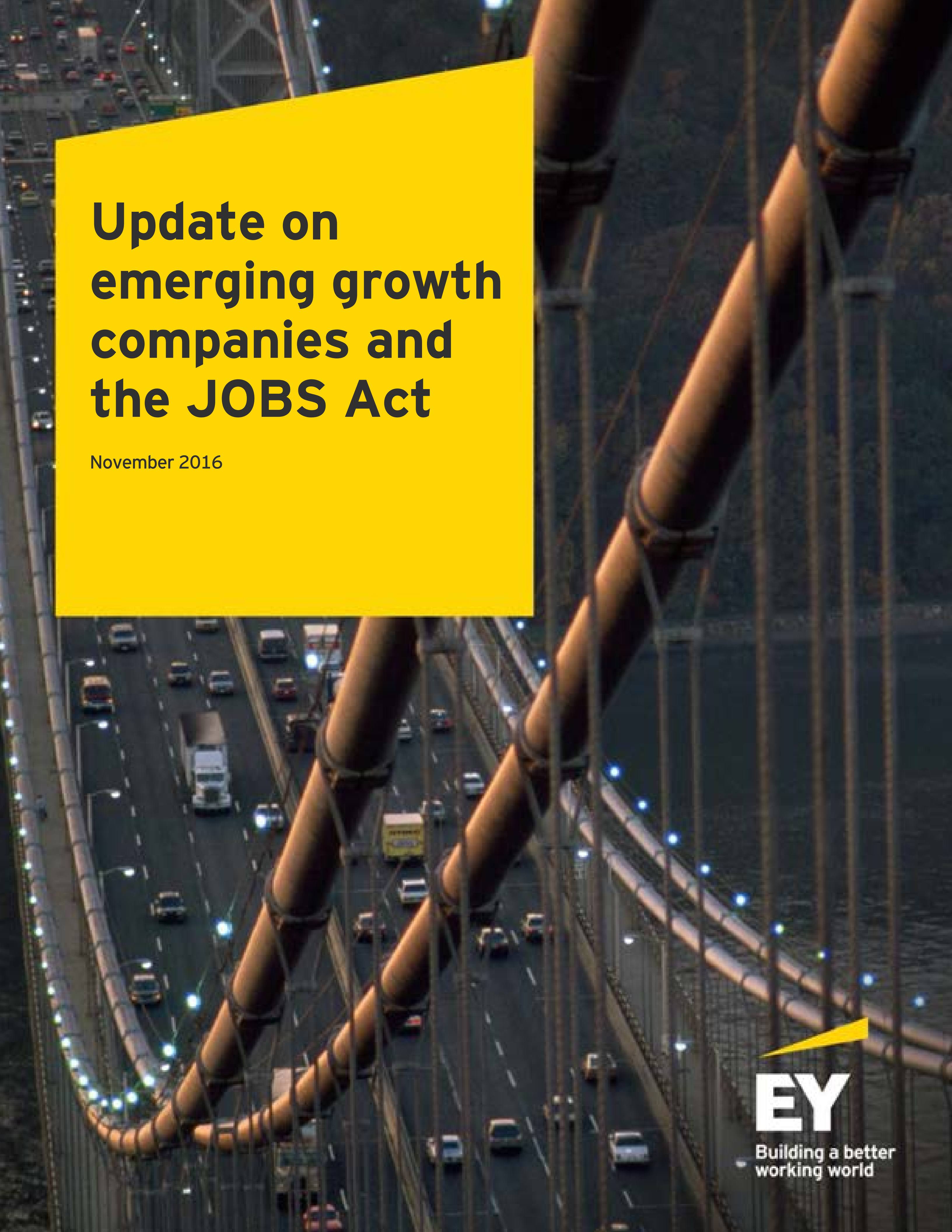


Update on emerging growth companies and the JOBS Act

November 2016

EY

Building a better working world

EGCs dominate IPOs

JOBS Act rules have made it easier for private companies to raise capital …

In the four years since the Jumpstart Our Business Startups Act (JOBS Act or Act)[1] created a new class of issuer called an emerging growth company (EGC), hundreds of private companies have gone public using the relief provided by the law.

EGCs now dominate the initial public offering (IPO) market, accounting for 87% of IPOs that have gone effective since the JOBS Act was enacted in April 2012. The vast majority of EGCs have used some of the accommodations afforded by the JOBS Act including allowing them to submit registration statements confidentially to the Securities and Exchange Commission (SEC), providing reduced executive compensation disclosures and audited financial statements for two years rather than three years.

Private companies are also using other rules mandated by the JOBS Act and adopted by the SEC to gain access to the capital markets. Regulation A+ increased the annual limit on exempt public offerings, and Regulation Crowdfunding allows startups and other private businesses to raise small amounts of equity capital from potentially large pools of investors.

The Fixing America's Surface Transportation Act (FAST Act), which amended the JOBS Act last year, further streamlined IPOs by EGCs by allowing them to publicly file registration statements 15 days before the start of their IPO roadshow, down from 21 days. The FAST Act also allows an EGC's initial IPO submission to omit the earlier year of audited financial statements provided a subsequent audited year will be added by amendment prior to distributing a preliminary prospectus to prospective investors.

EY resources

- *Best practices when going through the IPO registration process* (SCORE No. 02281-161US)
- To the Point, *SEC adopts 'Regulation A+' to expand exempt offerings* (SCORE No. CC0408)
- To the Point, *SEC adopts crowdfunding rules* (SCORE No. CC0428)
- Technical Line, *Implementing the JOBS Act* (SCORE No. CC0363)
- To the Point, *SEC allows general solicitation and disqualifies 'bad actors'* (SCORE No. CC0371)
- Technical Line, *Movin' on up to accelerated filer status: You'll need an audit of ICFR for this year* (SCORE No. CC0372)

As required by the JOBS Act and the FAST Act, the SEC continues to review the disclosure requirements in Regulations S-K and S-X to identify ways to further reduce the compliance costs and burdens on all companies while still requiring them to provide material information to investors. The SEC has sought public comment on changes it might make. It has also proposed eliminating outdated disclosure requirements and expanding the number of registrants that would qualify to report as a smaller reporting company.

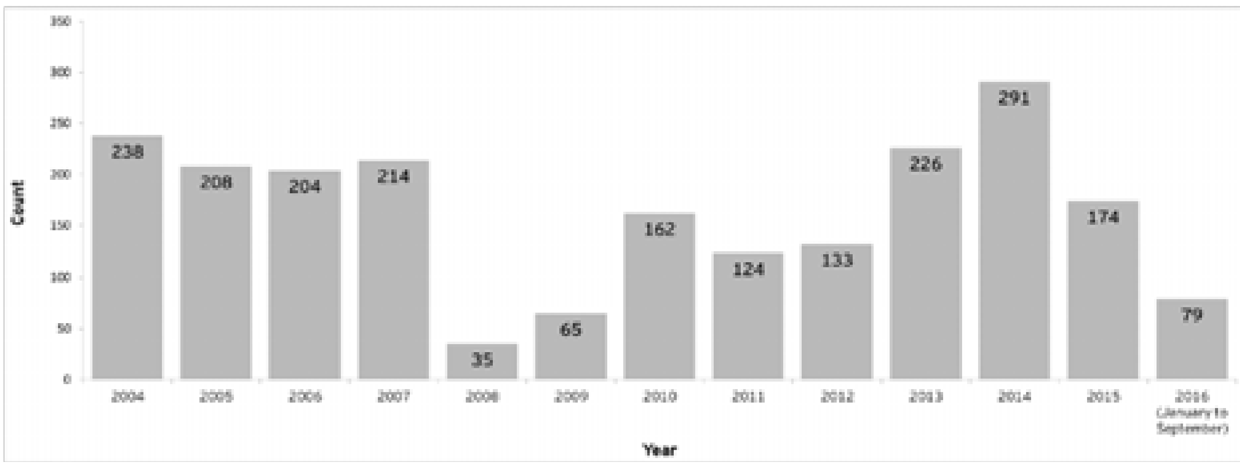
[1] The JOBS Act is available at http://www.gpo.gov/fdsys/pkg/BILLS-112hr3606enr/pdf/BILLS-112hr3606enr.pdf.

Overview of the IPO market

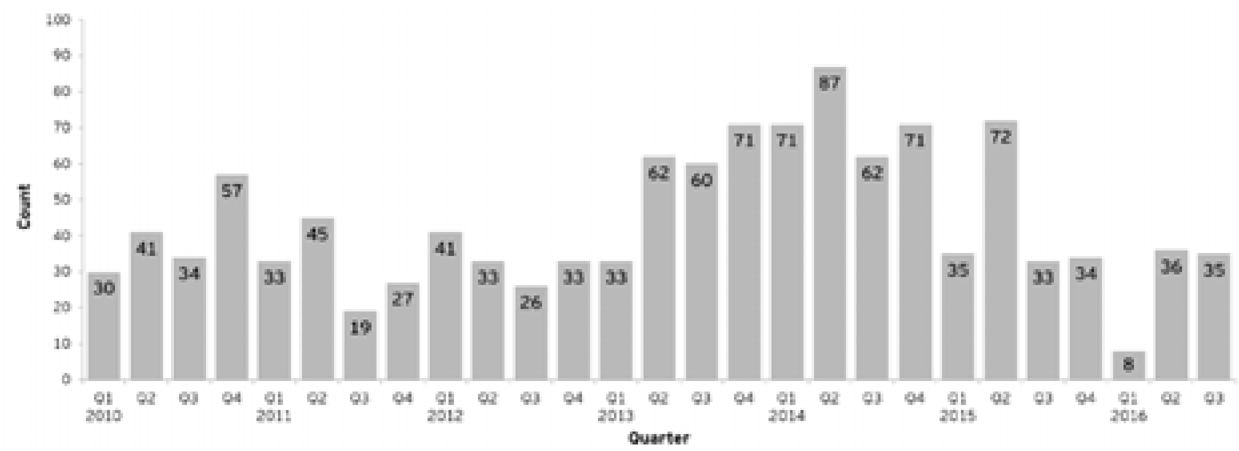
The JOBS Act was intended to promote job creation and economic growth by improving access to the capital markets for emerging companies. The Act incorporated many recommendations from a task force formed in 2011 to address the decline in the number of IPOs since the technology boom of the late 1990s.[2]

The charts below show that IPO activity rebounded after the JOBS Act was enacted in April 2012, peaking in 2014 before declining in 2016 to what so far is lowest level of IPO activity since the financial crisis in 2008 and 2009. The IPO market is affected by a number of factors, including macroeconomic conditions, political uncertainty, equity market stability and investor confidence.

Number of effective IPOs by year (2004–2016*)



Number of effective IPOs by quarter (2010–2016*)



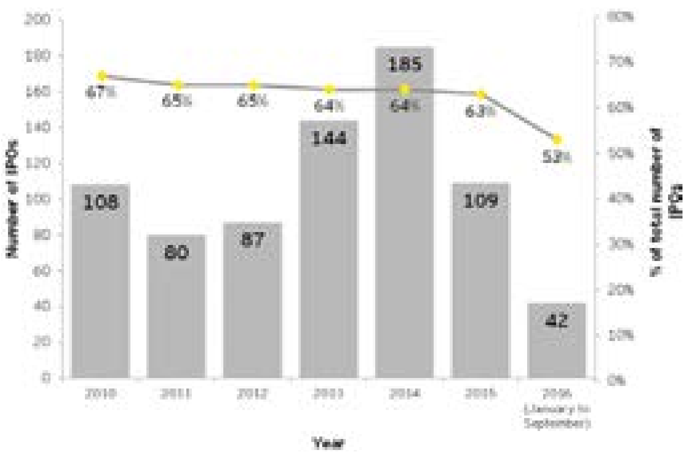
* Based on nine-month year-to-date information for 2016.

[2] The IPO Task Force report presented to the US Department of the Treasury, *Rebuilding the IPO On-Ramp — Putting Emerging Companies and the Job Market Back on the Road to Growth,* is available on the SEC's website at http://www.sec.gov/info/smallbus/acsec/rebuilding_the_ipo_on-ramp.pdf.

The decline in the number of IPOs since 2014 partially reflects the uncertain political and economic environment and the increased volatility of equity prices.

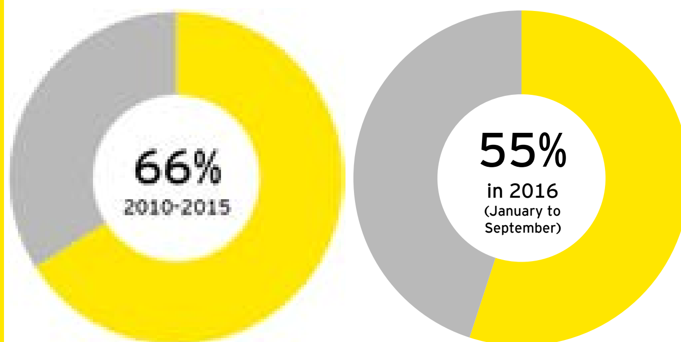
IPOs backed by financial sponsors (i.e., IPOs of companies owned by private equity firms) continued to drive the majority of IPO activity in the nine months ended September 2016, accounting for 53% of IPOs by number of deals. That is a lower percentage than in recent years, and these IPOs accounted for more than 55% of total capital raised, down from 64% over the previous six years.

Financial sponsor-backed IPO activity (2010-2016*)



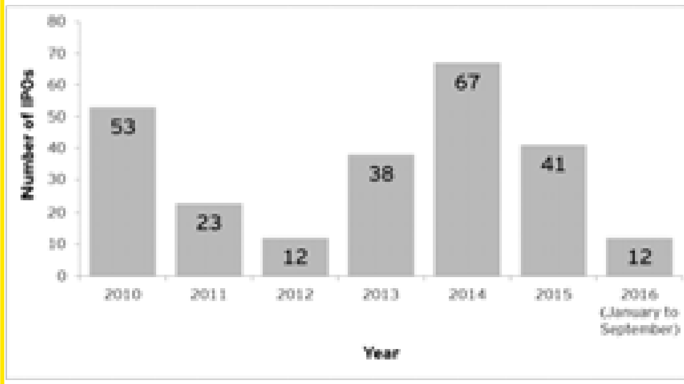
* Based on nine-month year-to-date information for 2016.

Capital raised by financial sponsor-backed IPOs



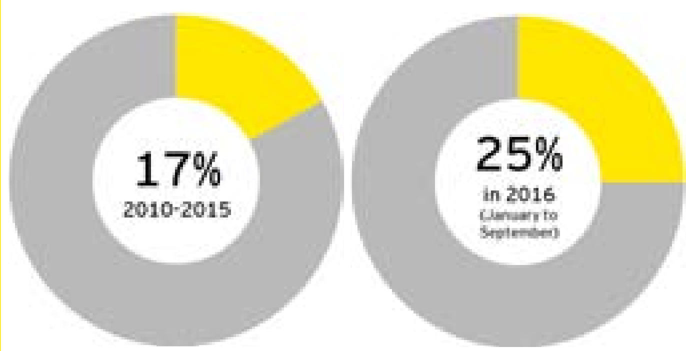
In recent years, companies based in foreign jurisdictions that raise capital on US stock exchanges in what are called cross-border offerings have been a significant driver of the IPO market. There were 12 cross-border IPOs in the first nine months of 2016 representing about 15% of the total number of effective offerings and 25% of total capital raised. In the past six years, companies based in China, the United Kingdom and Israel accounted for the majority of cross-border IPOs in the US (approximately 59%).

Cross-border IPO activity (2010–2016*)



* Based on nine-month year-to-date information for 2016. The term "cross-border" represents companies that are domiciled outside the US but conducted an offering on a major US stock exchange.

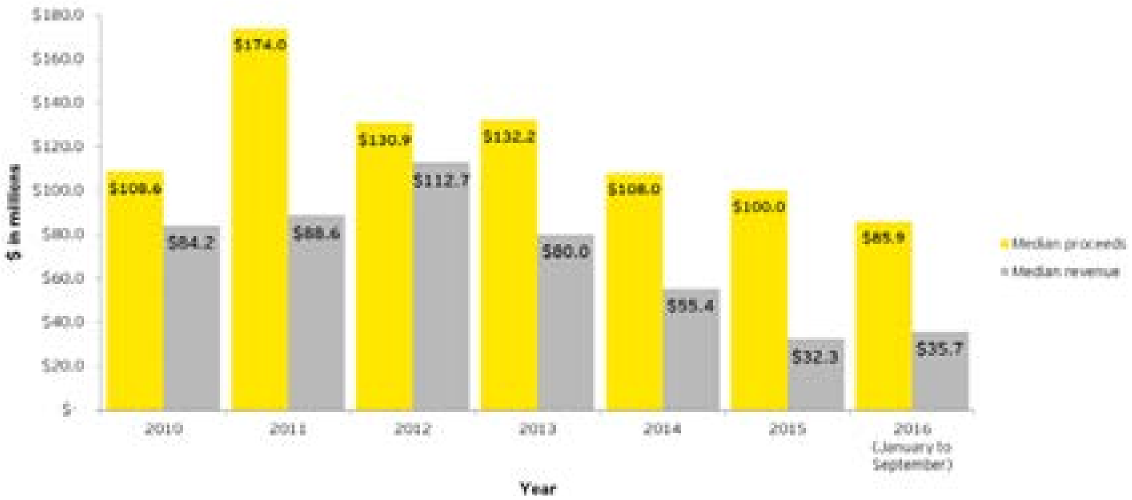
Capital raised by cross-border IPOs[3]



[3] IPO proceeds exclude the 2014 $25 billion Alibaba IPO (the largest IPO in history) and the 2012 $16 billion Facebook IPO. Including the Alibaba and Facebook IPOs, cross-border offerings represented 22% of total IPO proceeds during 2010–2015.

The typical company that conducts an IPO has annual revenue of less than $100 million. More than half of the companies that went public in the first nine months of 2016 had revenues of less than $35 million, approximately the same as in 2015 but significantly lower than the previous five years. The magnitude of a company's revenue is not necessarily correlated with the amount of capital it can raise in an IPO, but median IPO proceeds in the first nine months of 2016 at approximately $86 million were lower than any of the previous six years.

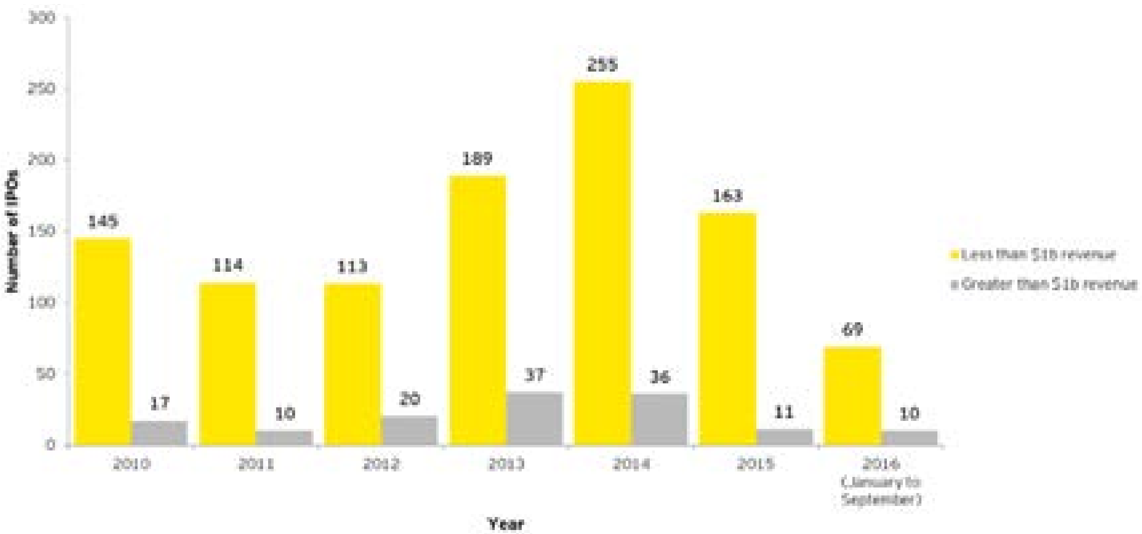
Median IPO proceeds and revenue* by year



* Revenue refers to revenue in the last audited fiscal year presented in the registration statement.

When we take a closer look at the profile of companies that have gone public since 2010, substantially all of the IPO companies were EGCs (i.e., those with less than $1 billion in revenue in the last audited fiscal year presented in their registration statement) or would have qualified as EGCs had the JOBS Act been in place. We note that a number of large companies known as "unicorns" have chosen to remain private.[4]

IPOs by year below and above $1 billion in revenue*



* $1 billion in revenue referes to revenue in the last audited fiscal year presented in the registration statement.

[4] Unicorns are private companies that are estimated to be valued at greater than $1 billion.

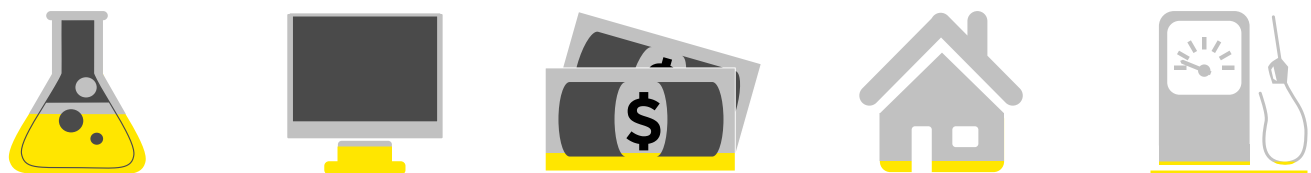
Emerging growth company trends

Under the JOBS Act, certain regulatory requirements are phased in for EGCs during a five-year period known as an IPO "on-ramp." In a major change, an EGC can also submit its IPO registration statement and subsequent amendments to the SEC on a confidential basis.

The staff of the SEC's Division of Corporation Finance has issued a series of frequently asked questions (FAQs)[4] related to eligibility and disclosure considerations and the confidential submission of EGC registration statements.

Companies that qualify as EGCs continue to dominate the IPO market. Since April 2012, approximately 83% of all publicly filed IPO registration statements, and approximately 87% of the IPOs that have gone effective were by EGCs. EGCs that have publicly filed IPO registration statements continue to be concentrated in the health care, technology, financial services, real estate, and oil and gas industries.

Top Industries — EGCs that have publicly filed IPO registration statements since the JOBS Act



38% Health care

18% Technology

9% Financial services

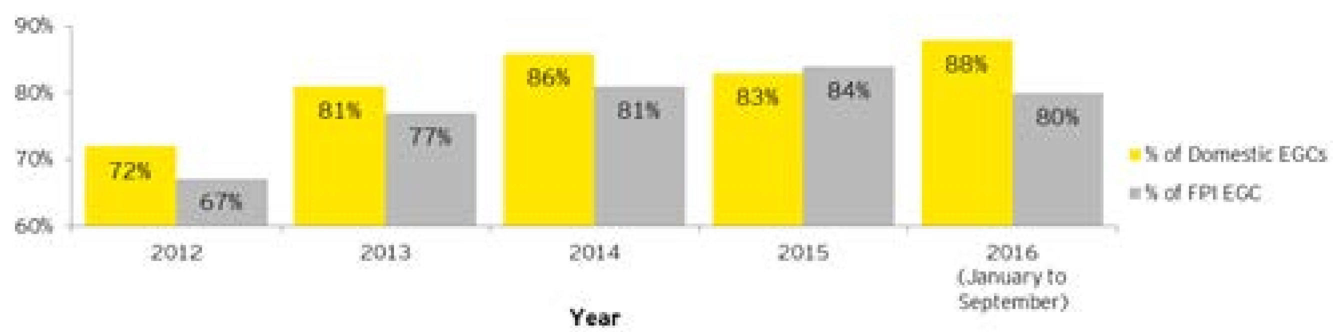
7% Real estate

7% Oil and gas

Since the JOBS Act was enacted, the accommodations offered have been used by a number of foreign private issuer (FPI) registrants each year. As seen in the chart below, US domestic issuers are more likely to file as an EGC than are FPIs.

Unless otherwise noted, the statistics presented in this section are based on an EGC's initial IPO registration statement publicly filed between April 2012 and September 2016 and exclude IPO registration statements that were initially filed before the enactment of the JOBS Act.

Percentage of IPOs by EGCs: Domestic versus Foreign Private Issuers



[4] SEC staff guidance, including its FAQs about the JOBS Act, is available on the SEC's website at http://www.sec.gov/divisions/corpfin/cfjobsact.shtml.

EGC eligibility

An EGC is defined as a company with "total annual gross revenues" (i.e., total revenues presented on the income statement in accordance with US GAAP) of less than $1 billion in its most recently completed fiscal year. Companies that have issued more than $1 billion in nonconvertible debt securities over a rolling 36-month period would not qualify as an EGC. Under the JOBS Act, an issuer with EGC status loses its eligibility as an EGC five years after its common equity IPO or when one of the following criteria are met:

- Has annual revenues exceeding $1 billion
- Issues more than $1 billion in nonconvertible debt securities over a rolling 36-month period, including securities issued in registered or unregistered offerings
- Becomes a large accelerated filer (i.e., a seasoned issuer with public float of $700 million or more)

The FAST Act added a grace period allowing an EGC that loses its status after its confidential submission or public filing to remain an EGC through the earlier of the date the IPO becomes effective or one year after the date of the disqualifying event.

Reassessing EGC eligibility

EGCs should carefully monitor their eligibility. Changes in an EGC's business (e.g., an increase in revenue, an unexpected increase in public float) could lead to earlier-than-anticipated financial reporting obligations. A registrant that loses its EGC status is required to file its annual report for that year as a non-EGC and comply with the rules and regulations applicable to its filing status. For example, if a calendar-year company that has been an EGC has annual revenues of more than $1 billion in 2016, the EGC relief provisions would not apply to its 2016 Form 10-K. Once an issuer loses its EGC status, that status cannot be reclaimed. For example, if after 2016, the calendar-year registrant's annual revenues fell below $1 billion, it would not regain EGC status.

Of the EGCs that have gone effective since the JOBS Act was enacted, approximately 19% had lost EGC status as of the date of their most recent Form 10-K or Form 20-F. Although there is no requirement to disclose the reasons for the loss of EGC status, most ceased to be EGCs because they became large accelerated filers or exceeded the $1 billion revenue threshold.

EGCs should carefully monitor their eligibility because changes in their business (e.g., an increase in revenue, an unexpected increase in public float) could lead to earlier-than-anticipated financial reporting obligations.

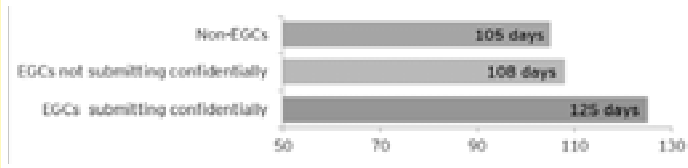
Confidential registration statement submission

Approximately 88% of the EGCs that have filed IPO registration statements since the JOBS Act was enacted have taken advantage of the confidential review accommodation. This accommodation allows EGCs to submit registration statements and subsequent amendments to the SEC on a confidential basis. The SEC staff can comment on the confidential submission, and the company can respond before the documents are made public. EGCs are required to make publicly available all prior confidential submissions no later than 15 days before their road show (or no later than 15 days before the anticipated effective date of the registration statement if they are not conducting a road show). Companies generally price their IPOs within two weeks after launching a road show.

Confidentially submitted registration statements are expected to be substantially complete, and the SEC staff reviews them using the same process and timetable as it does for publicly filed registration statements. The SEC staff generally has a target of less than 30 days to issue comments on all initial Securities Act filings, including confidentially submitted registration statements. According to the SEC's Annual Performance Report,[5] the SEC staff issued initial comments on Securities Act registration statements within an average of 26 days in 2015, up slightly from 25.8 days in 2014.

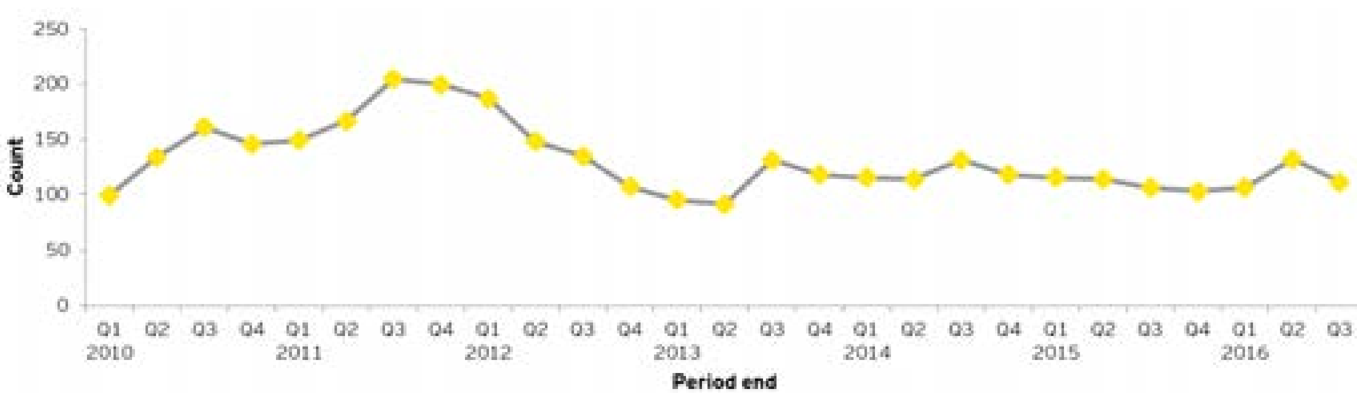
Many other factors affect the length of time between the initial submission or filing date and the IPO date. They include a company's ability to timely file amendments in response to SEC staff comments, as well as market conditions. That said, on average, it takes longer for EGCs to go public than for non-EGCs, particularly if they submit their registration statements confidentially.

Median number of days from initial submission to IPO date



One consequence of the JOBS Act provision allowing confidential submissions is reduced visibility into the IPO pipeline. As the graph demonstrates, the number of pre-effective IPO registration statements in public registration with the SEC has declined significantly since the JOBS Act was enacted. The SEC does not publish any statistics on the number of confidential submissions of IPO registration statements. Thus, it has become much harder to determine how many companies are preparing IPOs.

IPOs in registration at period end



[5] The FY15 report can be found at https://www.sec.gov/about/reports/secfy17congbudgjust.pdf.

EGC scaled disclosures during IPO on-ramp period

EGCs have taken an "à la carte" approach to using the scaled disclosures allowed by the JOBS Act. Most EGCs have elected to provide reduced executive compensation disclosures in their IPO registration statements, and many EGCs have elected to provide audited financial statements for two years rather than three years. Fewer EGCs have chosen to adopt new accounting standards using private company effective dates.

Use of disclosure relief

96%
Reduced executive compensation disclosures*

69%
Two years of audited financial statements**

15%
Adopt new accounting standards using private company effective dates

* Excludes EGCs that also qualify as a smaller reporting company or a foreign private issuer.
** Excludes EGCs that also qualify as a smaller reporting company or have a reporting history of less than two years.

The following table summarizes some of the scaled disclosures EGCs can choose to make during their IPO on-ramp period:

Requirements for registrants*	Scaled disclosures EGCs can choose to make
Three years of audited financial statements in common equity IPO registration statement	Two years of audited financial statements in common equity IPO registration statement[6]
Five years of selected financial data in IPO registration statement, subsequent registration statements and periodic reports	Two years of selected financial data in IPO registration statement; selected financial data in subsequent registration statements and periodic reports begins with earliest audited period presented in IPO registration statement
Compensation, discussion and analysis section and compensation disclosure for five named executive officers in IPO registration statement and subsequent annual reports	No compensation, discussion and analysis section and compensation disclosure for three named executive officers in IPO registration statement and subsequent annual reports
Management assessment and auditor attestation of internal control over financial reporting beginning with second Form 10-K following IPO	Only management assessment of internal control over financial reporting beginning with second Form 10-K following IPO
Follow public company effective dates for new or revised accounting standards	Follow private company effective dates for new or revised accounting standards

* Requirements are for registrants other than those that meet the definition of a smaller reporting company or an EGC.

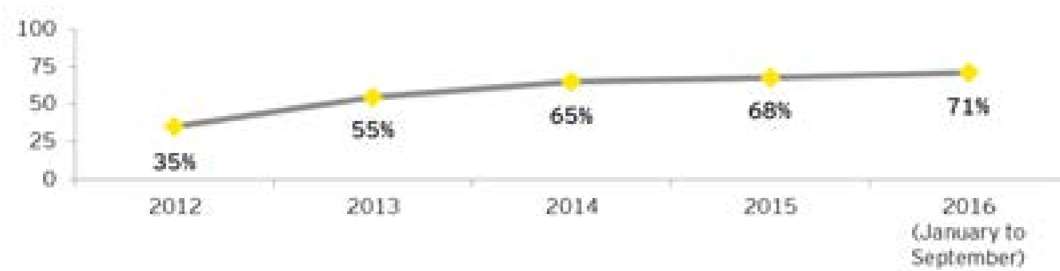
[6] The FAST Act amended the JOBS Act to allow an EGC to omit financial statements that at the time of its confidential submission or public filing it reasonably believes will not be required when the registration statement becomes effective. Thus, an EGC might be able to file or submit an IPO registration statement with only one year of audited financial statements if it expects to provide an additional year of audited financial statements in a pre-effective amendment prior to distributing a preliminary prospectus to prospective investors.

Number of audited financial statement periods and selected financial data

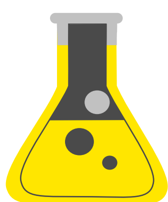
Over the time since enactment, more EGCs have been electing to provide two years of audited financial statements and selected financial data in their IPO registration statement. The cumulative percentage now stands at 69%, up from 59% in our report last year. Use of this relief is becoming more popular, especially among smaller EGCs. The majority of EGCs in the health care, oil and gas, and real estate sectors provide only two years of audited financial statements. More than 80% of EGCs electing this relief had revenues of less than $100 million.

Use of relief for number of audited financial statement periods provided*

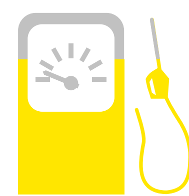
Two years of audited financial statements



Percentage of EGCs in the top four sectors providing two years of audited financial statements*

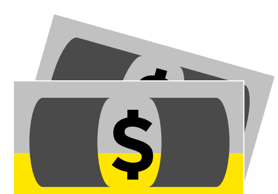


82%
Health care



81%
Oil and gas

70%
Real estate



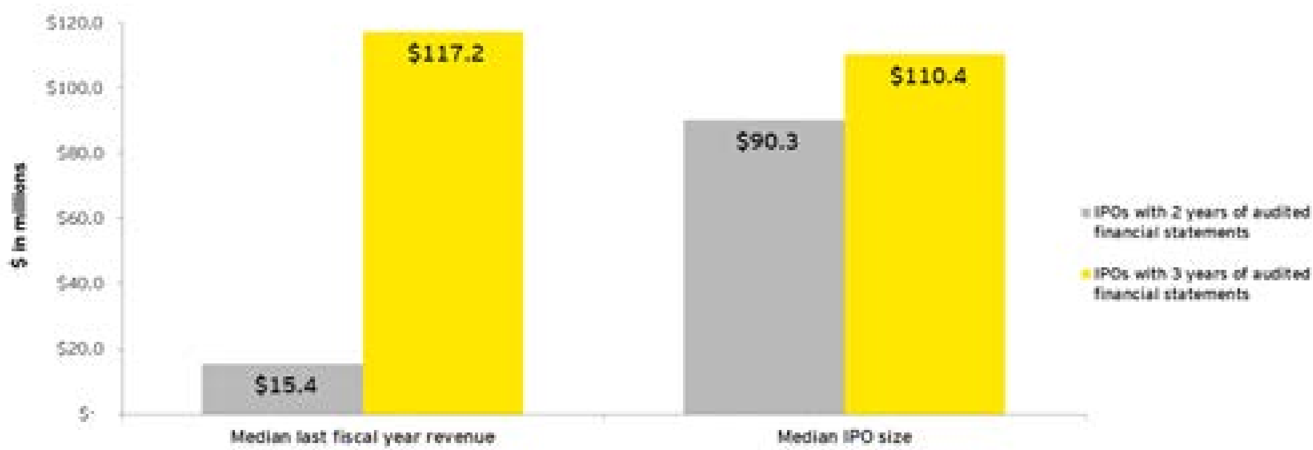
43%
Financial services

* Excludes EGCs that also qualify as a smaller reporting company or have a reporting history of less than two years.

In their common equity IPO registration statements, subsequent registration statements and periodic reports, EGCs also are not required to include selected financial data for periods before the earliest audited period presented in their IPO registration statements. So, for an EGC that elects to provide audited financial statements for 2015 and 2014 in its IPO registration statement, selected financial data would not be required for 2011 through 2013. The percentage of EGCs that have elected to present reduced selected financial data disclosures has remained steady since 2012. Only about 10% of the EGCs that presented two years of audited financial statements elected to provide selected financial data for earlier periods. Of EGCs that have elected to provide three years of audited financial statements, approximately 68% provided less than five years of selected financial data.

Many factors may influence an EGC's decision to present a reduced number of periods of audited financial statements and selected financial data, including its operating history and whether it believes investors need its historical performance and trend information to understand its current performance and future prospects.

EGCs that include two years versus three years of audited financial statements*



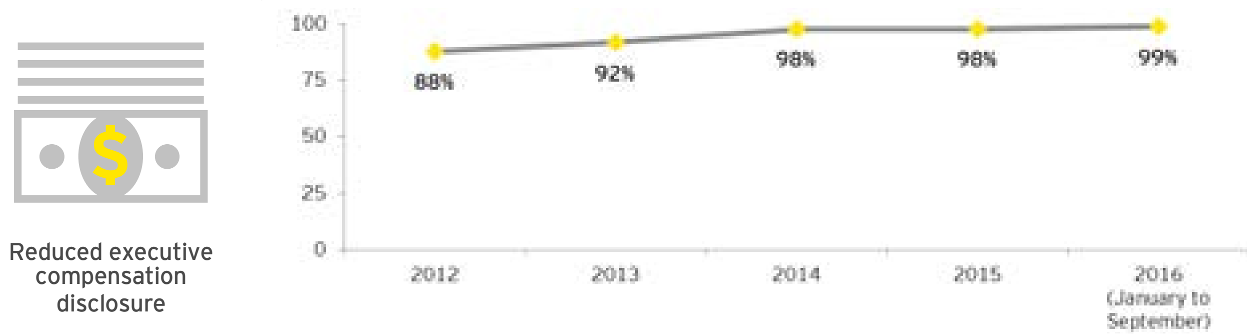
* The above data excludes effective IPOs for EGCs that also qualify as a smaller reporting company or have a reporting history of less than two years. If companies with less than $10 million of last fiscal year revenue were excluded, the median last fiscal year revenue and IPO size would be $62 million and $108 million for IPOs with two years of audited financial statements and $122.7 million and $113.6 million for IPOs with three years of audited financial statements.

Executive compensation disclosures

EGCs are allowed to provide executive compensation disclosures in a manner consistent with a smaller reporting company. Thus, EGCs are not required to provide a compensation discussion and analysis (CD&A), and most have elected to omit CD&A from their IPO registration statements. The tabular executive compensation disclosure requirements also are significantly reduced for EGCs. For example, EGCs are required to provide compensation disclosure for only three named executive officers (i.e., the chief executive officer or CEO and the two other highest-paid executives), while non-EGCs are required to provide disclosure for five named executive officers (i.e., the CEO, the chief financial officer and the three other highest-paid executives). Since April 2012, approximately 96% of EGCs elected to provide reduced executive compensation disclosures, and the percentage has increased every year. This trend has continued through the first nine months of 2016.

Once they go public, EGCs also are not required to comply with certain executive compensation requirements mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). EGCs are not subject to the "say-on-pay" provisions of the Dodd-Frank Act, which require companies to hold a shareholder advisory vote on executive compensation and golden parachutes. They also will not be subject to the SEC's new "pay ratio" rules that require most registrants to calculate and disclose the ratio of their principal executive officer's total annual compensation to that of the median employee. However, exchange-listed EGCs would be subject to the SEC's proposed "clawback" requirements, meaning they would have to recover excess incentive-based compensation from current and former executives in the event of an accounting restatement.[7]

Use of executive compensation disclosure relief by year*



* Excludes EGCs that also qualify as a smaller reporting company or a foreign private issuer.

Compliance with auditor attestation of internal control over financial reporting

Companies don't have to include a report by management assessing the effectiveness of the company's internal control over financial reporting (ICFR) or its independent auditor's assessment of its ICFR under Sections 404(a) and 404(b) of the Sarbanes-Oxley Act, respectively, in an IPO registration statement. Section 404(a) requires registrants to provide a report by management assessing the effectiveness of the company's ICFR generally beginning with their second annual report after becoming a public company.

EGCs may defer the requirement to comply with Section 404(b). Nearly all of the EGCs have taken advantage of the JOBS Act's deferral of the requirement to have their independent auditor assess their ICFR.

Although EGCs include general disclosures about the relief available under the JOBS Act in their IPO registration statements, the majority of EGCs did not disclose whether they plan to take advantage of the relief on auditor attestation. However, in their IPO registration statements, no EGCs indicated their intent to opt out of the auditor attestation deferral. That is, in their IPO registration statements, no EGCs have committed to comply with Section 404(b) earlier than required. Only non-accelerated filers (i.e., public companies with a public float of less than $75 million) are permanently exempt from Section 404(b).

[7] To the Point: *SEC proposes requiring 'clawback' policies and disclosures* is available on the AccountingLink website at http://www.ey.com/Publication/vwLUAssetsAL/TothePoint_CC0413_Clawback_9July2015/$FILE/TothePoint_CC0413_Clawback_9July2015.pdf.

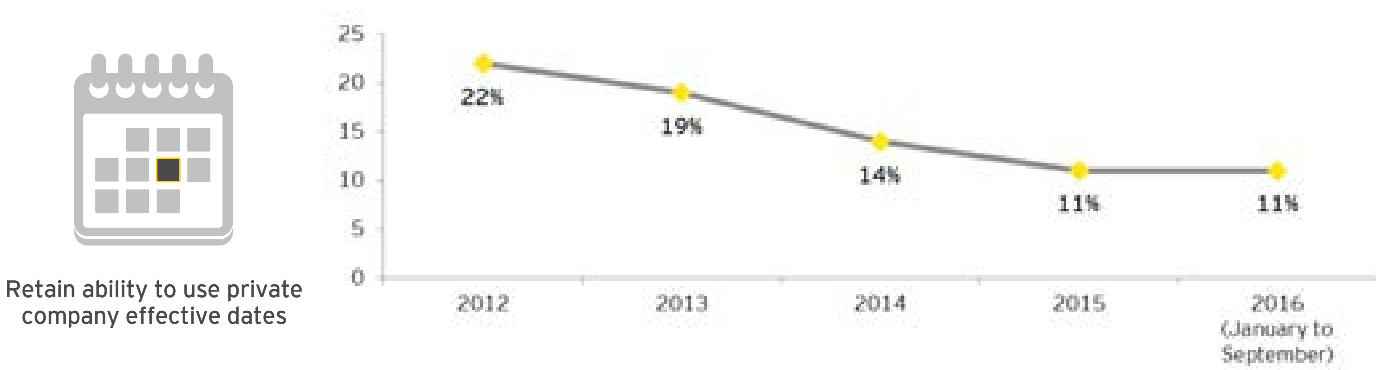
Accounting standards issued after the JOBS Act

In their IPO registration statements, approximately 85% of EGCs said they wouldn't use the relief that allows EGCs to defer adopting new or revised accounting standards until they are effective for private companies. That is, only 15% of EGCs said they would adopt accounting standard updates using delayed effective dates afforded to private companies. By following the public company effective dates, EGCs appear to be trying to assure investors that their financial statements will be comparable to those of other public companies.

Under Section 107(b) of the JOBS Act, an EGC that chooses to follow public company dates must make an irrevocable election to opt in to public company transition and adopt all new or revised accounting standards on the public company dates. The SEC staff has indicated that it will not object if an EGC initially decides to retain the ability to take advantage of the extended transition period but subsequently elects to follow the requirements for public companies. An EGC that elects to follow private company effective dates may early adopt a new or revised accounting standard, if the standard allows early adoption by private companies, without affecting its ability to follow the extended private company transition relief for other new or revised accounting standards.

The SEC staff also expects EGCs electing to use private company transition to disclose additional risk factors. Such disclosures must explain that the election allows the company to delay adoption of new or revised accounting standards that have different transition dates for public and private companies and, as a result, that the company's financial statements may not be comparable to those of companies that comply with public company effective dates.

Use of relief for accounting standards issued after the JOBS Act by year



Update on other key provisions of the Act

This section summarizes other key provisions of the JOBS Act, including the amendments made by the FAST Act.

Amendments to Exchange Act Section 12(g)

The JOBS Act amended Exchange Act Section 12(g) and increased the number of record holders that triggers a company's obligation to register with the SEC and report as a public company to 2,000 people (or 500 people who are not accredited investors). Previously, the record holder trigger for registration was 500 people, even if all were accredited investors. For banks, savings and loan holding companies and bank holding companies, the trigger is 2,000 people, even if none are accredited investors.[8]

The JOBS Act also amended Sections 12(g) and 15(d) of the Exchange Act to raise the threshold below which a bank, savings and loan holding company or bank holding company may terminate registration and suspend its reporting obligation to 1,200 record holders from 300. The law didn't change the threshold of 300 record holders for non-banks and non-bank holding companies.

The Act also allowed an issuer (including a bank holding company) to exclude from its list of "held of record" shareholders people who received securities under an employee compensation plan in Securities Act exempt transactions, regardless of whether they are still employees. The change gives private companies more flexibility to issue stock to employees as compensation because these shareholders are no longer counted among record holders who could trigger public registration. While the change was effective at enactment, the law requires the SEC to formally change its definition of "held of record," and the SEC has proposed making the change.

The SEC has already changed the definition of "held of record" to exclude investors who acquire securities through crowdfunding, as required by the JOBS Act. The SEC made that change when it adopted Regulation Crowdfunding in October 2015.

All of the provisions of the JOBS Act, such as increasing Exchange Act registration thresholds, Regulation A+ and lifting the ban on general solicitation and advertising in certain exempt offerings, are now effective. These provisions give private companies greater access to the capital markets and allow them to remain private longer.

[8] The FAST Act amended the JOBS Act to extend the record holder requirements for bank and bank holding companies to savings and loan holding companies.

Other exempt offerings

General solicitation and advertising in certain exempt offerings

Under SEC rules, companies are allowed to engage in general solicitation and advertising in certain offerings of restricted securities that are exempt from registration if all purchasers are accredited investors.

Rule 506(c) of Regulation D allows any company (whether public, private, established or start-up) to expand its pool of potential investors without SEC registration. Rule 506(c) also is available for use by hedge funds, venture capital funds and private equity funds.

Companies issuing restricted securities under the rule are permitted to solicit investors and advertise offerings as long as they take reasonable steps to verify that the purchasers are accredited investors. The SEC did not specify what the steps would be, but the rule includes a list of methods that satisfy the verification requirements for individual investors. The SEC expects issuers to determine what steps are reasonable based on the facts and circumstances. The rule also applies to resales of restricted securities to qualified institutional buyers under Rule 144A of the Securities Act.

The SEC staff has issued a number of compliance and disclosure interpretations that provide guidance on Rule 506(c) offerings. The SEC staff also issued a small entity compliance guide and investor alert about the rules[9] and created a submission portal for registrants to voluntarily submit general solicitation materials used in Rule 506(c) offerings.

The rule also disqualifies issuers from using any exemption under Rule 506 of Regulation D if the offering involves certain felons and other bad actors, as mandated by the Dodd-Frank Act.

Regulation A+ exempt offerings

A rule known as Regulation A+ increased the offering threshold for offerings made under Regulation A. The rule established two tiers under Regulation A. Tier 1, which covers exempt public offerings of up to $20 million within a 12-month period, retains many of the previous requirements of Regulation A. Tier 2 allows exempt public offerings of up to $50 million within 12 months but requires more robust initial and ongoing reporting.

The change was intended to increase usage of the Regulation A exemption for public offerings. In a report to Congress mandated by the JOBS Act, the Comptroller General of the Government Accountability Office said use of Regulation A was limited, partly due to the size of the offerings and the significant time and cost of complying with both federal and state securities laws and the availability of other offering exemptions (e.g., Regulation D).

Since Regulation A+ went into effect in June 2015, there have been approximately 150 offering statements filed publicly, and approximately 60 have been qualified, of which 60% were Tier 2 offerings. In a speech, an SEC staff member said that these 150 Regulation A+ offerings aim to raise almost $2.5 billion. In 2012, by contrast, there were only eight Regulation A offerings that raised $34.5 million.

As required by the JOBS Act, the SEC will review the offering limits every two years. SEC Chair Mary Jo White also directed the SEC staff to report to the Commission within five years its findings about the effects of the new rules on capital formation.

The SEC staff has issued a number of compliance and disclosure interpretations on the new rules under Regulation A. it also issued an investor bulletin.[10]

An issuer that has not previously filed a qualified offering statement under Regulation A or a registration statement under the Securities Act can submit draft offering statements for nonpublic review by the SEC staff, provided a public filing is made at least 21 days before qualification.

[9] The small entity compliance guide for the general solicitation final rule is available at http://www.sec.gov/info/smallbus/secg/general-solicitation-small-entity-compliance-guide.htm.

[10] The investor bulletin on the new rules on Regulation A is available at http://www.sec.gov/oiea/investor-alerts-bulletins/ib_regulationa.html.

Crowdfunding

Regulation Crowdfunding, which the SEC adopted in October 2015, allows startups and other private businesses to raise small amounts of equity capital from potentially large pools of investors over the internet through an intermediary (i.e., a broker-dealer, a funding portal) that must register with the SEC.[11] The rules limit the amount of money a company can raise under this exemption to a maximum of $1 million in any 12-month period, and the total value of crowdfunding securities an investor can purchase in a 12-month period is limited to $2,000 to $100,000, depending on the investor's annual income and net worth.

Issuers are required to provide certain financial information depending on the size of the offering and amounts it raised in other crowdfunding offerings over the previous 12 months. Companies that engage in crowdfunding need to provide financial statements only for the two most recently completed fiscal years or the period since inception, if it is less than two years. Depending on the size of the offering, the financial statements may need to be audited or reviewed by an auditor.

Companies that sell crowdfunding securities may also use the extended transition periods for private companies to comply with new or revised accounting standards, but they must disclose this election in their first offering statement and apply it to all new or revised standards. Issuers that don't elect this accommodation in their first crowdfunding filing must follow the transition periods for public entities.

More than 100 companies have filed a Regulation Crowdfunding Form C offering statement, and 19 entities have registered with the SEC as portals since it began accepting registrations earlier this year. The SEC staff mentioned in a speech that through September 2016 companies have raised more than $5 million using Regulation Crowdfunding. The SEC staff plans to study the effects of crowdfunding on capital formation and investor protection no later than three years after the effective date of the new rules.

What's next

for JOBS Act implementation?

The SEC staff continues to review SEC disclosure requirements under its Disclosure Effectiveness initiative as well as various statutory mandates. The SEC acknowledges that changes to disclosure requirements aimed at making compliance less burdensome for smaller registrants would benefit the capital markets. Through its various proposals and releases the SEC continues its outreach to companies, investors and other market participants for ideas about how to further streamline disclosures and make them more meaningful and useful to investors while making them easier and less costly to prepare. We expect the SEC to continue to evaluate the responses to these requests and consider additional rulemaking.

[11] Foreign companies, SEC reporting companies, certain investment companies, companies that do not have a specific business plan (i.e., blank check companies) or companies that plan to merge with an unidentified company (i.e., special-purpose acquisition companies) cannot sell securities under the exemption.

Sources

For purposes of this report, an IPO is defined as a company's first registered offering of equity securities to the public.

This report discusses only IPOs for which the data provider Dealogic offers data on the issue date (the day the offer is priced and allocations are subsequently made), the trading date (the date on which the security first trades) and proceeds (funds raised, including any overallotment sold). Companies with the following Standard Industrial Classification (SIC) codes also are excluded from our study:

- 6091: Financial companies that conduct trust, fiduciary and custody activities
- 6371: Asset management companies such as health and welfare funds, pension funds and their third-party administration as well as other financial vehicles
- 6722: Companies that are open-end investment funds
- 6726: Companies that are other financial vehicles
- 6732: Companies that are grant-making foundations
- 6733: Asset management companies that deal with trusts, estates and agency accounts
- 6799: Special Purpose Acquisition Companies

We have included only IPOs on the three major US exchanges: New York Stock Exchange (NYSE), NASDAQ and NYSE MKT.

Revenue data used in this report was obtained from data provider S&P Capital IQ.