

# GIBSON DUNN

## Capital Markets Practice Group

### Illustrative Timeline and Document Checklist:

#### Initial Public Offering

Initial Public Offering Team Members			
[Company]	INC	[•], lead managing underwriter	UW
[•], counsel to the Company	IC	[•], counsel to the underwriters	UWC
[•], independent auditors of the Company	AUD	[•], transfer agent	TRFR
[•], financial printer	Printer	[•], registrar	REG
United States Securities and Exchange Commission	SEC	[The New York Stock Exchange][The NASDAQ National Market]	EXG
The Depository Trust Company	DTC	Financial Industry Regulatory Authority	FINRA

Summary of Target Dates			
Selection of UW	Week 1	Confidentially Submit Draft Form S-1	Week 4
Circulation of Form S-1 to UW	Week 1	Receive SEC Comments	Week 8
Organizational Meeting	Week 2	Confidentially Submit Amendment No. 1 to Draft Form S-1	Week 10
Drafting Session	Week 2	Receive SEC Comments	Week 12
Circulation of revised Form S-1	Week 2	Publicly File Form S-1	Week 13
Drafting Session	Week 3	Road Show	[2 weeks]
Circulation of revised Form S-1	Week 3	Pricing of the Offering	T
Drafting Session	Week 4	Closing of the Offering	T+3

Month							Year						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4							1
5	6	7	8	9	10	11	2	3	4	5	6	7	8
12	13	14	15	16	17	18	9	10	11	12	13	14	15
22	23	24	25	26	27	28	1	2	3	4	5	6	7
9	10	11	12	13	14	15	6	7	8	9	10	11	12
26	27	28	29	30	31		2	3	4	5	6	7	8
							3	4	5	6	7	8	9
							3	4					
							0	1					

Month							Year						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
		1	2	3	4	5					1	2	3
6	7	8	9	10	11	12	4	5	6	7	8	9	10
13	14	15	16	17	18	19	1	2	3	4	5	6	7
20	21	22	23	24	25	26	1	2	3	4	5	6	7
27	28	29	30				8	9	10	11	12	13	14
							2	3	4	5	6	7	8
							5	6	7	8	9	10	11

## Document Checklist

DATE	KEY EVENTS	PRIMARY RESPONSIBILITY	TIMING / STATUS
<b>I. Preliminary Considerations</b>			
	<ul style="list-style-type: none"> <li>• Discuss communications issues                             <ul style="list-style-type: none"> <li>– Deliver gun-jumping memo</li> <li>– Review publicity policy, marketing plan</li> </ul> </li> </ul>	INC, IC	
	<ul style="list-style-type: none"> <li>• Compile working group list</li> </ul>	IC	
	<ul style="list-style-type: none"> <li>• Preliminary drafting of Registration Statement on Form S-1</li> <li>• Assemble preliminary due diligence materials, including marketing material and other background information</li> <li>• Identify all required financial statements</li> <li>• Identify comparable companies and relevant precedent</li> </ul>	INC, IC, AUD	
	<ul style="list-style-type: none"> <li>• Draft director and officer questionnaires</li> </ul>	IC	
	<ul style="list-style-type: none"> <li>• Confirm IPO entity structure</li> </ul>	INC, IC, AUD	
	<ul style="list-style-type: none"> <li>• Review holding company structure</li> <li>• Consider tax implications</li> <li>• Subsidiary organizational structure (foreign and domestic)</li> <li>• Determine effect on material contracts of the Company</li> </ul>		
	<ul style="list-style-type: none"> <li>• Review and update charter documents (e.g., Certificate of Incorporation, Bylaws)                             <ul style="list-style-type: none"> <li>– Assess capital structure (i.e., authorize sufficient capital for offering and future needs)</li> </ul> </li> </ul>	IC	

DATE	KEY EVENTS	PRIMARY RESPONSIBILITY	TIMING / STATUS
	<ul style="list-style-type: none"> <li>• Review EXG listing requirements and determine desired listing                             <ul style="list-style-type: none"> <li>– Consider benefits of NYSE vs. NASDAQ (or dual) listing</li> <li>– Determine whether company will seek controlled company exemptions</li> </ul> </li> </ul>	INC, IC	
	<ul style="list-style-type: none"> <li>• Reserve possible NYSE and NASDAQ ticker symbols</li> </ul>	IC	
	<ul style="list-style-type: none"> <li>• Review Board and committee compositions (consider EXG Rules and SOX)                             <ul style="list-style-type: none"> <li>– Audit Committee</li> <li>– Compensation Committee</li> <li>– Corporate Governance/Nominating Committee</li> <li>– Special Pricing Committee (for offering)</li> <li>– Consider other committees (e.g., executive)</li> </ul> </li> </ul>	IC	
	<ul style="list-style-type: none"> <li>• Review compensation issues                             <ul style="list-style-type: none"> <li>– Analyze recent equity grants and sales for potential "cheap stock" issues</li> <li>– Review board compensation</li> <li>– Determine if employment agreements will be entered into with key personnel/management</li> <li>– Consider the effect of offering on current employee compensation</li> <li>– Prepare new public company equity incentive plans</li> </ul> </li> </ul>	INC, IC	
	<ul style="list-style-type: none"> <li>• Assess D&amp;O indemnification and insurance                             <ul style="list-style-type: none"> <li>– Charter/bylaw provisions</li> <li>– Indemnity Agreements</li> <li>– Insurance</li> </ul> </li> </ul>	IC	

DATE	KEY EVENTS	PRIMARY RESPONSIBILITY	TIMING / STATUS
	<ul style="list-style-type: none"> <li>• Review and update committee charter documents                             <ul style="list-style-type: none"> <li>– Audit Committee Charter</li> <li>– Compensation Committee Charter</li> </ul> </li> <li>• Nominating/Corporate Governance Committee Charter</li> </ul>	IC	
	<ul style="list-style-type: none"> <li>• Draft appropriate public company policies                             <ul style="list-style-type: none"> <li>– Insider trading policy</li> <li>– Analyst and investor relations policy (Reg FD Policy)</li> <li>– Whistleblower policy</li> <li>– Audit and non-audit services pre-approval policy</li> <li>– Related party transaction policy</li> <li>– Code of business conduct and ethics</li> <li>– Corporate governance guidelines</li> <li>– Foreign Corrupt Practices Act policy</li> <li>– Document Retention Policy</li> </ul> </li> </ul>	INC, IC	
	<ul style="list-style-type: none"> <li>• Select various third party participants                             <ul style="list-style-type: none"> <li>– Financial Printer</li> <li>– Printer/Engraver for stock certificates</li> <li>– Transfer Agent</li> <li>– Registrar</li> </ul> </li> </ul>	INC	
	<ul style="list-style-type: none"> <li>• Consider desirability of a directed share program (i.e., Friends and Family Program)</li> </ul>	INC	
	<ul style="list-style-type: none"> <li>• Review the Company web site in light of gun jumping concerns and for conformity with prospectus</li> </ul>	IC	
	<ul style="list-style-type: none"> <li>• Determine if the Company will make a presentation to employees regarding activities during the offering period; draft presentation</li> </ul>	INC	

DATE	KEY EVENTS	PRIMARY RESPONSIBILITY	TIMING / STATUS
	<ul style="list-style-type: none"> <li>Determine material contracts to be filed as exhibits and consider whether confidential treatment requests should be made</li> </ul>	INC, IC	
	<ul style="list-style-type: none"> <li>Determine third party consents required</li> </ul>	IC	
	<ul style="list-style-type: none"> <li>Assess pending litigation</li> </ul>	INC, IC	
<b>II. Preparation of the Registration Statement</b>			
	<ul style="list-style-type: none"> <li>Select managing underwriters / designate lead underwriter<sup>1</sup></li> </ul>	INC	
	<ul style="list-style-type: none"> <li>Engage managing underwriters</li> </ul>	INC	
	<ul style="list-style-type: none"> <li>Distribute first draft of Registration Statement to the working group</li> </ul>	IC	
	<ul style="list-style-type: none"> <li>Organizational Meeting                             <ul style="list-style-type: none"> <li>Overview of Company and business</li> <li>Distribute and review working group list</li> <li>Review timeline</li> <li>Management presentations (CEO, CFO, Marketing staff)</li> </ul> </li> </ul>	INC, UW, IC, UWC, AUD	
	<ul style="list-style-type: none"> <li>Determine structure of the offering                             <ul style="list-style-type: none"> <li>Size of offering</li> <li>Price of offering</li> <li>Use of proceeds</li> <li>Participation of Selling Stockholders</li> <li>Over-allotment option</li> <li>Lock-up coverage and exceptions</li> <li>Retail and institutional distribution objectives</li> <li>NYSE vs. NASDAQ listing; ticker symbol</li> <li>Directed share program, if any</li> </ul> </li> </ul>		Note: selection of EXG may be deferred until after first submission

<sup>1</sup> Note that the selection of underwriters with the intent to commence a public offering is commonly understood as the commencement of the restricted period associated with a company "in registration."

DATE	KEY EVENTS	PRIMARY RESPONSIBILITY	TIMING / STATUS
	<ul style="list-style-type: none"> <li>Establish preliminary filing timeline                             <ul style="list-style-type: none"> <li>Follow up drafting sessions</li> <li>Initial filing date</li> <li>Research analyst presentations</li> <li>Roadshow</li> <li>Pricing / Closing</li> <li>Printing</li> </ul> </li> </ul>		
	<ul style="list-style-type: none"> <li>UW distributes due diligence request list</li> </ul>	UWC	
	<ul style="list-style-type: none"> <li>Conduct drafting sessions and distribute revised drafts of Registration Statement</li> </ul>	INC, UW, IC, UWC, AUD	
	<ul style="list-style-type: none"> <li>Due diligence continues                             <ul style="list-style-type: none"> <li>Determine whether any additional diligence materials are required</li> <li>Address any diligence issues raised</li> </ul> </li> </ul>	IC, UWC	
<b>III. Activities in the Registration Statement Pre-Filing Period</b>			
	<ul style="list-style-type: none"> <li>Completed D&amp;O and FINRA questionnaires returned to Company</li> </ul>	IC, UWC	
	<ul style="list-style-type: none"> <li>Begin negotiation of underwriting agreement</li> </ul>	IC, UWC	
	<ul style="list-style-type: none"> <li>Begin negotiation of director and officer lock-up agreements</li> </ul>		
	<ul style="list-style-type: none"> <li>Custody Agreement and Power of Attorney distributed to Selling Stockholder(s)</li> </ul>	IC, UWC	Decision regarding inclusion of selling stockholders may be deferred until after first submission
	<ul style="list-style-type: none"> <li>Assess FINRA conflicts of interest, disclosure obligations, lock-up limitations and related issues</li> </ul>	UWC	
	<ul style="list-style-type: none"> <li>Begin drafting Registration Statements on Form S-8 for equity incentive plans</li> </ul>	IC, INC	
	<ul style="list-style-type: none"> <li>Assess timing and extent of expected Exchange Act filing obligations (10-K/10-Q/8-K) that will arise once Form 8-A becomes effective</li> </ul>	IC, INC	

DATE	KEY EVENTS	PRIMARY RESPONSIBILITY	TIMING / STATUS
<b>IV. Final Preparations to File the Registration Statement</b>			
	<ul style="list-style-type: none"> <li>• Confirm that Company and all material subsidiaries are qualified to do business, in good standing and current on all income and sales tax obligations in all appropriate jurisdictions</li> </ul>	IC	
	<ul style="list-style-type: none"> <li>• Company Board of Directors meets to               <ul style="list-style-type: none"> <li>– Reserve common stock for issuance</li> <li>– Authorize issuance of common stock</li> <li>– Approve form and authorize execution of underwriting agreement</li> <li>– Approve form of Registration Statement and authorize filing of Registration Statement and amendments thereto</li> <li>– Approve Registration Statement under the Exchange Act (Form 8-A)</li> <li>– Authorize certain individuals to sign registration statement and amendments thereto (power of attorney)</li> <li>– Designate a Special Pricing Committee of Board of Directors with power to approve all matters in connection with the offering on behalf of the Company, including the sale price and underwriting discount and commissions</li> <li>– Approve Equity Incentive Plan</li> <li>– Approve employment offer letters</li> <li>– Designate Section 16 officers</li> <li>– Approve any material agreement amendments</li> <li>– Appoint agent for service of process</li> <li>– Appoint Transfer Agent and Registrar</li> <li>– Authorize compliance with blue sky laws, as required, and adopt any</li> </ul> </li> </ul>	INC	



DATE	KEY EVENTS	PRIMARY RESPONSIBILITY	TIMING / STATUS
	<p>necessary resolutions required by blue sky authorities</p> <ul style="list-style-type: none"> <li>– Authorize listing on EXG</li> <li>– Approve any public company benefit plan filings (related S-8, exchange listing, etc.)</li> <li>– Approve revisions to charter and bylaws, subject to consummation of offering</li> <li>– Approve updated committee charters and policies, subject to consummation of offering</li> <li>– Approve indemnification agreements</li> <li>– Authorize taking of all further actions necessary in connection with the offering</li> </ul>		
	<ul style="list-style-type: none"> <li>• Auditor delivers audit opinion and draft of comfort letter</li> </ul>	AUD	
	<ul style="list-style-type: none"> <li>• Distribute draft EXG Listing Application</li> </ul>	IC	
	<ul style="list-style-type: none"> <li>• Custody Agreement and Power of Attorney signed by all Selling Stockholders; certificates placed in custody</li> </ul>		
	<ul style="list-style-type: none"> <li>• Officers and directors execute lock-up agreements</li> </ul>		
	<ul style="list-style-type: none"> <li>• Drafting session to discuss and review final revisions to Registration Statement</li> </ul>	INC, UW, IC, UWC, AUD	
<b>V. Initial Filing of the Registration Statement</b>			
	<ul style="list-style-type: none"> <li>• Confidentially Submit Draft Registration Statement with SEC</li> </ul>	INC, IC	
	<ul style="list-style-type: none"> <li>• File appropriate documents with FINRA</li> </ul>	UWC	

DATE	KEY EVENTS	PRIMARY RESPONSIBILITY	TIMING / STATUS
	<ul style="list-style-type: none"> <li>• Receive and resolve first set of SEC comments                             <ul style="list-style-type: none"> <li>– Contact SEC to confirm anticipated date of SEC comments</li> <li>– Anticipate at least 2-3 rounds of comments</li> <li>– First round of comments typically delivered 30 days after filing</li> <li>– Circulate comments to working group</li> <li>– Follow-up calls to SEC and updates to working group</li> </ul> </li> <li>• Revise registration statement and finalize response letter to SEC</li> </ul>	INC, UW, IC, UWC, AUD	
	<ul style="list-style-type: none"> <li>• File initial EXG Listing Application</li> </ul>	IC	
	<ul style="list-style-type: none"> <li>• Begin preparations for roadshow</li> </ul>	INC, UW	
<b>VI. Subsequent Submissions/Public Filing</b>			
	<ul style="list-style-type: none"> <li>• Confidentially Submit Amendment No. 1 to the Draft Registration Statement and letter responding to SEC comments</li> </ul>	INC, IC	
	<ul style="list-style-type: none"> <li>• Receive and resolve second set of SEC comments                             <ul style="list-style-type: none"> <li>– Receive comments from SEC; typically 10 days after filing Amendment No. 1</li> <li>– Circulate comments to working group</li> <li>– Follow-up calls to SEC and updates to working group</li> <li>– Revise registration statement and finalize response letter to SEC</li> </ul> </li> </ul>	INC, UW, IC, UWC, AUD	
	<ul style="list-style-type: none"> <li>• Finalize form of press release</li> </ul>	INC, UW, IC, UWC	

DATE	KEY EVENTS	PRIMARY RESPONSIBILITY	TIMING / STATUS
	<ul style="list-style-type: none"> <li>Publicly File Registration Statement with SEC                             <ul style="list-style-type: none"> <li>Auditor consent</li> <li>Board and officer signature pages</li> <li>Exhibits</li> <li>Filing fee</li> </ul> </li> </ul>		Public filing must be made at least 21 days before the commencement of the road show Upon public filing, confidentially submitted drafts automatically become publically available
	<ul style="list-style-type: none"> <li>Confidentially submit or file further amendments to Registration Statement and response letters addressing remaining SEC comments as necessary</li> </ul>	INC, IC	
	<ul style="list-style-type: none"> <li>File EXG Listing Application ancillary materials</li> </ul>	IC	
	<ul style="list-style-type: none"> <li>Deliver invitations to prospective members of the underwriting syndicate</li> </ul>	UW	
	<ul style="list-style-type: none"> <li>Obtain EDGAR filing codes and powers of attorney for Section 16 filers</li> </ul>	IC	
	<ul style="list-style-type: none"> <li>Rehearse and finalize roadshow presentation</li> </ul>	INC, UW	
	<ul style="list-style-type: none"> <li>Finalize research analyst due diligence</li> </ul>	UW	
	<ul style="list-style-type: none"> <li>Finalize Selling Stockholder arrangements and agreements</li> </ul>	INC, IC	
<b>VII. Launch of Offering</b>			
	<ul style="list-style-type: none"> <li>Print preliminary prospectus</li> </ul>	Printer	
	<ul style="list-style-type: none"> <li>Conduct roadshow in selected cities</li> </ul>	INC, UW	
	<ul style="list-style-type: none"> <li>File Form 8-A with the SEC</li> </ul>	IC	
	<ul style="list-style-type: none"> <li>Prepare SEC Forms 3 and 4, Schedules 13D and 13G and exhibits (including powers of attorney and joint filing agreements)</li> </ul>	IC	

DATE	KEY EVENTS	PRIMARY RESPONSIBILITY	TIMING / STATUS
	<ul style="list-style-type: none"> <li>• Directors and officers execute indemnification agreements</li> </ul>		
	<ul style="list-style-type: none"> <li>• Prepare press release regarding pricing</li> </ul>	INC, UW	
<b>VIII. Effectiveness of the Registration Statement and Pricing of the Initial Public Offering</b>			
	<ul style="list-style-type: none"> <li>• Clear timing and effectiveness of Registration Statement with SEC<sup>2</sup> and EXG</li> </ul>	IC	
	<ul style="list-style-type: none"> <li>• Prepare and file requests for acceleration of Registration Statement on behalf of Company and Underwriters</li> </ul>	IC, UWC	Acceleration requests should be filed at least 48 hours prior to planned effectiveness
	<ul style="list-style-type: none"> <li>• Confirm FINRA review is complete</li> </ul>	UWC	
	<ul style="list-style-type: none"> <li>• Prepare and file banker letter with SEC</li> </ul>	UWC	
	<ul style="list-style-type: none"> <li>• Conduct bring-down due diligence</li> </ul>	INC, UW, IC, UWC, AUD	
	<ul style="list-style-type: none"> <li>• SEC declares Registration Statement effective</li> </ul>	SEC	
	<ul style="list-style-type: none"> <li>• Form 8-A becomes effective and Exchange Act filing obligations begin</li> </ul>	SEC	
	<ul style="list-style-type: none"> <li>• File all required Form 3 and 4 and Schedules 13D and 13G</li> </ul>	INC, IC	
	<ul style="list-style-type: none"> <li>• Public offering price determined after market close</li> </ul>	INC, UW	
	<ul style="list-style-type: none"> <li>• Special pricing committee of Board of Directors meets to approve offering price, discounts, and other terms</li> </ul>	INC	
	<ul style="list-style-type: none"> <li>• The Pricing Date                             <ul style="list-style-type: none"> <li>– UW and Company execute underwriting agreement</li> <li>– All members of underwriting syndicate sign agreement among underwriters</li> <li>– Auditor delivers comfort letter</li> <li>– Prospectus printed for general distribution</li> </ul> </li> </ul>	INC, UW, AUD	

<sup>2</sup> Note, if additional comments are anticipated after discussions with the SEC, this timeline can be updated to include the additional steps that will be required to clear the registration statement.

DATE	KEY EVENTS	PRIMARY RESPONSIBILITY	TIMING / STATUS
	<ul style="list-style-type: none"> <li>File final prospectus</li> </ul>	IC	
<b>IX. Preparation for Closing</b>			
	<ul style="list-style-type: none"> <li>Finalize Closing Mechanics</li> </ul>	IC, UWC	
	<ul style="list-style-type: none"> <li>Review and prepare Underwriters' closing memorandum                             <ul style="list-style-type: none"> <li>Order Good Standing Certificates</li> <li>Coordinate mechanics of TRFR and stock exchange</li> <li>Distribute finalized funds flow memorandum</li> <li>Coordinate offering and closing mechanics with UW back office and DTC</li> <li>Compile closing deliverables</li> </ul> </li> </ul>		
	<ul style="list-style-type: none"> <li>Deliver Wire Instructions to UW back office</li> </ul>	INC	
<b>X. The Closing of the Initial Public Offering</b>			
	<ul style="list-style-type: none"> <li>The Closing Date                             <ul style="list-style-type: none"> <li>Auditor delivers bring-down comfort letter</li> <li>Deliver legal opinions</li> <li>Deliver good standing certificates</li> <li>Deliver closing documents</li> </ul> </li> </ul>	INC, UW, IC, UWC, AUD	
	<ul style="list-style-type: none"> <li>Distribute final closing memorandum</li> </ul>	UWC	
	<ul style="list-style-type: none"> <li>Selling Stockholders file Form 4 reflecting sale of Shares in Offering</li> </ul>		
	<ul style="list-style-type: none"> <li>File Registration Statement on Form S-8 as to any equity incentive plans</li> </ul>	IC	

# GIBSON DUNN

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