Cross-Border Listings Guide - New York Stock Exchange

| Contents |
| --- |
| To generate table of contents, right-click here and select **Update Field.** |

# Quick Summary

## Initial financial listing requirements

[Last updated: 1 January 2024, unless otherwise noted]

To qualify under the general standards, a company must meet one of the following financial standards:

Three years’ aggregate pre-tax income of at least US$10 million, with at least US$2 million in each of the two preceding years and positive income in all three years.

Three years’ aggregate pre-tax income of at least US$12 million, with at least US$5 million in the most recent fiscal year and US$2 million in the next most recent year.

Global market capitalization of at least US$200 million. Existing public companies must meet the minimum global market capitalization for a minimum of 90 consecutive trading days prior to receipt of clearance to make an application to list.

A “foreign private issuer” may also choose to qualify under alternate standards, typically by having at least one of the following:

Three years’ aggregate pre-tax income of at least US$100 million, with at least US$25 million in pre-tax income in each of the last two years.

Six months’ average global market capitalization of at least US$750 million and revenues of at least US$75 million in the most recent year.

Global market capitalization of at least US$500 million, revenues of at least US$100 million in the most recent 12-month period and three years’ aggregate cash flow of at least US$100 million (including at least US$25 million in cash flow in each of the last two years) (subject to certain adjustments).

For controlled companies, global market capitalization of at least US$500 million, at least 12 months of operating history, the company's parent or affiliated company is a listed company in good standing and the company's parent or affiliated company retains control of the entity or is under common control with the entity.

An “emerging growth company” that avails itself of certain provisions under the US securities laws allowing the company to report only two years of audited financial statements may qualify under alternate tests.

## Other initial listing requirements

[Last updated: 1 January 2024, unless otherwise noted]

*Share price.* Shares must have a closing price (or, if listing in connection with an IPO, an offering price) of at least US$4.

*Distribution.* To list its existing securities or to transfer its listing to the NYSE, a company must have at least 1.1 million publicly held shares and meet one of the following three criteria:

At least 400 holders of 100 shares or more and an average monthly trading volume of at least 100,000 shares for the most recent six months.

At least 2,200 total shareholders and an average monthly trading volume of at least 100,000 shares for the most recent six months.

At least 500 total shareholders, with an average monthly trading volume of at least 1 million shares for the most recent 12 months.

To list securities in connection with an IPO, a company must have at least 400 holders of 100 shares or more and at least 1.1 million publicly held shares.

To list under the alternate “foreign private issuer” standards, a company must have at least 5,000 holders of 100 shares or more and at least 2.5 million publicly held shares worldwide.

*Market value*. The market value of public shares must be US$40 million for IPO companies under the general domestic standards and US$100 million for other companies.

*Accounting standards*. Audited financial statements must be prepared in compliance with US GAAP or IFRS (as issued by IASB), or, if prepared in compliance with local GAAP (including any non-IASB IFRS), they must be reconciled to US GAAP. Domestic issuers must have US GAAP financials.

*Financial statements*. The registration statement must generally include three years’ audited financial statements, provided that only two years of audited financials are required for "emerging growth companies".

*Operating history*. An operating history of three years is generally required.

*Management continuity*. The NYSE does not require any specific period of continuity of management.

## Listing process

[Last updated: 1 January 2024, unless otherwise noted]

Listing involves registering the class of securities with the Securities and Exchange Commission. The SEC will typically review the registration statement, including the prospectus. The following is a fairly typical process and timetable for a listing of an issuer on the NYSE via underwritten public offering in the United States.

[Link to Timetable](https://resourcehub.bakermckenzie.com/en/-/media/crossborder-listings-handbook/files/2020-update-8th-edition/nylisting-process.pdf)

## Corporate governance and reporting

[Last updated: 1 January 2024, unless otherwise noted]

Requirements for public companies generally include, among others:

Audit committee of independent directors, or a board of auditors or similar body.

CEO/CFO certifications in certain SEC filings.

Prohibitions on loans to executive officers.

Review of relationships with auditors.

Required reports by attorneys of evidence of material violations.

Protection of whistleblowers.

Code of ethics for senior and financial officers.

Potential forfeiture of CEO and CFO bonuses or certain other types of compensation, as well as the recovery of incentive-based compensation that is erroneously "received" by current and former executive officers for fiscal periods preceding the date of an accounting restatement.

A listed "foreign private issuer" must publicly disclose how its corporate governance practices differ from domestic NYSE companies'.

A listed company has disclosure and reporting obligations both to the NYSE and the SEC.

There are no US residency requirements for directors or officers.

## Fees

[Last updated: 1 January 2024, unless otherwise noted]

A company seeking to list must pay an application fee, an initial listing fee and annual fees. The application fee is US$25,000 and the initial listing fee for common stock is a flat rate of US$300,000 and any additional class of common stock listed is a flat rate of US$5,000. Additional shares listed subsequently will require additional payments. The annual fee is a minimum of US$80,000 and increases depending on the number of shares listed. Additional costs include printing expenses and registration fees required by the SEC, as well as legal and accounting fees.

# Overview of exchange

## Overview of exchange

[Last updated: 1 January 2024, unless otherwise noted]

The New York Stock Exchange (NYSE) is owned by Intercontinental Exchange (NYSE: ICE), a leading operator of global markets and clearing houses.

The NYSE does not specialize in or encourage listings by particular types of companies, but the NYSE does position and market itself as the premier exchange which lists the world's leading companies. The listing standards of the NYSE are designed to include companies that lead their industry in terms of assets, earnings, shareholder interest and market acceptance.

The NYSE reported that as of 2023, over 530 non-US issuers spanning across 45 countries were listed on the NYSE or the smaller NYSE American.

Any proposed listing would be subject to regulation by the appropriate divisions of the NYSE and the US Securities and Exchange Commission (SEC). A proposed listing may also be subject to review by the US Financial Industry Regulatory Authority (FINRA).

The NYSE permits dual listed and cross-listed companies but maintains the same listing standards for companies regardless of whether they are listed on another exchange. Alternative listing standards are available to foreign private issuers, as summarized below.

# Principal listing and maintenance requirements and procedures

## Principal listing and maintenance requirements and procedures

[Last updated: 1 January 2024, unless otherwise noted]

The NYSE allows "foreign private issuers" (a term of art under US securities laws, described further below) to qualify for listing either under the domestic listing criteria or under the alternate listing standards for foreign private issuers. The alternate listing standards allow more flexibility because they do not have the same minimum distribution requirements for securities in the US and North America. The alternate listing standards are only available if there is a broad liquid market for the company's shares in its country of origin and are designed to encourage major non-U.S. companies to list their shares on the NYSE.

Under both standards, an operating history of three years is required for a company to list on the NYSE. The NYSE will consider allowing a joint history, if a company without the requisite history is acquiring a company that has the required history.

*Domestic standards (general NYSE standards)*

In order to list under general NYSE standards, a company must satisfy minimum distribution requirements, market value requirements and financial standards. Shares held by directors, officers, or their immediate family members and other concentrated holdings of 10% or more are excluded in calculating the number of publicly held shares and market value of publicly held shares noted below.

***Distribution***. A company seeking to list existing securities or transfer to the NYSE must have at least 1.1 million publicly held shares and meet one of the following three criteria:

Have at least 400 holders of 100 shares or more and an average monthly trading volume of at least 100,000 shares for the most recent six months.

Have at least 2,200 total shareholders and an average monthly trading volume of at least 100,000 shares for the most recent six months.

Have at least 500 total shareholders, with an average monthly trading volume of at least 1 million shares for the most recent 12 months.

A company seeking to list in connection with its initial public offering (IPO), must have at least 400 holders of 100 shares or more and at least 1.1 million publicly held shares.

***Market value***. The aggregate market value of publicly held shares must be at least US$40 million for IPO companies, or US$100 million for companies seeking to list their existing securities or to transfer to NYSE. Additionally, the shares must have a closing price (or, if listing in connection with an IPO, an offering price) of at least US$4 per share at the time of listing.

***Financial***. The issuer must meet one of the following two financial standards tests:

*Earnings tests*

*Standard earnings test*. Pre-tax earnings from continuing operations and after minority interest, amortization and equity in the earnings or losses of investees, must total (i) at least US$10 million in the aggregate for the last three fiscal years together with a minimum of US$2 million in each of the two most recent fiscal years, and positive amounts in all three years or (ii) at least US$12 million in the aggregate for the last three fiscal years together with a minimum of US$5 million in the most recent fiscal year and US$2 million in the next most recent fiscal year.

*Alternative for emerging growth companies*. An "emerging growth company" (as that term is defined in the US Jumpstart Our Business Startups Act (JOBS Act)) that avails itself of certain provisions under the US securities laws allowing the company to report only two years of audited financial statements can qualify under the earnings test if its pre-tax earnings from continuing operations and after minority interest, amortization and equity in the earnings or losses of investees (as adjusted) total at least US$10 million in the aggregate for the last two fiscal years together with a minimum of $2 million in each year.

*Global market capitalization test*

At least US$200 million in global market capitalization (public shares). Existing public companies must meet the minimum global market capitalization for a minimum of 90 consecutive trading days prior to receipt of clearance to make application to list.

***Note***—In the case of companies listing in connection with an IPO, the companies' underwriter must provide a written representation that demonstrates the issuer's ability to meet the global market capitalization requirement based upon the completion of the offering.

***Primary Direct Floor Listings.*** NYSE rules allow a company to sell shares on its own behalf in connection with its initial listing upon effectiveness of a registration statement, without a traditional underwritten public offering. A company that has not previously had its common equity securities registered may list its common equity securities on NYSE at the time of effectiveness of a registration statement pursuant to which the company will sell shares in the opening auction on the first day of trading on NYSE, referred to as a "Primary Direct Floor Listing." Companies that sell at least US$100 million in market value of shares in the direct listing auction will meet the applicable aggregate market share requirement for such listings. Alternatively, if a company is selling less than US$100 million in the auction, it will qualify if the aggregate market value of publicly held shares prior to listing, together with the market value of the shares sold by the company in the direct listing auction, is at least US$250 million.

***Alternate listing standards for foreign private issuers.*** A company that qualifies as a "foreign private issuer" receives special treatment under US securities laws. In order to be a foreign private issuer, the company:

Must be a foreign (non-US), non-governmental issuer.

Must have 50% or less of its outstanding voting securities directly or indirectly held of record by US residents—or, if over 50% of these securities are so held by US residents, must not:

Have a majority of its executive officers or directors who are US citizens or residents.

Have more than 50% of its assets located in the US.

Administer its business principally in the US.

A foreign private issuer may elect to qualify for listing on the NYSE under either: (i) the following alternate listing standards, or (ii) the domestic standards described above.

In order to list under the alternate listing standards, a foreign private issuer must satisfy certain minimum distribution requirements, market value requirements and financial standards. Shares held by directors, officers, or their immediate family members and other concentrated holdings of 10% or more are excluded in calculating the number of publicly held shares and market value of publicly held shares noted below.

*Distribution*. The company must have worldwide at least 5,000 holders of 100 shares or more and at least 2.5 million publicly held shares.

*Market value*. The aggregate worldwide market value of the publicly held shares must be at least US$100 million (US$60 million in the case of companies that have a parent or affiliate that is NYSE listed and in good standing with the NYSE ("controlled companies")). Additionally, the shares must have a closing price (or, if listing in connection with an IPO, an offering price) of at least US$4 per share at the time of listing.

*Financial*. The issuer must meet one of the following sets of financial standards:

*Earnings tests*

*Standard earnings test*. The pre-tax earnings (from continuing operations and after minority interest, amortization and equity in the earnings or losses of investees, subject to certain adjustments) of the foreign private issuer must be at least US$100 million in the aggregate for the last three fiscal years, including a minimum of US$25 million in each of the most recent two fiscal years.

*Alternative for emerging growth companies*. An "emerging growth company" (as that term is defined in the JOBS Act) that avails itself of certain provisions under the US securities laws allowing the company to report only two years of audited financial statements can qualify under the earnings test if its pre-tax earnings from continuing operations and after minority interest, amortization and equity in the earnings or losses of investees (as adjusted) total at least US$100 million in the aggregate for the last two fiscal years together with a minimum of $25 million in each year.

*Valuation/revenue tests*

*Valuation/revenue with cash flow test*. At least US$500 million in global market capitalization, at least US$100 million in revenues during the most recent 12-month period, and at least US$100 million in the aggregate cash flows for the last three fiscal years including at least US$25 million in each of the two most recent fiscal years (subject to certain adjustments).

*Pure valuation/revenue test*. At least US$750 million in global market capitalization (six-month average) and at least US$75 million in revenues during the most recent fiscal year.

*Alternative for emerging growth companies*. An "emerging growth company" (as that term is defined in the JOBS Act) that avails itself of certain provisions under the US securities laws allowing the company to report only two years of audited financial statements can qualify under the valuation/revenue tests if it has at least US$500 million in global market capitalization, at least US$100 million in revenues during the most recent 12-month period, and at least US$100 million aggregate cash flows for the last two fiscal years with at least US$25 million in each year (subject to certain adjustments).

*Alternative for Controlled Companies.* At least US$500 million in global market capitalization, at least 12 months of operating history, the company's parent or affiliated company is a listed company in good standing, and the company's parent or affiliated company retains control of the entity or is under common control with the entity.

***Note***—In the case of companies listing in connection with an IPO, the companies' underwriter must provide a written representation that demonstrates the issuer's ability to meet the global market capitalization requirement based upon the completion of the offering.

*Special Purpose Acquisition Companies*

Special Purpose Acquisition Company (SPAC) activity grew exponentially over the past few years, driven largely by activity in the US. Along with this was the follow-on growth in de-SPAC transactions, as publicly listed SPACs move through the transaction life cycle to merge with an acquisition target. See the *Baker McKenzie* [*Global SPACs Guide*](https://whem.bakerworld.com/global/knowhow-whem/Global/_layouts/15/DocIdRedir.aspx?ID=J7JR74QVTEMV-37-1132) for more information on SPACs.

*Other requirements of listing and special situations*

In addition to meeting NYSE requirements, a listing company must register its securities with the SEC before admission to dealings on the NYSE. As discussed further below, this registration is a significant undertaking.

In order to list on the NYSE, a foreign private issuer must comply with certain corporate governance standards set out in the NYSE's listed company manual (see section 5 below). A domestic company is subject to a variety of additional corporate governance standards and distribution requirements for shares in the US and North America.

In order to be listed, the shares must also receive a CUSIP number from CUSIP Global Services. This is a fairly simple administrative process.

The NYSE also requires that the company have a designated market maker. The company may either select an eligible designated market maker as part of its listing application or delegate authority to the NYSE to select an eligible designated market maker. The NYSE will provide the company with a list of eligible designated market makers, along with contact information and market performance information.

If a company with bearer shares has difficulty demonstrating its number of shareholders worldwide, it may request to be sponsored by a NYSE member firm that would ensure the company has adequate liquidity and depth of market for its shares.

In addition, in order to list American Depositary Receipts or Shares (ADRs) on the NYSE, the ADRs must be sponsored. A foreign private issuer can obtain a sponsor by entering into a depository agreement with a US depository bank. Under the agreement, the bank agrees to provide services such as cash and stock dividend payments, transfer of ownership and distribution of relevant materials such as notices and shareholder meeting materials.

No interview with the NYSE is typically required in order to list securities.

There are no restrictions on the currency denomination of securities.

A company is not required to retain a compliance adviser in order to list its securities on the NYSE.

*Continued listing standards*

In order to maintain its listing on the NYSE, a company must maintain minimum distribution levels, minimum financial standards and a minimum price. If these criteria are not met, a listed company may be the target of suspension and delisting procedures.

*Distribution*. The NYSE will give consideration to the prompt initiation of suspension and delisting procedures with respect to a security of either a domestic or non-US issuer when:

The number of total stockholders is less than 400 (includes beneficial owners holding through NYSE member brokers); or

The number of publicly-held shares is less than 600,000 (that is, shares held by non-affiliated parties); or

The number of total stockholders is less than 1,200 (includes beneficial owners holding through NYSE member brokers) and average monthly trading volume for the most recent twelve months is less than 100,000 shares.

***Note***— Shares held by directors, officers, or their immediate families and other concentrated holdings of 10% or more are excluded in calculating the number of publicly held shares.

*Financial*. An issuer will not be in compliance with the required minimum continuing financial standards and will be eligible to be delisted or suspended from the NYSE if:

Its average global market capitalization over a consecutive 30 trading-day period is less than US$50 million.

At the same time, total stockholders' equity is less than US$50 million.

***Note***—The NYSE will initiate suspension and delisting if a company is determined to have an average global market capitalization of less than US$15 million throughout a consecutive 30 trading-day period, regardless of the standard under which it initially listed.

Further if a company is initially listed under any of the NYSE's financial standards on the basis of financial statements covering a period of 9 to 12 months and the issuer does not qualify under the regular standard at the end of such fiscal year or qualify at such time for original listing under another listing standard, the NYSE will promptly initiate suspension and delisting procedures with respect to the issuer.

*Price criteria for continuing listing:*

A company will be considered to be below compliance standards and accordingly may be subject to suspension and delisting if the average closing price of its listed security is less than US$1 over a consecutive 30 trading-day period.

A company generally has six months to bring its share price and average share price back above US$1 but must notify the NYSE, within 10 business days of receipt of the notification, of its intent to cure the deficiency.

A failure to satisfy the minimum price requirement will be deemed cured if the price promptly exceeds US$1 per share, and the price remains above US$1 per share for at least the following 30 trading days.

*Certain other criteria*. The NYSE may also remove a company's listing for, among other things, violations of its listing agreement with the exchange, loss of its SEC registration for the listed securities, certain insolvency situations, failure to maintain a properly constituted audit committee and similar circumstances. Companies that fail to make their required SEC filings typically lose their listing in short order.

# Listing documentation and process

## Listing documentation and process

[Last updated: 1 January 2024, unless otherwise noted]

For non-US companies listing in the US for the first time, the listing process involves both the relevant exchange (for example, the NYSE) and the SEC.

*NYSE*

The original NYSE listing application typically requires submission of a number of documents, including:

Listing application

A set of financial statements and any required adjustments to historical financial data.

An opinion of counsel about the permissibility under home country law of any non-complying corporate governance or interim earnings release practices.

Copies of any proxy statement or prospectus made within the past year that pertains to the securities to be listed (for an IPO, copies of the preliminary prospectus must be submitted as well as copies of the final prospectus when it becomes available).

Copies of the SEC registration form.

Opinion(s) of counsel issued in connection with any recent public offering or certificate of good standing from the company's jurisdiction of incorporation.

For public companies, a recent distribution schedule for the shares.

Letter from the registrar certifying the number of shares.

Letter from the transfer agent regarding the supply of stock certificates.

Proofs of temporary stock certificates.

If a company is listing in connection with an IPO, a letter from the underwriter stating that distribution will occur in accordance with NYSE standards.

Certified copy of board resolutions (and shareholder resolutions, where locally required) authorizing the actions necessary to list on the NYSE.

Listing agreement and listing fee agreement.

Copy of the corporate charter and bylaws and all amendments thereto.

Copy of any certificate or order of a public authority that may approve or authorize the issuance of securities for the listing.

Memorandum regarding dividends declared, rights issued or imminent record dates.

Other documents as may be required by the NYSE.

A prospective applicant for listing may use the NYSE's free confidential review process to learn whether the company is eligible for listing and whether it may need to satisfy any additional conditions. In order for the NYSE to conduct such a confidential eligibility review, the company must provide the NYSE with a variety of corporate documents and information.

*SEC registration*

In addition to the NYSE-related requirements, a foreign private issuer must register the class of securities it intends to list with the SEC by filing a registration statement (Form 20-F). If a sale or offering is to be made in connection with the listing (such as an IPO), the offering must be registered by filing a registration statement (typically on Form F-1 for an initial US listing), including a prospectus. The Form 20-F and Form F-1 require largely the same information.

The Form 20-F registration statement includes consolidated financial statements for the past three years, audited by an independent auditor and accompanied by an audit report. These consolidated financial statements must include:

A balance sheet.

Income statement/Statement of Comprehensive Income.

Statement of changes in equity.

Statement of cash flows.

Any related notes or schedules required by the accounting standards under which the statements were prepared.

Any audited financial statements included in a registration statement or annual report must be prepared in compliance with US GAAP or IFRS (as issued by IASB), or, if prepared in compliance with local GAAP (including any non-IASB IFRS), they must be reconciled to US GAAP.

If the statements are in compliance with IFRS, the compliance must be explicitly stated, and an auditor's certification to the same must be provided.

If the financial statements and schedules are prepared according to local GAAP, the material variations with US GAAP and SEC Regulation S-X must be disclosed.

The last year of the audited financial statements generally may not be older than 15 months at the time of listing, and, in the case of an IPO, may not be older than 12 months at the time the document is filed. Consolidated interim financial statements may have to be provided if the registration statement becomes effective more than nine months after the end of the last audited financial year.

A statement regarding capitalization and indebtedness must also be included in the registration statement. If the registration with the SEC and listing on the NYSE is being made pursuant to an IPO, then financial information regarding proceeds and use of proceeds may also be required. If an issuer is registering debt securities, a ratio of earnings to fixed charges must also be provided.

These financial statement requirements may be difficult for non-US companies to comply with, because the US requirements are somewhat unique.

The Form 20-F or Form F-1, in addition to financial statements, must publicly disclose a variety of information, such as:

The company's business, property, legal proceedings and controlling shareholders.

The trading market for its shares.

Exchange controls and tax and other foreign governmental limitations affecting US shareholders.

Management's discussion and analysis of financial condition and results of operations.

Officers' and directors' background, compensation, management options and interests in transactions with the company.

Corporate governance policies and practices, disclosure controls and internal accounting controls as assessed by management.

Off-balance sheet arrangements, contractual obligations and contractual commitments.

Changes in the company's certifying accountant and ADR fees and payments.

Filings with the SEC must be made electronically through the SEC's electronic EDGAR system. Documents are publicly available as soon as they are filed. Under certain circumstance (for example, an issuer already listed on a non-US exchange or an issuer seeking an initial listing both on a US and a non-US exchange) the SEC will permit a foreign private issuer to make its initial filing in paper form, on a draft confidential basis. In addition, an "emerging growth company" (as that term is defined in the JOBS Act), including one that is also a foreign private issuer, may make an initial filing of its registration statement to the SEC on a confidential basis. All amendments (including amendments responding to the SEC's comments on the initial confidential filing) must be publicly filed through the EDGAR system.

From the time the company decides to make a public offering in the US, through the SEC's confidential review process, the company must not engage in publicity for the offering or that may stimulate interest in the company or its securities. After the registration statement is filed publicly, but before the securities are all distributed to investors and final prospectuses delivered, the company must continue to restrict its public communications and use of offering-related materials.

The SEC will not declare the registration statement effective until FINRA clears the underwriting arrangements for any related public offering.

US domestic companies are also required to register their listed class of securities with the SEC. To register a class of securities other than in connection with a sale of securities, the issuer must file on Form 10. If a sale or offering is to be made in connection with the listing (such as an IPO), the offering must be registered by filing a registration statement (typically on Form S-1), including a prospectus. The Form 10 and Form S-1 require largely the same information. The Form S-1 is similar to the Form F-1 but generally requires more extensive disclosure regarding executive compensation and corporate governance practices. US domestic issuers are required to provide US GAAP audited financial statements and may not, at this time, report their financial results under IFRS.

*Timetable*

The following is a fairly typical process and timetable for a listing of either a foreign private issuer or a domestic issuer on the NYSE via underwritten public offering in the US.

[Link to Timetable](https://resourcehub.bakermckenzie.com/en/-/media/crossborder-listings-handbook/files/2020-update-8th-edition/nylisting-doc-and-proc.pdf)

# Continuing obligations/periodic reporting

## Continuing obligations/periodic reporting

[Last updated: 1 January 2022, unless otherwise noted]

An NYSE listed company has disclosure and reporting obligations both to the NYSE and the SEC. Generally, a listed company must release quickly to the public any news or information that might reasonably be expected to materially affect security values or influence investment decisions. Further, the NYSE strives to ensure that listed companies provide timely and regular financial information.

*Disclosure of material information*

Generally, the NYSE seeks to avoid a situation where unusual market activity or substantial changes in price occur shortly before an important corporate action or development is announced, particularly because these changes may indicate the trading on the basis of material non-public ("inside") information. The NYSE believes these risks are prevalent in the context of negotiations and preparations regarding mergers and acquisitions, stock splits, exchanges or tender offers, changes in dividend rates or earnings, calls for redemption and new contracts, products or discoveries. The NYSE recommends that companies exercise caution to keep these matters confidential. If confidentiality can be maintained, a public announcement may not be necessary, but if unusual market activity appears to be taking place while important corporate developments are under discussion or undertaken, the NYSE recommends that the company be ready to make a public announcement.

The NYSE also recommends that information provided to security analysts, financial writers and shareholders should be supplied in a consistent manner without favoring one over the others. For example, a company should not give advance information to analysts regarding matters like earnings, stock splits, mergers or tender without providing notice of the same to the press.

Once listed, a company is also subject to the NYSE's market surveillance program. This on-line system monitors price movements and volume changes. Significant shifts will be flagged and may result in a review, during which the issuer may be contacted for an explanation. If information leaks occur or rumors circulate in connection with significant corporate transactions, the NYSE may halt or delay trading in the security. The NYSE may require the company to make a public announcement, if the market appears to be reacting to undisclosed information. The information can be disclosed through any means that complies with the SEC's Regulation FD (fair disclosure), although the NYSE recommends that information be disclosed through a press release.

A listed company must also give the NYSE prompt written notice of a variety of corporate events affecting the company and its securities.

*SEC periodic filings*

*For Foreign Private Issuers:*

As long as a company continues to meet the definition of "foreign private issuer" described above, its required periodic reporting with the SEC is limited to:

Furnishing to the SEC, from time to time, by means of a simple cover page report known as the Form 6-K, copies of significant press releases, reports and other disclosures that the issuer otherwise makes public as well as information on material cybersecurity incidents that the issuer discloses in a foreign jurisdiction to any stock exchange or securityholder.

Filing an annual report on Form 20-F, which includes new required disclosures on cybersecurity risk management and governance as well as new required disclosures regarding insider trading policies and procedures.

*Form 6-K*. A foreign private issuer must furnish a Form 6-K to the SEC from time to time. This is required by the SEC to report information that either:

The company makes public pursuant to the law of its home country.

The company files with any non-US stock exchange on which its securities are listed and that is made public by the exchange.

The company distributes to its security holders.

This information could concern changes in management or control, acquisitions or dispositions of a material amount of assets, changes in the company's certifying accountants, the company's financial condition and results of operations, material legal proceedings, material cybersecurity events, or any other information that the company deems of importance.

*Semi-Annual Financial Information*. NYSE-listed foreign private issuers must in all cases comply with the NYSE's requirement to disclose interim financial information in a Form 6-K on, at a minimum, a semi-annual basis, including:

An interim balance sheet as of the end of its second fiscal quarter.

A semi-annual income statement that covers its first two fiscal quarters.

This unaudited financial information must be submitted on Form 6-K no later than six months after the end of the issuer's second fiscal quarter and presented in English, but the unaudited financial information need not be reconciled to US GAAP.

*Form 20-F*. A listed company has financial reporting obligations under the US federal securities laws. A foreign private issuer is required to file an annual report on Form 20-F with the SEC that includes audited financial statements. The Form 20-F is required to be filed within four months after the conclusion of the foreign private issuer's fiscal year. This report must be made available to shareholders through the company's website and the company must state that holders of stock and bonds may receive a hard copy of the company's complete audited financial statements free of charge. A company must also issue a press release, compliant with NYSE policies, stating that its annual report has been filed with the SEC. The NYSE has issued guidance as to what constitutes effective dissemination of this press release.

The financial statements required by the Form 20-F annual report are the same as those required under a Form 20-F registration statement, discussed above. They may be prepared in accordance with US GAAP, IFRS (as issued by IASB) or local GAAP. If the statements are in compliance with IFRS, the compliance must be explicitly stated, and an auditor's certification must be provided. If financial statements and schedules are prepared according to local GAAP, the principles must be disclosed and the material variations with US GAAP and SEC Regulation S-X must be discussed.

*For Domestic Issuers:*

Domestic issuers must file periodic and current reports on Form 10-K (annual reports), Form 10-Q (quarterly reports) and 8-K (current reports). The Form 10-K must include annual financial statements (prepared in conformity with US GAAP) along with information updating previously filed information regarding the issuer and its business. The Form 10-K must be filed within 90 days after the end of the fiscal year of the issuer or in a shorter period prescribed by regulation for certain larger reporting companies that are "accelerated filers". Quarterly reports containing unaudited quarterly financial information regarding the issuer must be filed within 45 days after the end of the fiscal quarter for the first three quarters of the year with shorter filing deadlines applying to accelerated filers. Current reports on Form 8-K are required for a variety of enumerated circumstances including *inter alia*, material acquisitions or dispositions, reporting of financial results (such as earnings releases), entering into material financing arrangements, changes to senior management and the board of directors, any change in the issuer's accounting firm, material cybersecurity incidents, and certain insolvency events. In most cases a Form 8-K is due within four business days of the prescribed event. Form 8-Ks are often typically filed or furnished by issuers to report other material developments that are not subject to mandatory disclosures.

Further, unlike foreign private issuers, domestic issuers are subject to the SEC's proxy statement regime which requires the filing with the SEC and distribution to shareholders of a lengthy mandated report in relation to any annual or special meetings of shareholders that contains certain mandated disclosures regarding the matters to be considered the meeting (such as the election of directors at an annual meeting). Most domestic issuers include their disclosures relating to executive compensation in their proxy statement for the issuer's annual meeting of shareholders. As a result of increased SEC and shareholder focus on compensation, the disclosures around executive compensation are very complex and lengthy.

*Sales and holdings by affiliates*

US securities laws limit the extent to which officers, directors and other control persons of a public company can sell their securities publicly in the US. Generally, in the absence of any available exemption (such as SEC Rule 144, which provides for resales subject to limitations on the quantity and timing) none of the principal officers or directors of a public company may sell their shares in the US market unless there is a registration statement then in effect, covering their shares. However, sales by officers and directors of a foreign private issuer of ordinary shares through ordinary brokerage transactions on most major non-US stock exchanges are unrestricted by US federal securities laws.

In addition, if a person or group of persons acting in concert acquires beneficial ownership of more than 5% of any registered class of voting equity securities, they will need to make a filing with the SEC on Form 13D or 13G. These filings also must be amended or updated from time to time. In October 2023, the SEC adopted amendments to Regulation 13D – G under the Exchange Act. For further discussion of the amendments, see our Client Alert: [SEC issues new deadlines for Section 13 filings](https://insightplus.bakermckenzie.com/bm/capital-markets/united-states-sec-issues-new-deadlines-for-section-13-filings).

*Anti-fraud laws and insider trading*

SEC and stock exchange disclosure rules are intended to ensure that securities markets receive information regarding material events that might affect the trading prices of public company securities so that investors have adequate information available to them on a timely basis. These disclosures are subject to the antifraud provisions of US federal securities laws, including SEC Rule 10b-5. This rule makes it unlawful to engage in fraudulent or manipulative practices or "to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading."

These anti-fraud laws provide the basis for a significant amount of securities litigation, which is relatively prevalent in the US. As a result, public companies and their "insiders" (that is, their officers, directors and controlling persons) have potential liability if they fail to deal fairly with investors with respect to matters that could affect the price of the company's stock. A public company must have a policy of prompt and complete disclosure to stockholders and the financial community of all material developments, good or bad, that could reasonably be expected to influence the price of the company's stock. The company and its officers, directors and other insiders must refrain from all transactions in the company's securities during any period when there is undisclosed material information about the company. For this reason, most public companies have formal trading policies applicable to insiders. Similarly, the company should ensure that all material information is disseminated uniformly to the marketplace and must avoid activities designed to manipulate the company's stock price.

# Corporate governance

## Corporate governance

[Last updated: 1 January 2024, unless otherwise noted]

As stated previously, a foreign private issuer must comply with certain corporate governance standards set out in the NYSE's listed company manual, although there are a much greater number of corporate governance requirements applicable to domestic companies. Listed foreign private issuers must publicly disclose any significant ways in which their corporate governance practices differ from those followed by domestic companies under the NYSE listing standards. For example, while the US has now added new requirements effectively mandating the use of compensation committees of independent directors for most listed issuers, foreign private issuers listed on the NYSE may continue to follow home country practices in relation to executive compensation decisions as long as they describe how their practices diverge from US practices in their Form 20-F disclosures.

Additionally, the CEO of a listed company must notify the NYSE in writing if any executive officer of the company becomes aware of non-compliance with any of the applicable NYSE corporate governance provisions, and each listed company must submit an annual written affirmation to the NYSE on these and similar matters.

*Audit committee*

Under NYSE rules, a foreign private issuer must have an audit committee that satisfies the requirements of SEC Rule 10A-3. This rule generally requires each member of the audit committee to be a member of the board of directors of the company, but otherwise independent of the company. With respect to non-investment company issuers, an audit committee member is considered independent if he or she does not accept directly or indirectly any consulting, advisory or other compensatory fee from the issuer or a subsidiary of the issuer (other than in the capacity of a member of an audit committee, the board of directors or any other board committee). Additionally, in order to be independent, the audit committee member may not be an affiliated person of the company or any subsidiary. In certain situations, exemptions from these requirements are available to foreign private issuers.

In the context of an IPO, at least one member of the audit committee must meet the independence requirement, and the others are exempt from the audit committee independence requirements for 90 days from the date of the effectiveness of the registration statement filed with the SEC. Additionally, less than half of the audit committee members are exempt from the independence requirements for a year from the date of effectiveness of the IPO registration statement.

Rule 10A-3 also sets out responsibilities of the audit committee relating to registered public accounting firms, procedures regarding complaints, engaging advisers and funding.

However, a foreign private issuer that already has a board of auditors (or similar body or statutory auditors) would be exempt from all or a portion of the audit committee requirements if certain conditions are met.

Additional specific independence requirements are imposed by the NYSE on the composition of the audit committee of US domestic issuers.

*Other SEC-imposed corporate governance requirements*

In addition to the corporate governance requirements outlined above, the SEC imposes a number of corporate governance requirements on all public companies (domestic and foreign). These include:

CEO/CFO certifications in the company's Form 20-F or Form 10-K filed with the SEC.

Prohibitions on loans to executive officers.

Requirements that issuers review their relationships with their auditors to ensure continued independence.

Stringent rules requiring attorneys to report evidence of material violations.

Protection of whistleblowers.

Adoption and maintenance of a code of ethics for senior and financial officers.

Potential forfeiture of CEO and CFO bonuses or certain other types of compensation in the event of an accounting restatement, as well as additional new compensation clawback rules implemented in 2023 requiring the recovery of incentive-based compensation that is erroneously "received" by current and former executive officers for fiscal periods preceding the date of an accounting restatement (see our Client Alert: [SEC Releases Final Rule on Clawback of Incentive Compensation](https://insightplus.bakermckenzie.com/bm/attachment_dw.action?attkey=FRbANEucS95NMLRN47z%2BeeOgEFCt8EGQJsWJiCH2WAUuQVQjpl3o%2BQzUxecjEbFL&amp;nav=FRbANEucS95NMLRN47z%2BeeOgEFCt8EGQbuwypnpZjc4%3D&amp;attdocparam=pB7HEsg%2FZ312Bk8OIuOIH1c%2BY4beLEAeiCIukYeOcBk%3D&amp;fromContentView=1)).

*Other implications for corporate governance*

In addition to complying with its express obligations under the US securities laws, a foreign private issuer should also consider the following practical implications of becoming a public company in the US:

The company will be required to provide public disclosure about annual compensation (including non-cash compensation, such as stock options and other equity-based compensation) paid to executive officers and directors. This disclosure may generally be furnished on an aggregate, rather than an individual, basis.

Transactions with the company's stockholders, officers, directors and other affiliates must be carefully scrutinized for fairness and appropriately approved. Public disclosure of these transactions may be required.

The company must publicly disclose information about material on-going litigation, which may make it more difficult to conduct or settle the litigation on a favorable basis.

Material information about the company that is not yet disclosed to the public should be restricted to a small group on a "need-to-know" basis.

Clear lines of communication must be established for dealing with analysts and others interested in the company's financial affairs.

Review of all public disclosures must be centralized.

Officers and directors must be fully informed with respect to their responsibilities and potential liabilities. Indemnification of officers and directors and the availability of directors' and officers' liability insurance coverage will be of concern, particularly to outside directors.

Officers, directors and other affiliates must be sensitive to the timing of sales and purchases of the company's securities. Procedures must be implemented to monitor transactions in the company's securities, including assistance to officers and directors in filing reports and effecting sales of securities.

Routine corporate actions must be subject to formal procedures and timetables, including advance schedules for director and stockholder meetings and other corporate actions.

# Specific situations

## Specific situations

[Last updated: 1 January 2024, unless otherwise noted]

There are no additional NYSE requirements that apply to very large multinational companies or smaller companies. SEC disclosure and other requirements may vary for companies in specialized industries (such as oil & gas companies, investment companies and financial companies). For example, the SEC adopted special disclosure rules for all listed companies (foreign and domestic) requiring an annual specialized disclosure report on Form SD if "conflict minerals" (as defined within the rules) are contained in products a company manufactures or contracts to be manufactured and necessary to the functionality of those products or their production processes and also adopted special disclosure rules for all listed companies (foreign and domestic) requiring resource extraction issuers to disclose payments to governments related to the commercial development of oil, natural gas or minerals, reportable through report on Form SD. Most recently, the SEC adopted new rules for all listed companies (foreign and domestic) requiring disclosure of material cybersecurity incidents and certain other cybersecurity related disclosures as well as new rules requiring certain disclosures about an issuer's insider trading policies and procedures.

The NYSE provides alternative listing standards for companies that operate primarily to provide venture capital for small and medium sized business equity listings. These standards are only available to companies registered under the Investment Company Act of 1940 or the Small Business Investment Act of 1958. Under these standards the earnings requirement is modified, and the net tangible assets applicable to common stock must be at least US$18 million (including a minimum of US$8 million in paid-in-capital or retained earnings).

No explicit procedure currently exists for fast track or expedited listing, but the process may be expedited with the NYSE if scheduling and timing permit. Most companies find that the SEC registration process is more time-consuming than the NYSE listing process.

# Presence in the jurisdiction

## Presence in the jurisdiction

[Last updated: 1 January 2024, unless otherwise noted]

The NYSE does not impose any requirements for a listed foreign company to maintain a presence in the US or keep any original records there. However, US laws require public companies to keep reasonable records and to devise an adequate system of internal accounting for the protection of assets. A public company should establish procedures and consult with its auditors to ensure that its compliance systems and its auditors' accounting systems are adequate to meet these requirements.

# Fees

## Fees

[Last updated: 1 January 2024, unless otherwise noted]

A company seeking to list on the NYSE pays an application fee, an initial listing fee and annual fees. The NYSE's application fee is US$25,000, and the initial listing fee for common stock is a flat rate of US$300,000 and any additional class of common stock listed is a flat rate of US$5,000. Additional shares listed subsequently will require additional payments. The annual fee is a minimum of US$80,000 and increases depending on the number of shares listed. Subject to limited exceptions, the total fees that may be billed to an issuer in a calendar year are capped at US$500,000. Other fees are applicable to such corporate events as the listing of additional securities.

Additional costs include printing expenses and registration fees required by the SEC, as well as legal and accounting fees.

# Additional Information

## Additional Information

[Last updated: 1 January 2024, unless otherwise noted]

With very few exceptions, all information for registration with the NYSE and the SEC must be submitted in the English language.

*Key differences in requirements for domestic companies*

As highlighted above, there are important differences between the requirements for domestic and foreign companies looking to register their securities with the SEC and list with the NYSE. The key differences in requirements between US companies and foreign private issuers listing on the NYSE relate mainly to corporate governance and continuing disclosure obligations. US companies are subject to certain corporate governance and disclosure obligations that foreign private issuers are not, including the following.

US companies must file with the SEC current, quarterly and annual reports on Forms 8-K, 10-Q and 10-K, respectively, while foreign private issuers are required to furnish the SEC with Forms 6-K (with respect to information released in their home markets or to their shareholders) and file with the SEC an annual report on Form 20-F. The disclosure obligations for foreign private issuers in Form 20-F are somewhat less demanding than those for US companies in Form 10-K.

Foreign private issuers are not required to follow US rules covering the solicitation of proxies for annual or special meetings of shareholders, which require US companies to file with the SEC (and provide to their shareholders) proxy statements containing detailed information on the matters to be considered at the meeting and the compensation of individual executive officers and directors. Foreign private issuers are required to provide only aggregate information on compensation of executive officers and directors when filing their annual reports on Form 20-F.

Executive officers, directors and holders of 10% of the outstanding shares of US companies are subject to insider trade reporting on Form 3 (initial ownership report) and Form 4 (changes in beneficial ownership) and short-swing profit disgorgement requirements pursuant to Section 16 of the Exchange Act, while foreign private issuers and their executive officers, directors and shareholders are not.

Foreign private issuers generally may follow home country practices in relation to corporate governance, rather than following the rules that apply to US companies. Foreign private issuers are, however, subject to certain disclosure obligations when doing so, which are further described in section 5 above. Domestic issuers, however, are subject to additional governance requirements relating to the composition of audit, compensation and nominating committee, codes of ethics, and trading blackouts relating to benefit plans, descriptions of which are beyond the scope of this note.

In addition, a foreign private issuer may choose to apply for initial listing on the NYSE under either the US domestic standards or the alternative criteria for foreign private issuers, both of which are further described in section 2 above, while a domestic company must follow the domestic standards. The quantitative criteria for continued listing on the NYSE (for example, distribution, financial standards and share price) is the same for domestic issuers and foreign private issuers.

# Contacts

## Contacts within Baker McKenzie

The most appropriate contacts within Baker McKenzie for inquiries about prospective listings on the NYSE are as follows:

©Copyright © 2025 Baker & McKenzie. All rights reserved. **Ownership**: This documentation and content (Content) is a proprietary resource owned exclusively by Baker McKenzie (meaning Baker & McKenzie International and its member firms). The Content is protected under international copyright conventions. Use of this Content does not of itself create a contractual relationship, nor any attorney/client relationship, between Baker McKenzie and any person. **Non-reliance and exclusion**: All Content is for informational purposes only and may not reflect the most current legal and regulatory developments. All summaries of the laws, regulations and practice are subject to change. The Content is not offered as legal or professional advice for any specific matter. It is not intended to be a substitute for reference to (and compliance with) the detailed provisions of applicable laws, rules, regulations or forms. Legal advice should always be sought before taking any action or refraining from taking any action based on any Content. Baker McKenzie and the editors and the contributing authors do not guarantee the accuracy of the Content and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the Content. The Content may contain links to external websites and external websites may link to the Content. Baker McKenzie is not responsible for the content or operation of any such external sites and disclaims all liability, howsoever occurring, in respect of the content or operation of any such external websites. **Attorney Advertising**: This Content may qualify as “Attorney Advertising” requiring notice in some jurisdictions. To the extent that this Content may qualify as Attorney Advertising, PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. **Reproduction**: Reproduction or copying of the Content on this Site without express written authorization is strictly prohibited.