

THE INITIAL PUBLIC  
OFFERINGS LAW  
REVIEW

THIRD EDITION

Editor  
David J Goldschmidt

THE LAWREVIEWS

THE INITIAL PUBLIC  
OFFERINGS  
LAW REVIEW

THIRD EDITION

Reproduced with permission from Law Business Research Ltd  
This article was first published in April 2019  
For further information please contact [Nick.Barette@thelawreviews.co.uk](mailto:Nick.Barette@thelawreviews.co.uk)

**Editor**  
David J Goldschmidt

THE LAWREVIEWS

PUBLISHER

Tom Barnes

SENIOR BUSINESS DEVELOPMENT MANAGER

Nick Barette

BUSINESS DEVELOPMENT MANAGER

Joel Woods

SENIOR ACCOUNT MANAGERS

Pere Aspinall, Jack Bagnall

ACCOUNT MANAGERS

Sophie Emberson, Katie Hodgetts

PRODUCT MARKETING EXECUTIVE

Rebecca Mogridge

RESEARCH LEAD

Kieran Hansen

EDITORIAL COORDINATOR

Gavin Jordan

HEAD OF PRODUCTION

Adam Myers

PRODUCTION EDITOR

Helen Smith

SUBEDITOR

Janina Godowska

CHIEF EXECUTIVE OFFICER

Paul Howarth

Published in the United Kingdom  
by Law Business Research Ltd, London  
87 Lancaster Road, London, W11 1QQ, UK  
© 2019 Law Business Research Ltd  
[www.TheLawReviews.co.uk](http://www.TheLawReviews.co.uk)

No photocopying: copyright licences do not apply.

The information provided in this publication is general and may not apply in a specific situation, nor does it necessarily represent the views of authors' firms or their clients. Legal advice should always be sought before taking any legal action based on the information provided. The publishers accept no responsibility for any acts or omissions contained herein. Although the information provided is accurate as at March 2019, be advised that this is a developing area.

Enquiries concerning reproduction should be sent to Law Business Research, at the address above.

Enquiries concerning editorial content should be directed  
to the Publisher – [tom.barnes@lbresearch.com](mailto:tom.barnes@lbresearch.com)

ISBN 978-1-83862-014-1

Printed in Great Britain by  
Encompass Print Solutions, Derbyshire  
Tel: 0844 2480 112

# ACKNOWLEDGEMENTS

The publisher acknowledges and thanks the following for their assistance throughout the preparation of this book:

A&L GOODBODY

ALLEN & GLEDHILL LLP

ALLEN & OVERY

BOWMANS

CHIOMENTI

DLA PIPER

FISCHER BEHAR CHEN WELL  
ORION & CO

HAN KUN LAW OFFICES

HENGELER MUELLER

LATHAM & WATKINS

MAPLES GROUP

MATTOS FILHO, VEIGA FILHO,  
MARREY JR E QUIROGA  
ADVOGADOS

MORAIS LEITÃO, GALVÃO TELES,  
SOARES DA SILVA & ASSOCIADOS

NIEDERER KRAFT FREY LTD

PAKSOY

SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP

TRILEGAL

URÍA MENÉNDEZ

# CONTENTS

PREFACE.....	v
<i>David J Goldschmidt</i>	
Chapter 1 BRAZIL.....	7
<i>Jean Marcel Arakawa</i>	
Chapter 2 CAYMAN ISLANDS.....	16
<i>Suzanne Correy and Finn O'Hegarty</i>	
Chapter 3 CHINA.....	24
<i>Chen Yang and Zhi Bin</i>	
Chapter 4 FINLAND.....	35
<i>Salla Tuominen</i>	
Chapter 5 FRANCE.....	47
<i>Thomas Margenet-Baudry and Jemma Lohr McPherson</i>	
Chapter 6 GERMANY.....	59
<i>Alexander Rang and Caspar Schmelzer</i>	
Chapter 7 INDIA.....	69
<i>Bhakta Batsal Patnaik and Rachana Talati</i>	
Chapter 8 IRELAND.....	81
<i>Matthew Cole and Sheena Doggett</i>	
Chapter 9 ISRAEL.....	91
<i>Nitzan Sandor and Sharon Rosen</i>	
Chapter 10 ITALY.....	101
<i>Enrico Giordano and Federico Amoroso</i>	

## Contents

---

Chapter 11	LUXEMBOURG.....	113
	<i>Frank Mausen and Paul Péporté</i>	
Chapter 12	PORTUGAL.....	129
	<i>Eduardo Paulino, Margarida Torres Gama and Un I Wong</i>	
Chapter 13	SINGAPORE.....	138
	<i>Tan Tze Gay and Wu Zhaoqi</i>	
Chapter 14	SOUTH AFRICA .....	149
	<i>Ezra Davids, David Yuill, Ryan Wessels and Mili Soni</i>	
Chapter 15	SPAIN.....	157
	<i>Alfonso Ventoso and Marta Rubio</i>	
Chapter 16	SWITZERLAND .....	167
	<i>Philippe A Weber, Thomas M Brönnimann and Christina Del Vecchio</i>	
Chapter 17	TURKEY.....	181
	<i>Ömer Çollak, Ökkeş Şahan and Nazlı Tönük Çapan</i>	
Chapter 18	UNITED STATES .....	193
	<i>David J Goldschmidt</i>	
Appendix 1	ABOUT THE AUTHORS.....	207
Appendix 2	CONTRIBUTORS' CONTACT DETAILS.....	219

# PREFACE

Welcome to the third edition of *The Initial Public Offerings Law Review*. This publication introduces the reader to the main stock exchanges around the globe and their related initial public offering (IPO) regulatory environments, and provides insight into the legal and procedural IPO landscapes in 18 different jurisdictions. Each chapter gives a general overview of the IPO process in the region, addresses regulatory and exchange requirements, and presents key offering considerations.

The global IPO landscape is ever-changing. While several of the oldest stock exchanges, such as the New York Stock Exchange and London Stock Exchange, are still at the forefront of the global IPO market, the world's major stock exchanges now are scattered around the globe and many are publicly traded companies themselves. IPOs take place in nearly every corner of the world and involve a wide variety of companies in terms of size, industry and geography. Aside from general globalisation, shifting investor sentiment and economic, political and regulatory factors have also influenced the development and evolution of the global IPO market.

Virtually all markets around the globe have experienced significant volatility in recent years; however, 2018 marked a year of continued resurgence for many IPO markets. The number of 2018 IPOs and total proceeds raised were led by the Asia-Pacific exchanges, which accounted for almost 50 per cent of deals in terms of both number and deal volume. China alone was responsible for 307 IPOs valued at US\$56.7 billion. Many other regions also experienced strong IPO markets in 2018. Despite the temperamental nature of global economics, and the potential repercussions of various ongoing and expected geopolitical events, there is continued cautious optimism for 2019 in terms of both global deal count and proceeds. The global IPO pipeline includes many well-known companies across a range of industries, and it is anticipated that these companies will seek to list on a variety of stock exchanges around the world.

Every exchange operates with its own set of rules and requirements for conducting an IPO. Country-specific regulatory landscapes are often dramatically different among jurisdictions as well. Whether a company is looking to list in its home country or is exploring listing outside of its own jurisdiction, it is important that the company and its management are aware from the outset of the legal requirements as well as potential pitfalls that may impact the offering. Moreover, once a company is public, there are ongoing jurisdiction-specific disclosure and other requirements with which it must comply. This third edition of *The Initial Public Offerings Law Review* introduces the intricacies of taking a company public in these jurisdictions, and serves as a guide for issuers and their directors and management.

**David J Goldschmidt**

Skadden, Arps, Slate, Meagher & Flom LLP

New York

March 2019

# IRELAND

*Matthew Cole and Sheena Doggett*<sup>1</sup>

## I INTRODUCTION

An officially recognised stock exchange has been in existence in Ireland since the Stock Exchange (Dublin) Act of 1799. In 1971, the Dublin and Cork exchanges merged with the Provincial Brokers Stock Exchange to form the Irish Stock Exchange (ISE), which, in turn, merged with its UK equivalent in 1973 and became the Irish constituent of the International Stock Exchange of the United Kingdom and Republic of Ireland (now the London Stock Exchange (LSE)). The ISE split from the LSE in 1995 to become an independent entity (although it continues to be possible to maintain a dual primary listing and have shares admitted to the official lists in both Dublin and London). The ISE was acquired by Euronext in March 2018 and now trades as Euronext Dublin.<sup>2</sup> Integration into the Euronext group of exchanges, in February 2019, led to a number of changes in terminology and, although there were very few substantive changes, also saw many of the ISE's Listing Rules (the Listing Rules) consolidated into rule books covering the entire Euronext group.

The ISE is the competent authority for listing in Ireland, and the Central Bank of Ireland (the Central Bank) has been responsible for prospectus scrutiny and approval since December 2011.

The ISE maintains three markets that admit equity securities: an EU-regulated market called Euronext Dublin (known until February 2019 as the Main Securities Market); the junior Euronext Growth market (previously the Enterprise Securities Market (ESM)); and the unchanged Atlantic Securities Market (ASM).

Following a difficult period, the Irish equity markets have seen an upturn in initial public offering (IPO) activity in recent years, driven initially by IPOs of real estate investment trusts (REITs) in 2013 and 2014. Since 2013, there have been nine listings on Euronext Dublin, including three REITs and two move-ups from Euronext Growth.<sup>3</sup> In the same

---

1 Matthew Cole and Sheena Doggett are partners at A&L Goodbody.

2 Throughout this chapter we will use the term 'ISE' rather than 'Euronext Dublin' when discussing the stock exchange to avoid confusion with its regulated market, which is now also called Euronext Dublin.

3 Green REIT plc; Hibernia REIT plc; Irish Residential Properties REIT plc; Hostelworld Group; Permanent TSB Group Holdings plc (move-up from Euronext Growth with fundraising); Dalata Hotel Group (move-up from Euronext Growth); AIB Group plc; Cairn Homes plc (dual listing having previously obtained listing on the Main Market of the LSE); and Glenveagh Properties plc.

period, there were 12 IPOs on Euronext Growth, including one REIT.<sup>4</sup> As at February 2019, there were 29 issuers listed on Euronext Dublin and 24 on Euronext Growth. The ASM was launched in 2015, but as at February 2019 does not have any constituent companies.

## II GOVERNING RULES

### i Main stock exchanges

#### *Euronext Dublin*

Euronext Dublin is the principal trading market of the ISE and admits equity, debt instruments and investment funds. It is a 'regulated market' for the purposes of the Markets in Financial Investments Directive (MiFID),<sup>5</sup> and issuers are therefore required to comply with EU legislation such as the Prospectus Directive,<sup>6</sup> the Prospectus Regulation<sup>7</sup> and the Transparency Directive.<sup>8</sup>

A primary listing requires an admission of securities to trading on Euronext Dublin and admission to listing on the ISE's Official List, and by virtue of the latter the listed company becomes subject to the full requirements of the Listing Rules, which are now contained in Rule Book II of the consolidated Euronext Rule Book. An Irish company seeking a listing on Euronext Dublin must apply for a primary listing, unless the company has or intends to have an overseas primary listing on a recognised stock exchange and its primary market is in a country other than Ireland.

Like a premium segment listing on the LSE, a Euronext Dublin primary listing indicates high standards of corporate governance, and issuers become subject to a number of obligations that are 'super-equivalent' to the minimum standards of regulation prescribed by European legislation. These are designed to enhance investor protection and include provisions on related-party and substantial transactions (which may require shareholder approval), sponsors (a sponsor must be retained for the duration of a Euronext Dublin listing), and compliance with codes relating to corporate governance and directors' dealing in the issuer's securities. Many of these super-equivalent standards apply to primary- and dual primary-listed companies only. A company with a primary listing on an overseas stock exchange may apply for a secondary listing on Euronext Dublin, which will subject it to less onerous obligations.

Through an agreement reached between the ISE and the LSE in 1995, an issuer may maintain a dual primary listing and have its shares admitted to the official lists in both Dublin and London on a primary basis. The procedure to effect a dual listing is very similar to applying for a single primary listing, and the Central Bank and Financial Conduct Authority (FCA) in the United Kingdom will maintain a regular dialogue with each other throughout the process.

---

4 Falcon Oil and Gas Ltd; Mincon Group; GameAccount Network plc; Dalata Hotel Group; Mainstay Medical International plc; Applegreen plc; Malin Corporation plc; Draper Esprit plc; Venn Life Sciences Holdings plc; Greencoat Renewables plc; VR Education Holdings plc; and Yew Grove REIT plc.

5 Directive 2014/65/EC & 15 May 2014.

6 Directive 2003/71/EC & 4 November 2003.

7 The Prospectus Regulation (2017/1129) was published in the Official Journal on 30 June 2017 and entered into force on 20 July 2017. It will repeal the Prospectus Directive with effect from 21 July 2019, except for a limited number of provisions that were repealed in August 2018 by the Irish Prospectus (Directive 2003/71/EC) Amendment Regulations 2018.

8 Directive 2004/109/EC & 15 December 2004.

### ***Euronext Growth***

Euronext Growth is an exchange-regulated (i.e., regulated by the ISE) equity market for small to medium-sized issuers, and is a multilateral trading facility (MTF) for the purposes of MiFID. Euronext Growth has been modelled very closely on the LSE's AIM, with reduced admission criteria, no requirement for a prior trading record and no minimum free float requirement. The one notable difference is that all Euronext Growth applicants are required to have a minimum market capitalisation of €5 million, in an attempt to prevent shell companies from undermining the credibility of the market. Since February 2019, the rules for Euronext Growth issuers (the Euronext Growth Rules for Companies) have been contained in the Euronext Growth Markets Rule Book, with the Irish specific rules contained in chapter 5. Though re-ordered, they are substantively unchanged from the old ESM Rules for Companies – which were virtually identical to the AIM Rules – allowing applicants the option of a dual listing by coordinating an IPO to achieve admission to both markets using the same timetable and information document (or admission document on AIM). Of the 24 companies listed on Euronext Growth as at February 2019, 20 are also listed on AIM.

An issuer with a primary listing on Euronext Dublin or Euronext Growth may be eligible to be quoted on the ISE quotient indices (the Irish equivalent of the FTSE indices), provided the listed securities are ordinary shares (or equivalent) admitted to trading, and the issuer is incorporated or has its centre of economic interest in either Ireland or Northern Ireland.

### ***ASM***

The ASM is also an MTF and is designed to be compatible with the Securities and Exchange Commission (SEC) requirements of companies listed on the New York Stock Exchange (NYSE) or Nasdaq. Primarily designed for companies already listed on one of these markets, issuers can avail of a dual quotation with trading in euros and US dollars.

## **ii Overview of listing requirements**

### ***Euronext Dublin***

A Euronext Dublin issuer must appoint a sponsor for the duration of its listing, which must be registered with the ISE. The sponsor is the primary point of contact between the ISE and the issuer throughout the application process. The sponsor is responsible for various matters relating to the listing, including ensuring the issuer's suitability for listing prior to making any submission to the ISE.

Applicants to Euronext Dublin must comply with the Listing Rules for admission to the Official List, and the Admission to Trading Rules, contained in chapter 6 of Rule Book I of the Euronext Rule Book (the Admission to Trading Rules), for the admission of securities to trading. The following are the key listing requirements under these rules for a primary or dual primary listing on Euronext Dublin:

- a* the issuer must be validly established and operating in conformity with its constitution, and its securities must conform with the law of the issuer's country of incorporation, be freely transferable and fully paid;
- b* the issuer should have a minimum market capitalisation of €1 million (although the ISE may make an exception if there will still be an adequate market for the shares);
- c* preparation of a prospectus complying with relevant EU legislation that is reviewed and approved by the Central Bank (or passported in if the issuer's home Member State is not Ireland). The requirement for a prospectus is triggered by the application for

- transferable securities to be admitted on a regulated market, irrespective of whether there is also an offer being made of transferable securities to the public in the European Economic Area (EEA);
- d* the issuer must have published or filed audited consolidated accounts covering a period of at least three years, ending no more than six months before the date of the prospectus (although this condition can be modified or waived by the ISE);
- e* the issuer must generally:
- control the majority of its assets;
  - be carrying on an independent business as its main activity; and
  - possess a three-year revenue-earning record that supports at least 75 per cent of its business (100 per cent for an issuer seeking a primary listing only);
- f* the issuer satisfies the ISE that it has sufficient working capital available for at least 12 months following the date of publication of its prospectus;
- g* the issuer's securities are eligible for electronic settlement;
- h* the issuer maintains a free float in one or more EEA Member States of 25 per cent (the ISE may relax this requirement in certain circumstances); and
- i* an issuer seeking a primary listing must be able to carry on its business independently of any controlling shareholder (a person who either controls 30 per cent or more of the votes in the issuer or who has the right to appoint a majority of the board of directors), and all transactions and relationships between the issuer and any controlling shareholder must be at arm's length and on a normal commercial basis.

Most of the conditions referred to above apply equally to secondary listings, except for the requirements relating to the publication of accounts and the conditions relating to assets, business activities and working capital.

### ***Euronext Growth***

A Euronext Growth issuer is required to appoint a 'Euronext Growth Advisor' approved by the ISE (equivalent to a nominated adviser on AIM) for the duration of its listing. The role of a Euronext Growth Advisor is broadly similar to that of a sponsor on Euronext Dublin. In particular, he or she is responsible for assessing the appropriateness of an applicant for admission. In light of this responsibility, there are no other specific eligibility requirements that apply to companies seeking admission to Euronext Growth, except that there must usually be a minimum market capitalisation of €5 million.

An information document containing prescribed information set out in the Euronext Growth Rules (similar in format to a prospectus) is required to be published in connection with the applicant's admission to Euronext Growth and must be approved by the Euronext Growth Advisor. He or she must make a declaration to the ISE that the admission document complies with the relevant requirements of the Euronext Growth Rules.

Applicants already listed for 18 months on one of 12 'designated markets'<sup>9</sup> can avail of a fast-track admission process, which dispenses with the requirement for an information document but instead requires a detailed pre-admission announcement.

---

<sup>9</sup> As at March 2018, the designated markets are: Euronext Dublin, ASM, Main Market of the LSE, AIM, Deutsche Borse, NYSE, Nasdaq, Nasdaq OMX Stockholm, TMX Group, Johannesburg Stock Exchange, Australian Stock Exchange and Swiss Exchange.

### **ASM**

An ASM issuer must appoint an ‘ASM Advisor’ approved by the ISE for the duration of its listing. An ASM applicant must meet a number of listing requirements, of which the most important include:

- a* the issuer must be seeking admission, or be admitted, to the NYSE or Nasdaq;
- b* a three-year revenue-earning record reflected in published or filed audited accounts;
- c* the issuer satisfies the ISE that it has sufficient working capital available for at least 12 months;
- d* the ability of the issuer to carry on its business independently of any controlling shareholder;
- e* a minimum market capitalisation of US\$100 million (although the ISE may make an exception if there will still be an adequate market for the securities);
- f* the issuer’s securities must be eligible for electronic settlement; and
- g* the issuer must have a free float on admission of 15 per cent.

Applicants already listed on the NYSE or Nasdaq for 18 months are not required to publish an admission document and can utilise a fast-track admission process (unless they are required to publish a prospectus by virtue of making an offer of transferable securities to the public in the EEA). Other applicants must produce an admission document, but should usually be able to incorporate by reference information contained in its SEC registration statement or filings.

### **iii Overview of law and regulations**

Laws and regulations applicable to IPOs in Ireland are derived from EU directives and regulations, domestic statutes, and implementing regulations and guidelines. The key laws and regulations are set out below.

#### ***Prospectus Regulations and Rules***

The Prospectus Directive (until it is repealed by the Prospectus Regulation in July 2019), the Irish Prospectus Regulations (as amended)<sup>10</sup> and the Prospectus Rules issued by the Central Bank are the primary sources of prospectus law in Ireland.

The Irish Prospectus Regulations (as amended) implemented the Prospectus Directive in Ireland. They provide that a prospectus required to be published in connection with a public offer of securities or an admission to trading on Euronext Dublin must:

- a* contain, as a minimum, the information prescribed by the Prospectus Regulations;
- b* be approved by the relevant competent authority; and
- c* be published in accordance with the specific requirements of the Prospectus Directive.

The Central Bank’s Prospectus Handbook draws together a number of sources of information relating to Irish prospectus requirements and procedures, and is intended for use by issuers and their advisers. It also contains the Prospectus Rules and associated guidance, which cover the structure and content of a prospectus, the procedures for submission, review, and passporting, and applicable fees.

---

<sup>10</sup> Prospectus (Directive 2003/71/EC) Regulations 2005.

### ***Listing Rules, Admission to Trading Rules, Euronext Growth Rules and ASM Rules***

The Listing Rules, which are broadly comparable to the listing rules of the FCA in the United Kingdom, set out the detailed procedure for making an application for admission of an issuer's securities to the Official List of the ISE. They also contain requirements in relation to particular transactions effected by an issuer once listed and the continuing obligations that a listed company is required to observe. Broadly, the object of the continuing obligations is to maintain an orderly market in securities and to ensure that all users of the market have simultaneous access to the same information. The Admission to Trading Rules contain parallel rules and responsibilities in relation to a company's admission to trading on Euronext Dublin.

The Euronext Growth Rules and ASM Rules govern the listing processes and ongoing obligations of issuers admitted to those markets.

### ***Transparency Regulations and Rules***

The Transparency (Directive 2004/109/EC) Regulations 2007 (the Transparency Regulations) implemented the Transparency Directive in Ireland. They establish minimum requirements in relation to the disclosure of periodic and ongoing information by issuers, and are supplemented by rules published most recently in November 2016 by the Central Bank (the Transparency Rules), which set out procedural and administrative requirements and guidance in respect of the Transparency Regulations.

### ***The Market Abuse Regulation***

The Market Abuse Regulation (MAR) came into effect in July 2016, replacing the previous rules implementing the Market Abuse Directive. It sets out a standardised EU-wide regime dealing with market abuse, market manipulation and insider dealing. It applies equally to issuers on regulated markets such as Euronext Dublin, and MTFs such as Euronext Growth and ASM.

## **III THE OFFERING PROCESS**

### **i General overview of the IPO process**

Depending upon the complexity of the issuer's business and the structure of the offering, a typical Euronext Dublin IPO process takes between four and six months. As an IPO on Euronext Growth will not usually require a prospectus that must be vetted by the Central Bank, the process can be considerably shorter. At present, the new rules around research analysts discussed below do not apply to Euronext Growth IPOs, further shortening the process in comparison with Euronext Dublin.

At the start of the process, the issuer (increasingly in conjunction with a financial adviser) will appoint one or more investment banks as bookrunners or underwriters (one of whom will act as sponsor or Euronext Growth Advisor). Irish lawyers (and UK and US lawyers if a dual listing is contemplated) will also be appointed together with reporting accountants, registrars and financial PR agents. Investment banks will also appoint their own set of lawyers.

Reporting accountants will carry out financial due diligence and produce a long-form report on the issuer's business, a working capital report and a 'financial position and prospects procedures' report (Euronext Dublin only). At the same time, a legal due diligence process will be commenced and will form the basis of the prospectus or information document. The issuer's lawyers will verify the material statements in the prospectus or information document.

If a prospectus is being produced, an advanced draft is submitted to the Central Bank for review. The Central Bank usually responds with comments within 10 working days (five working days or less for later submissions).

Prior to July 2018, a presentation would usually be given at this stage by the issuer to 'connected' research analysts at the syndicate investment banks, who would subsequently publish research reports on the issuer to coincide with its intention to float (ITF) announcement. However, with effect from July 2018, the FCA introduced new rules in the United Kingdom through its Conduct of Business Sourcebook (COBS), which require the publication of an approved registration document (which is essentially a full prospectus without the summary and securities note sections) before the publication of these connected research reports. This has altered the timetable of most UK Main Market IPOs by requiring earlier approval and publication of the registration document. Though not directly applicable to Ireland, these measures have seen changes to the timetables of Euronext Dublin IPOs as most issuers pursue dual primary listings in Ireland and London, and the COBS applies to research analysts in the United Kingdom, which is where the vast majority of connected analysts covering Irish IPOs are based.

The COBS allows for research to be published immediately following publication of the registration document but only if 'unconnected' analysts at non-syndicate institutions have been briefed at the same time as the connected analysts. Otherwise, there must be a seven-day period following publication of the registration document during which unconnected analysts can be briefed and given the opportunity to prepare research. Though market practice may still evolve, it seems that all issuers have so far chosen this latter course, which has entailed a week-long delay before the publication of research and the ITF. A period of investor education has then followed before the publication of the prospectus summary and securities note with a price range. The issuer will then spend up to two weeks carrying out an investor roadshow, usually encompassing at least Ireland, the United Kingdom and the United States, while the investment banks are book-building on the basis of bids from investors. Recent IPOs have involved significant domestic and US 'cornerstone investors' who sign conditional subscription agreements.

Finally, pricing will occur and a single approved prospectus encompassing the registration document, summary and securities document will be published. On Euronext Growth, the Euronext Growth Advisor will approve the information document and it will be published. For a Euronext Dublin IPO, the issuer's shares will be admitted to trading and the Official List, and credited to CREST accounts. When dealing commences, the IPO is complete.

## **ii Considerations for foreign issuers**

Ireland has a listing regime that should be conducive to primary or secondary equity listings by non-domestic issuers. Ireland has an experienced and pragmatic regulator in the Central Bank, and the ISE has been proactive in marketing Ireland as a listing venue and in creating listing products to attract overseas companies. The ISE's integration into the Euronext group should further enhance its appeal and familiarity to overseas issuers. Dublin is home to sophisticated accountancy and law firms, and has domestic investment banks that offer excellent coverage for Irish listed issuers and can therefore create strong liquidity. These listings have been rare to date (at present, around 80 per cent of issuers listed on Irish markets are incorporated in Ireland). This is, perhaps, unsurprising given the geographical proximity of London with its prestigious and highly liquid markets. Instead, Ireland has become better known as a debt-listing venue through the ISE's highly successful Global Exchange Market.

This may change following the United Kingdom's exit from the European Union (Brexit), when Euronext Dublin will be the main English-speaking equity market still subject to European legislation and with the benefits of passporting.

## **IV POST-IPO REQUIREMENTS**

### **i Introduction**

An issuer with securities admitted to trading on Euronext Dublin must comply with certain continuing obligations set out in the Listing Rules. Euronext Dublin companies must also comply with the Transparency Regulations and Rules, and have regard to the UK Corporate Governance Code (the Code). In addition, the Admission to Trading Rules and the Irish Prospectus Regulations contain certain continuing obligations for Euronext Dublin companies. Irish companies listed on either the Euronext Dublin, Euronext Growth or ASM must also have regard in general to the provisions of the Irish Companies Act 2014 (the Companies Act). The Irish Takeover Rules and Substantial Acquisition Rules apply to takeovers of listed Irish issuers. Companies admitted to trading on Euronext Growth must comply with continuing obligations contained in the Euronext Growth Rules, and ASM issuers are subject to the provisions of the ASM Rules on a continuing basis. MAR applies to both regulated markets and MTFs, and as such applies to issuers on all three markets.

### **ii Listing Rules**

The Listing Rules impose obligations on Euronext Dublin companies to ensure timely disclosure to the market and equality of treatment of shareholders. Sanctions for breach include the public censure of the issuer, the public or private censure of directors, and the suspension or ultimate cancellation of the issuer's listing.

Where a Euronext Dublin issuer undertakes transactions of a certain size, a notification to the market is required. If a proposed transaction would constitute a 'Class 1 Transaction' because it represents 25 per cent of an issuer's value under a gross assets, profits, market value or gross capital test, it will require shareholder consent. Similarly, related-party transactions generally require prior shareholder approval.

### **iii The Code**

The Code, which was significantly revised in 2018 together with the Irish Corporate Governance Annex (which is contained in the Listing Rules), contains corporate governance guidelines for Euronext Dublin issuers. It sets out good practice recommendations in the spheres of board leadership, accountability, remuneration and shareholder relations.

The Listing Rules require a Euronext Dublin-listed issuer to include in its annual report a compliance statement in respect of the Code, and auditors must review the statement in relation to financial reporting, internal controls and audit committees.

### **iv Transparency and disclosure**

As described in Section II.iii, the Transparency Regulations implemented the Transparency Directive into Irish law. The aim of the Transparency Directive was to harmonise, at EU level, requirements for the provision of financial information, notification of major shareholdings

and the disclosure of corporate information to shareholders. Most material modifications to the Transparency Directive are, in fact, contained in the Transparency Rules issued by the Central Bank.

The Transparency Regulations require Euronext Dublin issuers to publish their annual financial report within four months of the end of the financial year, and a half-yearly financial report no later than two months after the period to which it relates, containing detailed content requirements.

Under the Companies Act and the Transparency Rules, a shareholder must notify an Irish issuer and the Central Bank when it acquires an interest in 3 per cent or more of the issuer's share capital. Subsequent transactions that change the percentage interest by a whole number (up or down) must also be notified. In the case of non-Irish Euronext Dublin issuers, the thresholds are at 5, 10, 15, 20, 25, 30, 50 and 75 per cent (i.e., the thresholds set out in the Transparency Directive). When a shareholder ceases to have a notifiable interest, that must also be notified. The notification must be made within two trading days of the transaction, or four days for non-Irish issuers. The issuer must notify the market by no later than the end of the trading day following receipt of a notification.

#### **v Continuing obligations under the Euronext Growth Rules**

The key continuing obligations for Euronext Growth issuers are as follows:

- a* information on new business developments must be notified to the market without delay;
- b* preparation of half-yearly reports and publication within three months of the period to which they relate;
- c* preparation of annual accounts and publication within six months of the period to which they relate;
- d* any documents sent to shareholders must be available on the issuer's website;
- e* a Euronext Growth issuer must ensure that its directors and certain relevant employees do not deal shares during a close period;
- f* a Euronext Growth issuer must notify the market without delay of substantial transactions (those representing 10 per cent or more of an issuer's value under a gross assets, profits, turnover, consideration or gross capital test (the ESM Class Tests)) and related-party transactions representing 5 per cent or more of an issuer's value under the Euronext Growth Class Tests;
- g* reverse takeovers (transactions representing 100 per cent or more of an issuer's value under the Euronext Growth Class Tests) require shareholder approval, as do fundamental changes of business (disposals that when aggregated with disposals in the previous 12 months exceed 75 per cent of an issuer's value under a Euronext Growth Class Test);
- h* directors must accept full responsibility for compliance with the Euronext Growth Rules; and
- i* Euronext Growth issuers must retain a Euronext Growth Advisor and broker at all times.

#### **vi Continuing obligations under the ASM Rules**

Continuing obligations under the ASM Rules are designed to dovetail with SEC requirements so that an ASM listing does not create a significant extra administrative burden for an issuer. Indeed, the only significant further obligation for NYSE- or Nasdaq-listed issuers is compliance with MAR.

The key requirements under the ASM Rules are that:

- a* an issuer that files information with the SEC or makes a public announcement pursuant to the rules of the NYSE or Nasdaq must issue a notification to the market;
- b* an issuer that discloses a material transaction under SEC rules in accordance with Forms 6-K or 8-K, or undertakes a related-party transaction that is required to be disclosed under Regulation S-K of the US Securities Act of 1933, as amended, or Form 20-F of the US Securities Exchange Act of 1934, as amended, must issue a notification to the market;
- c* an issuer that files annual or periodic financial reports in the United States must issue an announcement to the market when the accounts are filed with the SEC. If it does not file the accounts, it must prepare and publish them outside of SEC requirements;
- d* directors must accept full responsibility for compliance with the ASM Rules; and
- e* ASM issuers must retain an ASM Advisor at all times.

### **vii Market abuse**

MAR applies equally to Euronext Dublin, Euronext Growth and ASM issuers, and contains three core principles:

- a* a prohibition on market manipulation and unlawful disclosure of inside information;
- b* restrictions on dealing in securities while in possession of inside information; and
- c* requirements as to prompt disclosure of inside information to the market.

There are also detailed provisions around the maintenance of ‘insider lists’ by issuers, and restrictions on dealings by directors and certain senior officers. MAR provides for certain safe harbours from these restrictions relating to share buy-back programmes, stabilisation measures, and market soundings or wall-crossing.

## **V OUTLOOK AND CONCLUSION**

As noted in Section III.ii, the Irish IPO markets will be greatly affected by Brexit. What remains to be seen is whether the net effect will be positive or negative. Ireland may benefit as the home to the main English-speaking listing venues remaining within the European Union, and could see a trend of overseas issuers carrying out IPOs in Ireland or taking secondary listings. Depending upon the terms of Brexit, it is possible that UK-incorporated, London-listed issuers will consider electing Ireland as their home Member State to make the Central Bank their home regulator for the purposes of the Prospectus Regulation.

Equally, Brexit will pose a number of challenges to the Irish markets, some of which may not crystallise for a number of years. For instance, Ireland does not currently have its own securities settlement system. Since the de-merger of the ISE and LSE, Irish issuers listed in Dublin or London, or both, have used the UK-based CREST settlement system. Following a transition period, this will need to be replaced by an EU-based system. Furthermore, the United Kingdom may take advantage of Brexit by discarding European legislation that some issuers might consider to be onerous (such as MAR), making London a more attractive listing venue to those issuers at the expense of Ireland and continental Europe. In any event, the fallout from Brexit, combined with the acquisition of the ISE by Euronext, means that the next few years will be a defining period in the history of Irish equity capital markets.

# ABOUT THE AUTHORS

## **MATTHEW COLE**

*A&L Goodbody*

Matthew Cole is a partner in the capital markets group of A&L Goodbody in Dublin. He has an extensive track record advising issuers and underwriters on equity capital markets transactions, both in Ireland and in London, where he practised for many years. His experience encompasses IPOs, rights issues and equity placings on Euronext Dublin and Euronext Growth in Ireland, as well as the Main Market of the LSE and AIM. Mr Cole is listed in The Legal 500, which describes him as 'a key name' and an 'equity capital markets expert'. Chambers Global notes he is 'particularly sought after by corporate issuers and financial institutions for advice on IPOs'.

## **SHEENA DOGGETT**

*A&L Goodbody*

Sheena Doggett is a partner in the corporate department of A&L Goodbody. She is head of the firm's corporate team in London, and splits her time between Dublin and London. She has been involved in many of the most important transactions in Ireland in recent years, and her key areas of expertise include corporate finance, public mergers and acquisitions, private equity transactions, share incentives and corporate governance. Ms Doggett is listed in Who's Who Legal and Chambers Europe, which noted that 'clients praise her "unrelenting pursuit of solutions to a problem"'.

## **A&L GOODBODY**

International Financial Services Centre  
North Wall Quay  
Dublin 1, D01H104  
Ireland  
Tel: +353 1 649 2000  
Fax: +353 1 649 2649  
mcole@algoodbody  
sdoggett@algoodbody.com  
www.algoodbody.com

**Law**  
**Business**  
**Research**

ISBN 978-1-83862-014-1