

A journey of 7,000 miles begins with a single step – why US tech companies are listing on the ASX

By *Kelly Morrison*

What lies at the end of the journey?

An increasing number of US tech companies are going public in Australia as an alternative to a further US private round. But why travel 7,000 miles to do so? From our perspective, the key factors driving this trend are:

- **Large pool of investable funds** - The pool of superannuation (pension) assets is disproportionately large compared to Australia's population, and is forecast to grow to over A\$10 trillion by the mid-2030s. A significant proportion of this is and will be invested in ASX listed stocks.
- **Publicity** - The ASX is a great environment for attracting the attention of media, stock analysts and investors. Companies with revenue of less than US\$100 million can attract public market capital in Australia. The "sweet spot" is for global companies with market caps of between A\$100 million and A\$1 billion.
- **Index inclusion** - The ASX is optimised for early stage growth companies, with a minimum market cap of ~A\$300 million for entry into the S&P 300 Index.
- **Strong investor demand** - ASX is a single, main board listing venue only and is one of the world's most active exchanges (second most active by overall number of listings in CY17), and particularly in the tech space (third in both capital raised (US\$2 billion) and number of listings (85 listings) from 2014 to 2017). From 2014 to 2017, ASX grew from 140 to 220 listed tech companies.

What can I expect on the journey?

The path to an ASX listing is well established for US tech companies. However, it does require experienced Australian and US legal counsel to help you navigate the challenges that inevitably arise when Australian securities laws and the ASX Listing Rules intersect with US securities and company law. Answers to some of the common questions that we are asked by US tech companies considering an ASX listing are below.

- **What is traded?** For US companies, CHESS depositary interests (**CDIs**) are traded on the ASX. CDIs are ownership interests that are traded in the same way as shares, and holders are entitled to vote at general meetings and receive dividends.
- **Can different classes of stock be listed?** Generally, no. Depending on your cap structure, you may need to convert preferred stock to common stock before listing. Supervoting shares are generally not permitted.
- **Is a prospectus required?** An Australian prospectus is required for an IPO. Prospectus drafting is led by your corporate advisers and legal counsel.
- **Can US persons trade on the ASX?** Following listing, US investors will be able to sell their CDIs on-market, but will generally not be able to buy them on-market in the 12 months after listing. This restriction does not apply to Australian and other non-US investors.
- **Can the employee stock plan continue post listing?** Generally, existing employee incentive grants can continue

unchanged post-listing. Minor amendments to the plan itself may, however, be required post-listing.

- **What are the key listing requirements?** Key hurdles include:
- **Admission requirements** – you must satisfy either:
 - "Profit test" – requiring minimum A\$1 million aggregate profit over the three years pre-listing and A\$500,000 consolidated profit over the 12 months pre-listing; or
 - "Assets test" – requiring minimum NTA of A\$4 million or a market capitalisation of A\$15 million.
- **Audited accounts** – Audited (or reviewed) accounts for two to three-and-a-half years must be provided to the ASX (depending on whether you are admitted under the profit or assets test). The accounts may be prepared in accordance with US GAAP rather than A-IFRS.
- **Shareholder spread & free float** – Minimum of 300 shareholders with a holding of A\$2,000 or above (affiliates and locked-up shares excluded). At least 20 percent of your shares must be held by non-affiliates and not subject to a lock-up.

Take the first step

We have advised on a number of ASX listings by US tech companies, most recently Life360 Inc. and Credible Labs Inc., and are one of the most active law firms in this space. We are always happy to discuss the listing process and whether it is the right journey for you.

- [Life 360 press release](#)
- [Credible Labs Inc. press release](#)

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