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McKenzie.**

「Guide to IPOs for Mining Companies」

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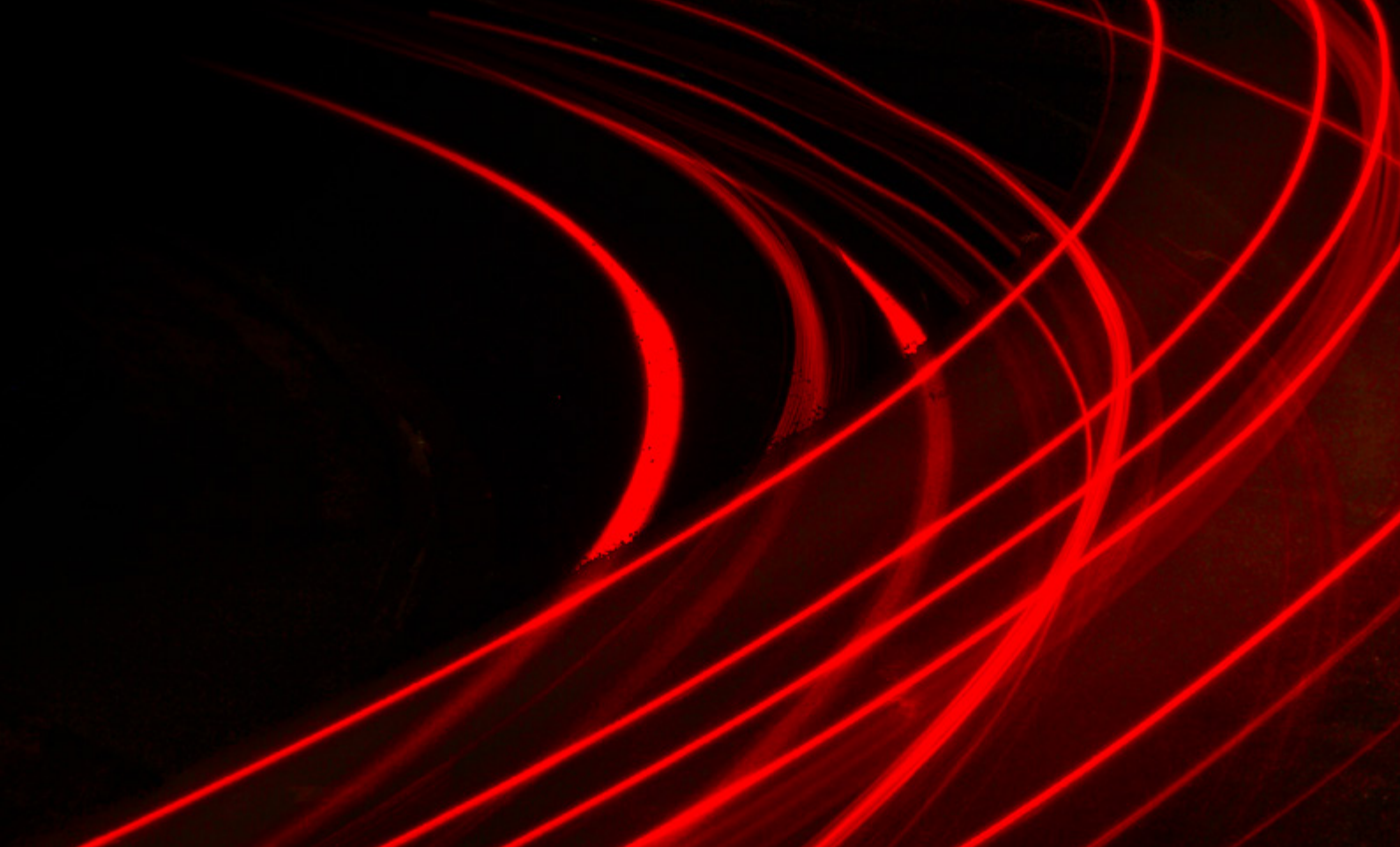
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Introduction

Mining companies undertaking capital raisings can approach the world's capital markets in various ways. Through an initial public offering (IPO), listing either in its home jurisdiction or cross-border, a mining company can access major global finance hubs and capital from a deep pool of investors around the world. An IPO can help a company raise its profile with customers, suppliers and the media, as well as providing it with an opportunity to improve internal systems and controls, and increase the general operating efficiency of the business as it prepares to comply with the relevant regulatory scheme for public companies.

Key business attributes of an IPO-ready company:

- Leading market position, supported by clear and achievable strategic goals for revenue growth and profitability.
- Attractive financial model, with an established quarterly forecast process and reliable financial reporting controls.
- Appropriately skilled, experienced and proven management team.
- Robust corporate governance framework.
- Possession of the necessary legal title or ownership rights to explore and/or mine.



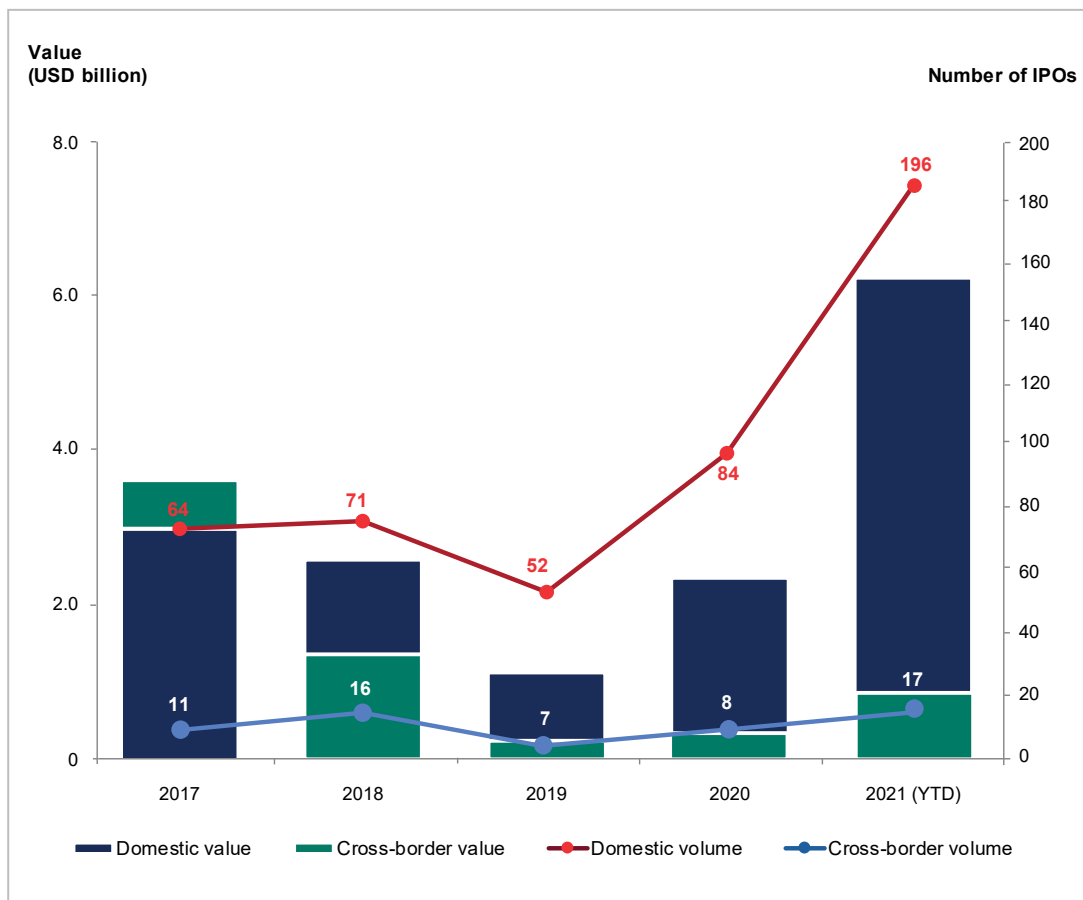
This guide will provide you with:

- An overview of the key stages of the process and an indicative timeline.
- A who's who as regards the IPO deal team.
- Practical tips to help you achieve a successful IPO.
- Important considerations to bear in mind when choosing a listing venue.
- Key issues for mining companies to consider when preparing for an IPO.

If you have any questions, whether to clarify points or to initiate or progress a discussion on a future IPO for your company, please do not hesitate to get in touch with your [Baker McKenzie contacts](#).

IPOs in the Mining Industry

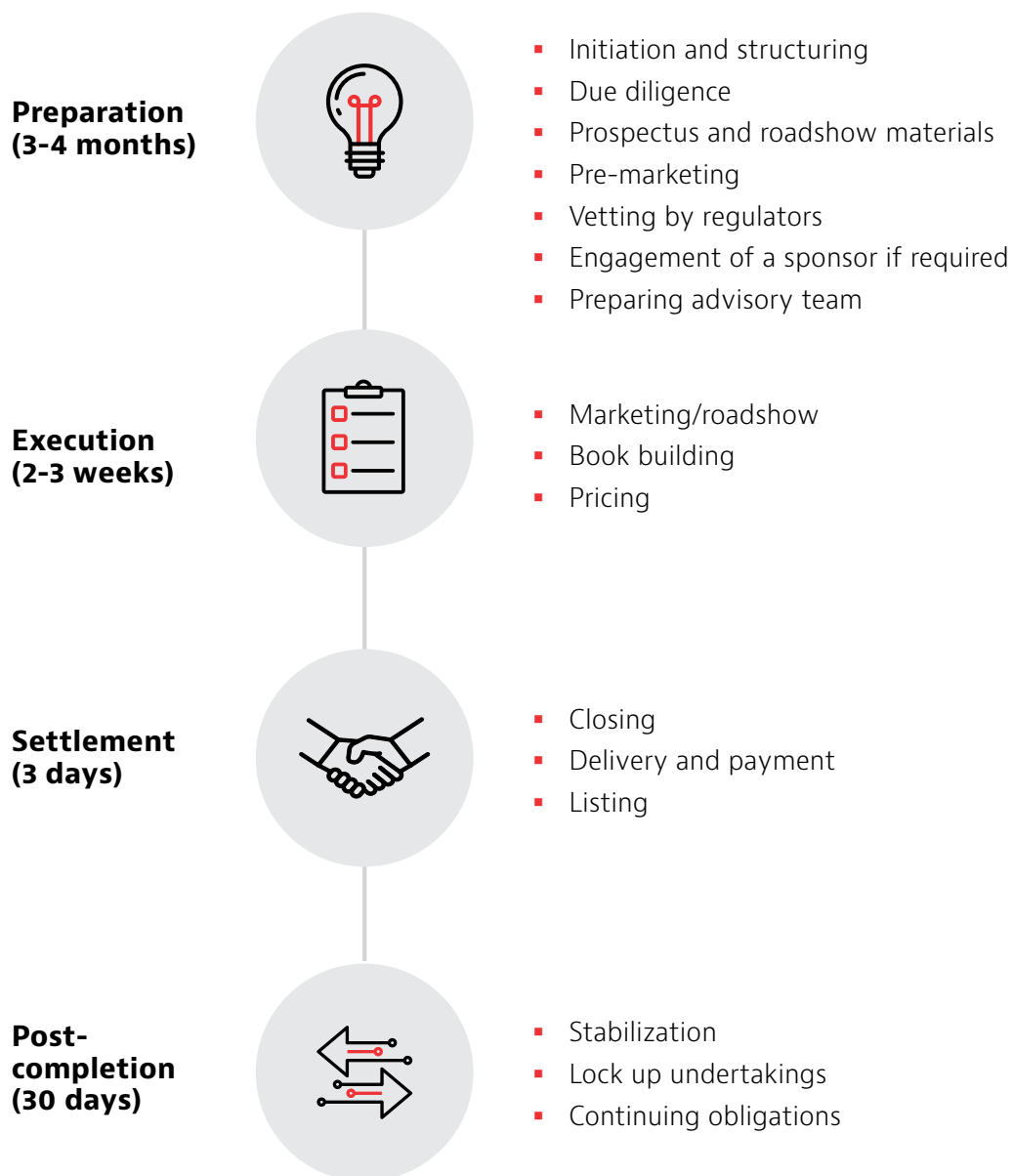
The mining industry has an increasing choice of stock exchanges as companies consider factors such as the ability to meet listing criteria, the regulatory environment for mining companies, the location of industry peers, their preferred shareholding structure, access to an investor base, and ongoing requirements and costs.



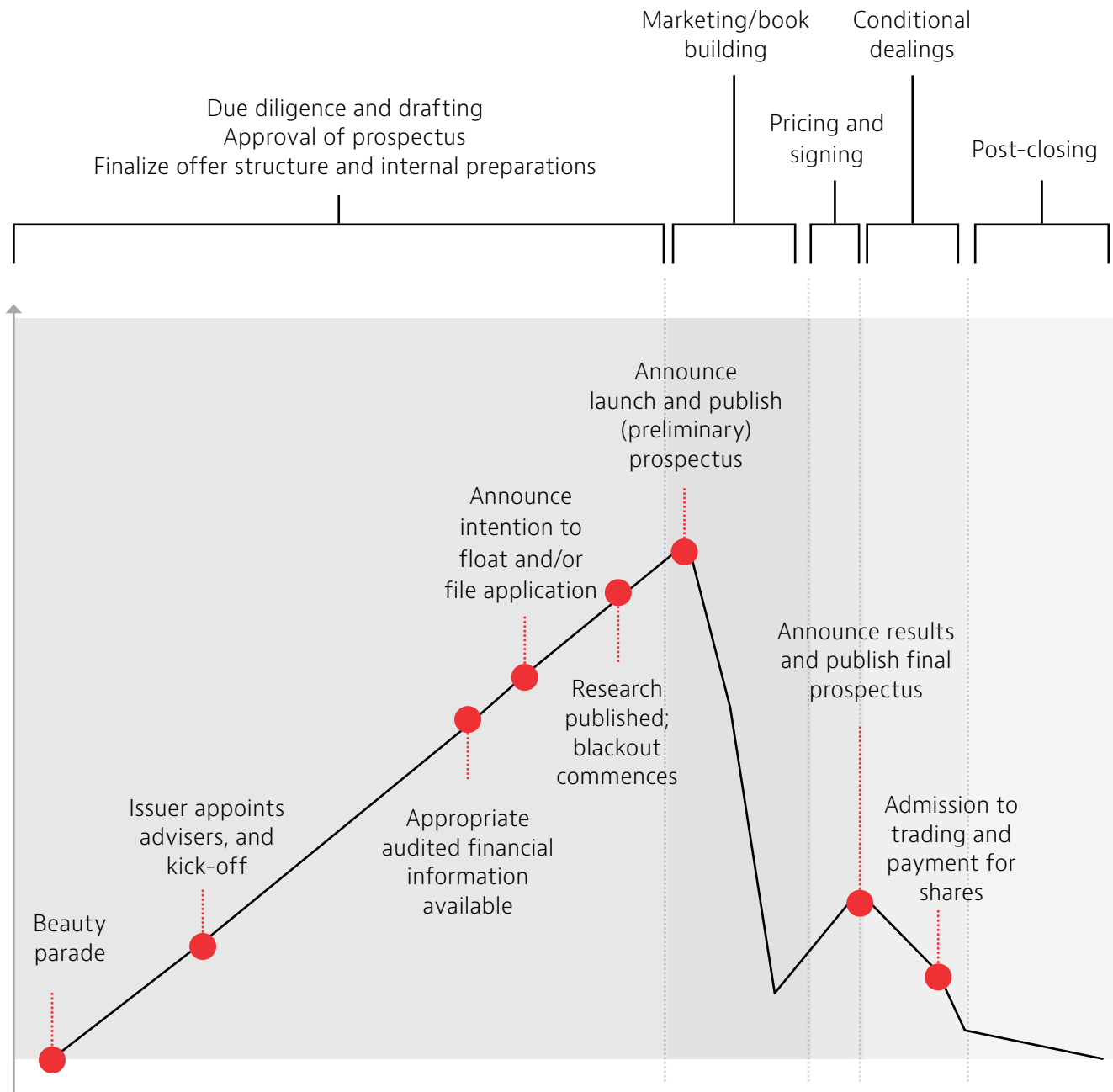
Data sourced from Refinitiv as of 29 November 2021

Key Stages and Indicative Timeline

While no two IPOs are ever identical, set out below is a general overview of the tasks that must be undertaken and their place in the IPO timetable.



Due to the bespoke elements of every business, we would advise consulting your [Baker McKenzie contacts](#) to discuss how these tasks and the timing indicated might need to be tailored for your company.

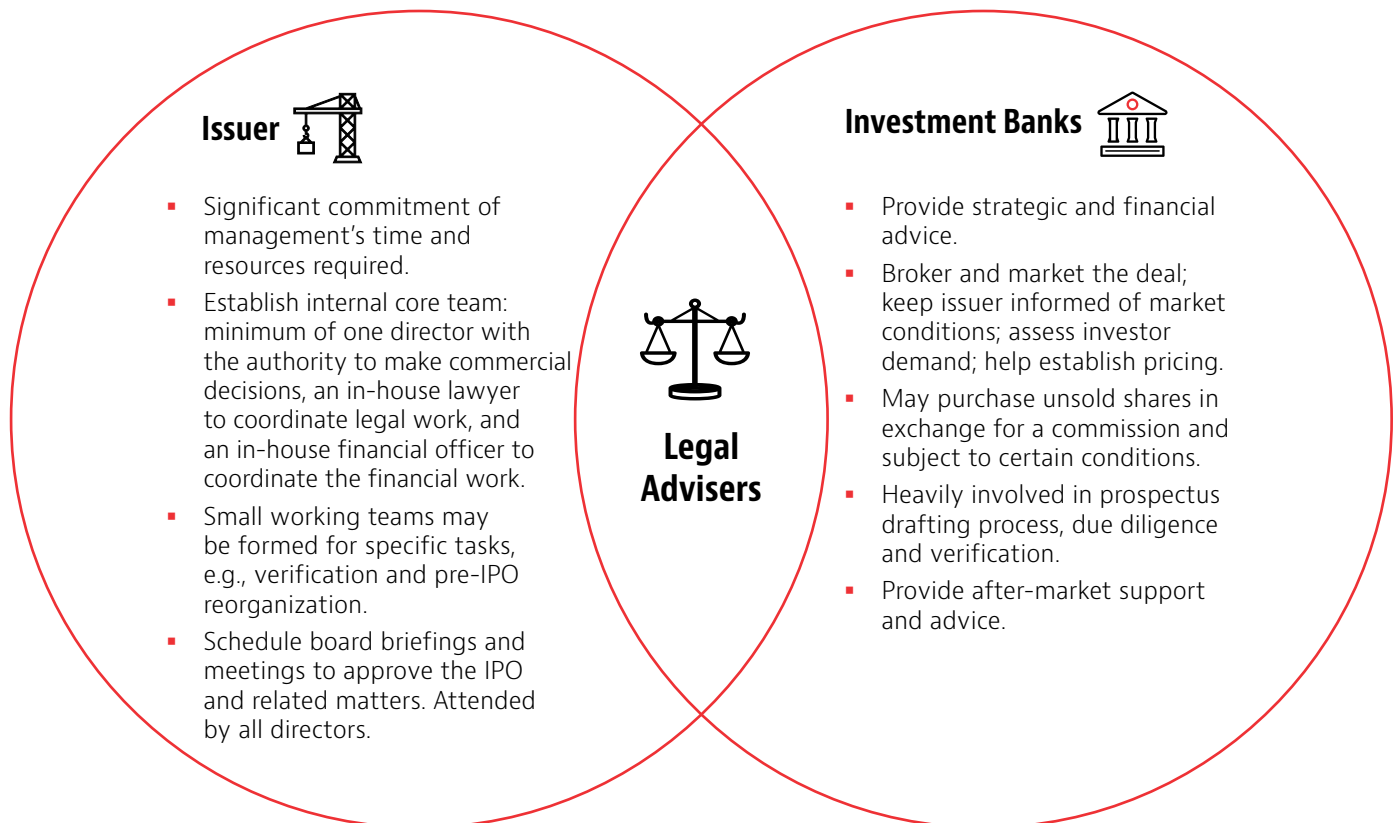


Note: Mountain represents estimated level of assistance by advisers

The IPO Team

The IPO process involves many working parties. Establishing the right team of professionals that can navigate the complex interplay of all parties involved is critical for a successful IPO.

Core Deal Team



Unless restricted from selling due to being part of the management of the company, a key employee, a controlling shareholder or a pre-IPO investor, an IPO also gives the company's existing shareholders an opportunity to sell and thereby realize some or all of their investment in the company, after a hold period, in some jurisdictions.

Marrying the two sides of the core deal team are the legal advisers

We, at Baker McKenzie, are well versed in assuming the crucial coordinating role that lawyers take in any IPO transaction. We have great strength and depth of experience in conducting legal due diligence, preparing prospectuses, issuing carefully considered legal opinions and negotiating key documentation, such as underwriting agreements. Due to our presence in 46 locations worldwide, we are also able to boast a hugely

beneficial, established profile and working relationship with more regulators and stock exchanges than any other global law firm.

Since the issuer will still have to run its business during the IPO process, this level of support can be crucial to significantly reducing the burden on management.

Other Parties

Two other key parties in any IPO are the accountants and the regulators.

Accounting firm

- Audit and report on the issuer's historical financials and pro forma financial results.
- Conduct financial and tax due diligence.
- Advise on internal controls, provide comfort letters related to the audits performed on historical statements and on the adequacy of working capital.
- Provide strategic advice regarding valuation and financial issues.



Regulators

- Act as the main legal authorities that regulate the IPO process and requirements.
- Typically involves at least one financial regulator, stock exchange or both.



Further additional parties that may be involved in the IPO deal team include:

- Technical experts, such as "competent persons" or "qualified persons", industry experts, internal control experts and property valuers.
- Communications consultant to assist the company in public relations surrounding the IPO.
- Depository/registry responsible for managing the shareholder register.
- Receiving banks that deal with any proceeds received from retail investors.
- Independent financial advisers who can provide advice on business plan, financial modelling, investment case and business valuation.

Eight Practical Tips for a Successful Listing

Regardless of the jurisdictions and listing venues considered for a capital raising, a company should always aim to start to prepare for an IPO at least **12 to 24 months in advance**. This can include general housekeeping such as ensuring company records, material contracts and employee agreements are settled and organized. It can then increase its chances of success by following these practical tips:

1 Prioritize your goals for the listing. These can include, for example, access to a broader investor base, greater visibility among mining industry peers or another goal.

2 Consider the likelihood that a particular exchange can meet those goals.

3 Seek an exchange where investors and other market participants are familiar with companies in the mining industry and understand the value of industry products and services.

4 Analyze the trading price and volume of comparable mining stocks on the exchanges being considered.

5 Understand the liability risks of listing on a particular exchange.

6 Choose financial, legal and accounting advisers that have mining industry knowledge and on-the-ground experience with local and international aspects of listing on a particular exchange.

7 Critique any timetable provided by an adviser, exchange or other third party to confirm that it is realistic.

8 Quantify all initial and ongoing costs associated with a particular exchange and securities regulator. These can include, for example, initial listing fees, annual fees, ongoing disclosure costs, mineral project reporting and other compliance-related costs.

Stock Exchanges

92% of listings by mining companies were on their home market between 2017 and YTD 2021*.

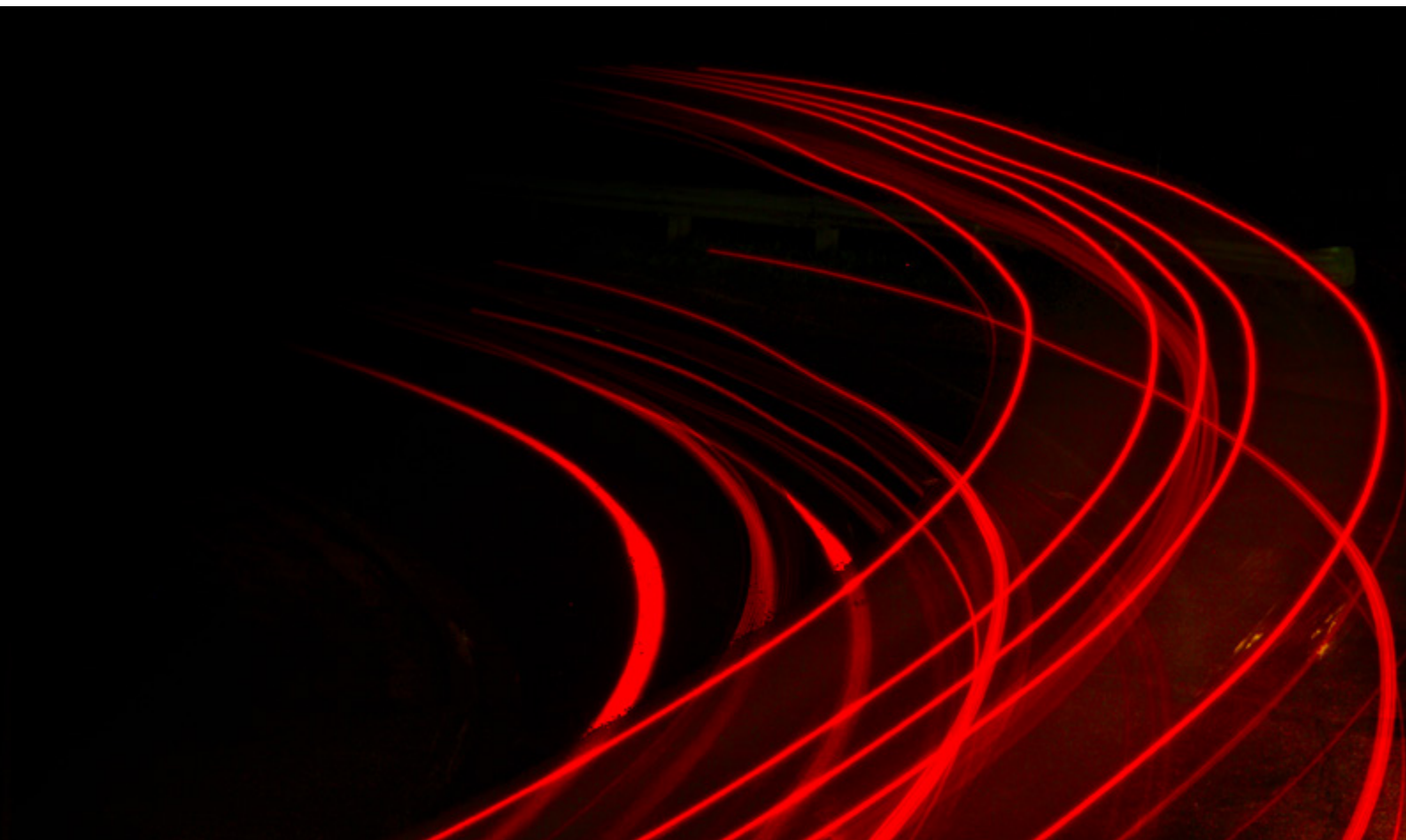
In many cases, this could be attributed to the close ties that those issuers had established with their home countries, culturally, economically, legally, and in terms of their fundamental infrastructure. However, the appeal of cross-border listings is growing as mining companies increasingly consider factors that might motivate them to go public outside their home market, many of which we consider below.

In any event, when considering an IPO, it is crucial to establish what the main goals of the IPO are. This will guide the company to assess which stock exchange and listing option will best help it to meet these goals. Detailed summaries of the principal attributes and listing requirements of more than 40 listing venues around the world can be found in Baker McKenzie's [Cross-Border Listings Guide](#).

**The
Cross-Border
Listings
Guide is also
available as
an app.**



*Data sourced from Refinitiv as of 29 November 2021



Core Considerations

We recommend that any decision concerning the potential location of your IPO be based upon these core considerations.

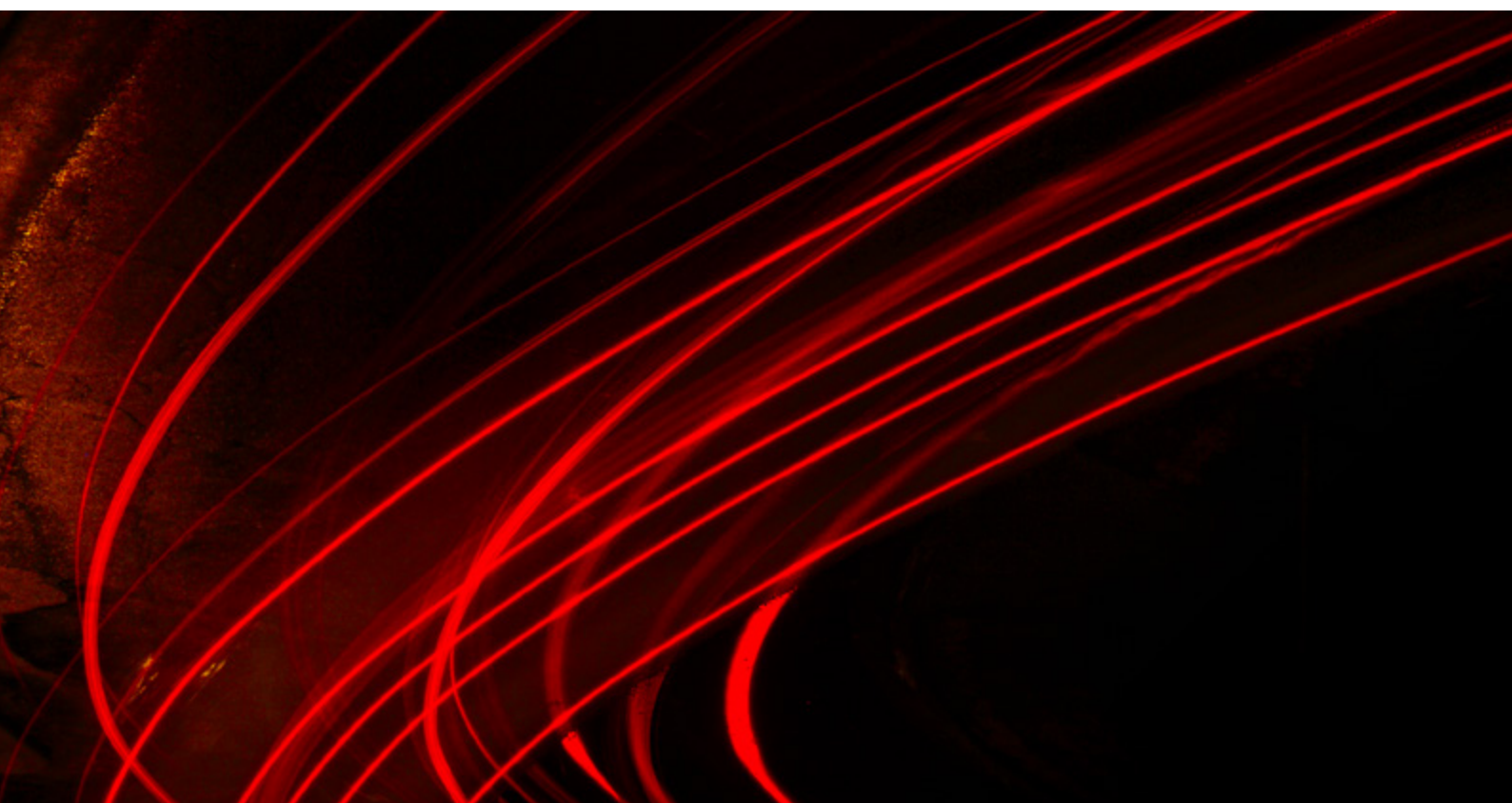
Strategic goals

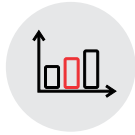
Increased brand visibility - A mining company may find it helpful to list or raise capital in the same jurisdiction in which its major markets or customers are located in order to increase visibility and brand recognition. A cross-border capital raising can also increase worldwide prominence.

Participation in indices - An index provides investors with clear and independent benchmarking of stocks, sectors and the market as a whole. This also creates the basis for portfolio trading by active and passive investors.

Liquidity - Some exchanges are better placed to deal with large capital raisings, some offer a more efficient means to raise smaller amounts of capital, while some offer more flexible requirements for already-listed companies to raise additional capital.

Share class structure - A company may want to retain a certain share class structure. Each jurisdiction has its own requirements for different class structures and there may be a listing regime tailored for mining companies in certain jurisdictions.





Factors affecting valuation

Analyst and investor expertise -

Well-informed research analysts and investors can help drive a successful capital raising and a strong aftermarket. Some exchanges also have market participants with an acute understanding of comparable mining companies.

Investor appetite - Investors' appetite for the quality, stage of development and risks associated with particular mining assets may differ in each market.

Number and value of peer listings

- Mining companies concentrating on particular commodities or regions may be more prevalent on certain exchanges or in certain jurisdictions, which may assist investors and enable analysts to provide more accurate valuations.

The concentration of peer companies should also be considered when choosing between jurisdictions and listing venues as it can help provide a benchmark for an issuer's share price in the aftermarket.

Geographic location of projects and mines -

The location of projects and mines and proximity to key customers may be an important consideration for mining companies choosing among exchanges. For instance, investors active on certain exchanges may be more comfortable and place higher valuations on companies that operate in certain countries or regions, particularly in strongly emerging resources sectors in Africa or South America.



Costs

Initial flotation and ongoing

compliance costs - In addition to the variable listing costs of each stock exchange, the company will need to assess the costs of

ongoing compliance, such as financial reporting and reserves/resources disclosures, which may vary significantly between jurisdictions.



Regulatory Environment

Initial listing requirements -

Selecting the most suitable jurisdiction requires careful assessment of a company's ability to meet the relevant listing requirements, whether relating to financial track record or assets, minimum number of shareholders, public float, minimum share price or capitalization. For example, a company focused on exploration or in the development phase may be more likely to satisfy requirements on exchanges that offer asset test financial requirements, rather than requiring a track record of profitability.

In addition, prospectus disclosures covering matters such as the regulatory approval process could require significant time and costs to satisfy.

Corporate governance - It is important for a mining company to determine early on whether it will be able to meet all the ongoing regulatory obligations for its chosen exchange, remembering that such requirements may be more stringent on certain exchanges or in certain jurisdictions than others.

Key Issues for Mining Companies

Mining companies should be aware of the following key issues often encountered by industry peers undertaking the process of capital raising and listing on a stock exchange. Baker McKenzie's [Global Mining Guide](#) also provides a helpful introduction to the local mining laws and regulations across a number of key mining jurisdictions.

Restructuring prior to listing

The business and corporate structure of a mining company's operating group is an important issue to consider at the onset.

Mining companies will want to identify the correct assets to be listed and may need to restructure the group accordingly to ensure the appropriate listing vehicle is used.

There may also be foreign ownership restrictions that impact on the pre-IPO restructuring plans and legal advice should be taken at an early stage. Likewise, some jurisdictions may have more regulatory approval requirements than others in implementing a restructuring.

For corporate governance, tax or marketing reasons, a mining enterprise may decide to re-incorporate out of its home jurisdiction to another location. Companies that wish to take advantage of more flexible governance requirements or a different tax structure will often explore a re-incorporation in conjunction with an initial listing.

Stage of operations

With considerable variation in financial listing requirements among stock exchanges, a mining company's stage of operations is an important aspect to consider at the onset when choosing a listing venue.

Many stock exchanges have general requirements that are based on a track record of profitability, revenues, cash flow, minimum number of shareholders, public float, minimum share price, market capitalization and/or working capital. Others offer alternative financial tests based on assets, provide separate criteria specifically applicable to mining companies or may waive generally applicable tests on a case-by-case basis.

A mining company in the exploration or early development phase, for example, may be more likely to satisfy asset-based or industry-specific requirements than other general financial tests. Consideration of the operational stage therefore is an important factor in a mining company's listing venue decisions early on in the process.

ESG considerations

The metals and mining sector is increasingly exposed to ESG risks, including concerns around emissions, water use, deforestation and community relations. At the same time, ESG reporting obligations, and institutional and other investor interest in what resource companies are doing in this space, are rapidly multiplying across the globe. Alongside these developments, actual and perceived non-compliance with ESG regulations and best practices have engendered activist shareholder protests and class action litigation against the parent companies of global mining groups.

Investors and lenders are increasingly focussed on ESG factors when making

investment decisions, which means that in many cases, in order to access capital, miners will need to demonstrate commitment to ESG concerns.

Additionally, in certain markets, as well as technical, financial and legal due diligence, the increasing influence of ESG rating agencies has resulted in ESG becoming a key focus in relation to larger mining IPOs. Investor roadshows are fast becoming a platform for investors to ask ESG related questions, including how a company's initiatives align with relevant laws and ESG codes.

Due diligence

Due diligence investigations for mining companies are typically more specialized than for many other companies, with a heavy focus on the tenure of licenses, land access and industry-specific regulation.

Often key to a mining company's business is its exclusive right to exploit a resource and access the land on which the resource is located. As such, it is critical to verify the necessary legal rights associated with mining tenement tenure, land access and compensation arrangements. Exploration permits, mineral licenses, native title and indigenous rights agreements, land access contracts, royalty deeds, and governmental concessions and agreements all should be investigated and addressed as part of the legal due diligence process.

In addition, due diligence investigations for mining companies often focus on the broader regulatory environment applicable to the industry. Not only are mining companies subject to mining laws applicable in each jurisdiction of operation, but many other legal and regulatory regimes apply, such as laws relating to the environment, health and safety, labor, foreign exchange, foreign investment and taxation. It is therefore critical for a mining company to seek

guidance from advisers well-versed across the regulatory spectrum.

Other areas of focus for mining companies during legal due diligence often include:

- joint venture structures
- governmental permits, certificates and licenses
- labor issues and union awards
- community consultation and social license to operate
- infrastructure access, capacity rights and obligations
- equipment financing and leasing arrangements
- sales commitments
- environmental impact, offsets and remediation

In addition, other important aspects of due diligence include technical mining reviews, resources and reserves evaluations, and financial reviews on project funding and working capital requirements.

Management and technical team

The skill set, experience and track record of a mining company's management and technical team in the relevant mineral, geographical area and geophysical environment are also important factors.

Highlighting the team's relevant credentials may provide investors and regulators with confidence in the company and its prospects of developing projects in the manner described to investors in the prospectus. Typically, a

mining company would include within the prospectus relatively extensive curriculum vitae for key team members. It is therefore important for issuers to devise appropriate incentive plans to retain talent, whether before or after listing.

Describing the business

The key prospectus drafting challenge is to provide explanations that are accurate and complete, while satisfying the requirements of both investors and regulators for cogent, easily understood information.

Mining companies should also carefully consider the key risks associated with their business model or with a subset of products.

A proper explanation of key business risks specific to the company, and how the company is managing and preparing for those risks, is an important aspect of prospectus disclosure.

Formulating a strong equity story is also important for marketing and book building purposes.

Business risks of particular relevance to mining companies include:

- Mining tenement tenure.
- Ability to convert mineral resources into reserves.
- Environmental concerns leading to changes in government regulation or consumer behavior.
- Ownership and control of assets.
- Reliance on a set of core products or failure to develop and successfully launch new products.
- Liquidity for future operations and product development.
- Fast-paced changes in competition and consumer uses of the product.
- Compliance with the regulatory regimes applicable to the business in existing markets, and potential regulatory hurdles in target markets.
- Resourcing and reliance on key employees.
- Access to infrastructure, including reliable road, rail or port facilities.

Enhanced prospectus disclosures

In certain jurisdictions mining companies should be mindful that they may be required to meet market expectation to provide enhanced prospectus disclosure.

Describing the highly technical business of mining—from property rights to mineral exploration to reserves calculations—often poses one of the most challenging aspects a mining company must undertake in a prospectus.

The crux of the challenge is to describe the business accurately and in accordance with applicable regulations, while satisfying investors' and securities regulators' desires for easy-to-understand disclosure.

In addition, because of the broad regulatory environment applicable to mining companies, as discussed above, special prospectus disclosures may be required or advisable. For example, where a legal regime is particularly onerous or unique, a mining company must consider including in the prospectus a summary of the relevant laws. Knowledgeable regulatory advisers that are also experienced in crafting disclosure are vital to the prospectus drafting process.

Further, many exchanges require mining companies to provide specific disclosures in or with the prospectus, such as:

- A technical report from a "competent person" or "qualified person" in accordance with specific mineral project reporting standards, which can vary by exchange.
- Specific details about resources and reserves, which must comply with applicable reporting codes that can vary by exchange.
- Descriptions about plans for exploration, development and extraction.
- Information about any third party rights or legal claims affecting the tenement tenure.
- Transactions with interested persons.
- Transactions with governmental entities.
- Environmental and social matters, including climate-related policies.

Disclosure obligations after listing

Once listed, mining companies can face challenges in meeting ongoing disclosure obligations to keep the market appropriately informed.

Ongoing requirements of the exchange and securities regulator may be more stringent in some jurisdictions, which can result in significant continuing compliance costs. For example, depending on the exchange, a listed company may be required to comply with specific financial reporting requirements, frequent material event notifications and disclosures related to significant stock ownership.

There may be additional reporting and disclosure requirements for mining and oil and gas exploration and producing entities. Such reporting will need to comply with the relevant mineral project reporting standard or code, which will vary depending on the listing venue.

It is important for a mining company to determine early on whether it will be able to meet all ongoing regulatory obligations for a chosen exchange.

A new frontier of disclosure for mining companies is in the ESG arena. Capital markets now expect mining companies to disclose, and actively seek out, arrangements with socially responsible equipment and energy suppliers. Working with a law firm that has experience in these evolving areas is critical.

Assets and income mix

The assets and income mix for certain mining companies could also affect the degree of regulatory and reporting compliance required.

In some jurisdictions, by virtue of their asset and income mix, early-stage mining companies may be subject to additional levels of securities regulation. In other jurisdictions, these companies may be subject to additional reporting requirements after listing. These additional reporting requirements may include providing more regular reports on cash flow and expenditures, as well as reporting on commitments to implement business objectives.

Certain jurisdictions may require mining companies to have detailed and specific plans to maintain substantive business operations and to update investors on their use of proceeds. This is to ensure the issuer's suitability for listing, as companies that are cash-heavy may be at risk of being regarded as a shell company.

Key Listing Requirements

KEY LISTING REQUIREMENTS	ASX	HKSE	JSE	LSE MAIN MARKET	LSE AIM	TSX	TSX-V
Financial requirements:							
▪ Minimum profit requirement	Yes	Yes	Yes	Yes	No	Yes	Yes
▪ Minimum asset / market capitalization requirement	or Yes	or Yes	and Yes	and Yes	No	and Yes	and Yes
Operating history							
▪ For profits test	Yes	Yes	Yes	Yes	No	Yes	No
▪ For assets / market capitalization test	No	Yes	Yes	Yes	No	No	No
Minimum public float	Yes	Yes	Yes	Yes	No	Yes	Yes
Minimum number of shareholders	Yes	Yes	No*	No	No	Yes	Yes
Management continuity requirement	No	Yes	No	No	No	No	No
Historical audited financial statements required	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Lock up and escrow							
▪ For profits test	No	Yes	No	No	Yes	Yes	No
▪ For assets / market capitalization test	Yes	Yes	No	No	No	Yes	Yes
Fast track for secondary listings	No (Yes for large foreign exempt companies)	No	Yes	Yes	Yes	No	No
Approximate timeframe for listing	4 months	6 months	6 months	5 months	4 months	4 months	4 months

* While there is no prescribed minimum number of shareholders, there is a requirement that at least 20% of each class of equity securities shall be held by the public.

Baker McKenzie Contacts

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



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Leading and closing complex deals - every day

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