Is it time for new IPOs in the Transportation Sector? A Refresher

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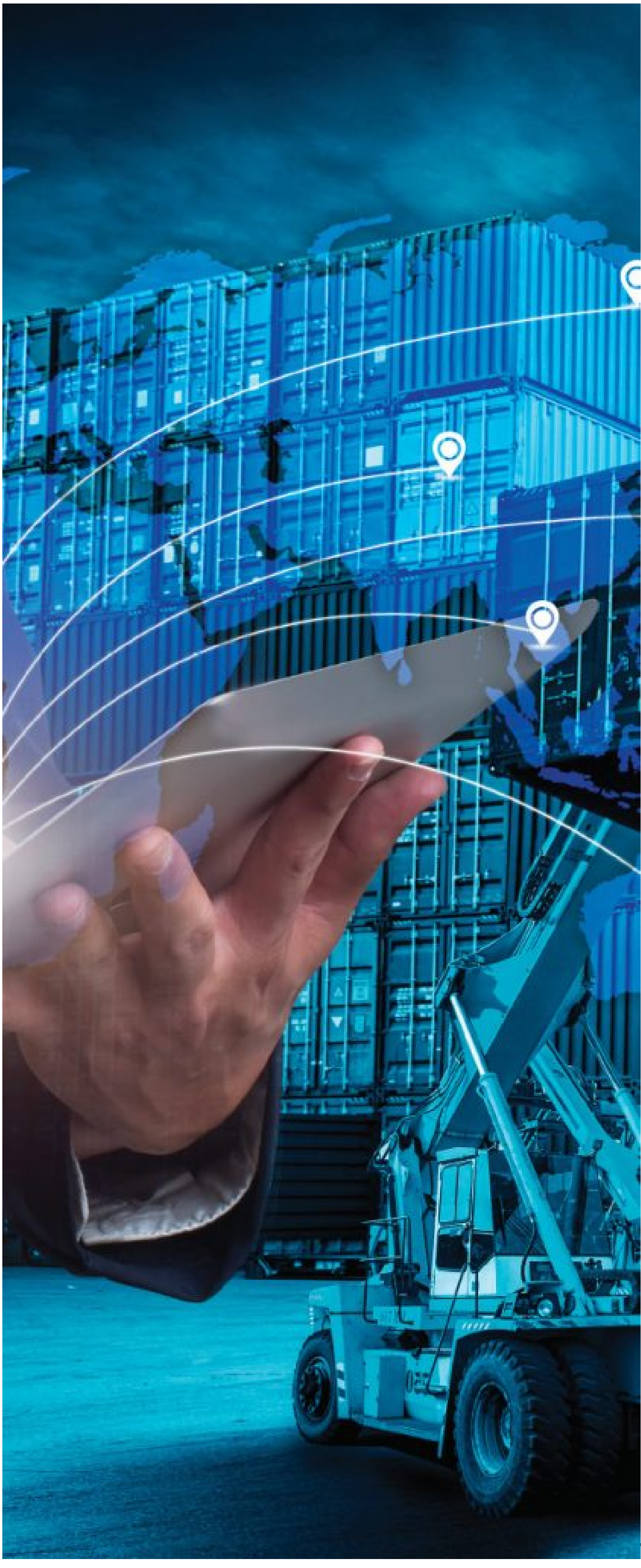

Transport and the Stock Markets

Developed infrastructure and modes of transport of individuals and goods go hand in hand with attracting business opportunities. Given the indispensable role of flexible and available transportation in encouraging businesses, the UAE gave special attention to this sector leading to making the active transportation projects (by the end of November 2017) to the total estimated value of $87.1 billion.
However, despite this important and special focus, transportation market players seem not to be fully involved with the booming capital market in the UAE, e.g. there are currently only four listed transportation companies at the Dubai Financial Market ("DFM"), namely Agility The Public Warehousing Company, Air Arabia, Aramex and Gulf Navigation Holding.

This presence confirms that there are massive growth opportunities considering the benefits of listing a company on the stock exchange. Precisely, opting for an Initial Public Offering ("IPO") presents an entity with a source of financing that would translate into more opportunities for growth and expansion. In addition, by going public the relevant entity benefits from a strong marketing tool given that listed entities are highly attractive and have more access to liquidity.
In fact, looking at a regional scale, when examining the developments of capital markets in the Gulf region, it appears that in 2017, companies were able to raise $3.3 billion through different IPOs, where Emaar Development, e.g. raised around $1.3 billion. The famous Saudi Aramco is planning to list some of its shares in 2019 and raise around $75 billion.
Given this vibrant outlook, businesses specialising in the transportation sector may take part in this active sector and explore potential opportunities they may have. As a refresher, here are some factual, practical and legal considerations when opting for an IPO in the UAE:

The Stock Exchanges and Regulator

There are currently three main financial stock exchanges in the UAE: the Abu Dhabi Securities Exchange ("ADX"); the DFM; and Nasdaq Dubai.

Nasdaq Dubai is located at the Dubai International Financial Centre ("DIFC"). Given the unique legal system of the DIFC, including having its own regulator, the Dubai Financial Services Authority ("DFSA"), the remainder of this article shall focus on onshore stock exchanges subject to the supervision of the Securities and Commodities Authority ("SCA").

The rules relating to the listing of entities are primarily found in the Companies Law No. 2 of 2015, as well as the decisions issued by the SCA from time to time in carrying out its function of regulating the capital markets sector.

In addition, the DFM and ADX, depending on where the listing takes place, enjoy the discretion to request individual entities on an ad hoc basis to comply with further requirements which they may demand.

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The Listing Entity

Only public joint stock companies are eligible to list their shares on UAE stock exchanges. In this regard, the SCA allows national as well as foreign joint stock companies to list their shares provided that they meet the requirements and conditions set out under the law.

With regard to national joint stock companies, it is required that the entity is either incorporated in the UAE or has its place of business there. If the establishment happens not to be a public joint stock company, then it would need to convert in accordance with the provisions of the law.

In this regard, when converting a company to a public joint stock company, only 30% of the shares may be offered for listing in the anticipated IPO.

As to foreign joint stock companies, it is primarily required that the relevant entity is listed on a stock exchange in its place of domicile and that the stock exchange should be subject to the supervision of an ordinary or affiliated member of the International Organisation of Securities Commission.

The Prospectus

In order to be able to list companies on a stock exchange, the company has to inform the general public about itself.

For this reason, a prospectus is prepared. A prospectus is a legally required document that aims at disclosing certain information about the listing entity, so that potential investors are in a position to make an informed decision as to whether to proceed with an injection of funds or not. The information that is shared under the prospectus is normally identified by legal and financial advisors during the course of a thorough examination of the entity's files and documents; technically called a due diligence process.

Given that the prospectus aims at familiarising the public with the listing entity, it normally contains information such as the financial standing of the company, market opportunities, the company's history, its objectives and insight into the entity's forecasts on its performance.

In the same vein, the prospectus sets out the conditions relating to the particular offering, such as the eligible investors/subscribers and the number of offered shares.

The prospectus also shares information on the material contracts to which the entity is party. In this regard, given the disclosure/publicity element, the appointed legal advisor is expected to carefully review the extent of information shared in observance of any existing confidentiality obligations under the relevant contract. Accordingly, the relevant lawyer would also be required to share the minimum amount of information with the public to benefit its knowledge, but also within the constraints imposed by the confidentiality obligation.

Furthermore, with an aim of allowing potential investors to make informed decisions, a prospectus also contains information on risks with which the company may be tainted, such as outstanding tax payments that may affect future liquidity.

The Subscription Process

Upon receiving the authority's approval to proceed with the IPO, an invitation is made to the public calling it to subscribe in the offered shares. This invitation would normally be published in the newspapers in order to attract the maximum number of persons that meet the criteria set out under the prospectus.

Corporate governance

When considering the global financial crisis of 2009, one recalls how market practitioners blamed the aggravation of the crisis on managers' failure to identify risks and adequately mitigate them.

That being said, entities may wish to tailor their corporate governance rules to attract the desired size and quality of investors, not to mention that its board members should possess such qualities that demonstrate their understanding of the particularities of the entity, as well as the stock exchange. More importantly, governance mechanisms that actually work to mitigate underlying risks must be fully functional and not just ticking the boxes.

Conclusion

In view of the above, it is evident that opting for an IPO is a very detailed and sometimes long process. Nevertheless, new establishments may opt for it to generate liquidity, while current existing ones may choose this route as a marketing tool.
That being said, when taking into account the number of ongoing projects within the realm of the transportation sector, such as the new Dubai metro line under construction in preparation of Expo 2020, and possible revenues that may be generated by offering supporting services to this giant project, relevant entities may wish to consider potential business opportunities and examine possible means for raising the required capital, which could be available at stock exchanges.

Al Tamimi & Company's Equity Capital Markets team regularly advises on day to day and longterm strategic advice for capital markets clients, particularly IPOs. We advise on all steps, from structuring the company months in advance, to public offering through to post subscription services and assisting newly listed companies to adapt to new rules. For further information please contact Nariman Roushdy (n.roushdy@tamimi.com).