



54TH ANNUAL IFA LEGAL SYMPOSIUM



IFA[®]

INTERNATIONAL FRANCHISE ASSOCIATION



In the Public Eye – Unique Issues Facing Franchisors



REVEALING BEAUTIFUL SKIN™



RECENT IPOs



HILTON WORLDWIDE HOLDINGS INC.

- Founded in 1919
- Went public in 1946
- Taken private in 2007
- Went public in 2013 with \$2.4 billion IPO
- Current market cap: \$45.8 billion
- Spun off real estate and timeshare business in 2017
- 18 brands comprising more than 6,800 properties and more than 1 million rooms in 122 countries and territories
- Approximately 88% of Hilton-branded hotels are franchised



GOING PUBLIC



Benefits

- Access to U.S. public capital markets
 - Raising capital through offerings of equity or debt securities
- Allow securities to be traded
 - Shareholders can trade their equity with lowered transfer restrictions
 - Increases liquidity for investors

GOING PUBLIC

Why does a Franchisor go public?

- Brand exposure
- Credibility
- Opportunity for more rapid growth with capital raised in IPO
- Exit opportunity for owners



GOING PUBLIC (con't)

Burdens

- Complex disclosure requirements
 - Includes obligations of certain shareholders
- Increased public scrutiny
- Stock exchange rules
- ESG requirements and pressures



PRIMARY SECURITIES LAWS

- Securities Act of 1933
 - Focuses on the issuance and registration of securities
 - Initial public offerings
 - Registration statements
 - Special purpose acquisition vehicles (SPACs)
 - Regulation FD
 - Press releases
 - “Material nonpublic information”
 - Proxy statements
 - Appointment of directors
 - Compensation disclosure
 - Shareholder proposals and voting



PRIMARY SECURITIES LAWS (con't)

- Exchange Act of 1934
 - Governs transactions involving securities in the secondary market
 - Periodic reports
 - Annual reports
 - Quarterly reports
 - Current reports
- “Blue Sky” Laws
 - State by state securities laws
 - Location of the offering and potential investor



FRANCHISE CONSIDERATIONS

- Consistency of Disclosures
- Timing of Disclosures
 - FDD Renewals and Amendments
- “Material Change”
 - Reasonable investor standard
 - Reasonable prospective franchisee standard



FRANCHISE CONSIDERATIONS

- Management Disclosures
 - Securities Laws vs. Franchise Laws



FRANCHISE CONSIDERATIONS

- Litigation Disclosures
 - Securities Laws vs. Franchise Laws
 - Type of litigation
 - Whose litigation?
 - Look-back period



FRANCHISE CONSIDERATIONS

- Financial Statements
 - Time Periods Covered
 - Audited/ Unaudited Financials
 - Parent /Affiliate Financials
 - Parent commits to perform post-sale obligations/guarantees franchisor obligations
 - Net worth / Large Franchisor Exemption



FRANCHISE CONSIDERATIONS

- Financial Performance Representations



- Financial performance info in SEC filings not an FPR
- General Media FPRs
 - “specifically directed at prospective franchisees”
 - #/% of outlets that achieved the results; time period; prescribed disclaimer
 - Included in item 19
- Financial projections

ENVIRONMENTAL, SOCIAL, AND GOVERNANCE



- Heightened focus on ESG matters in the public eye
 - Shareholders are emphasizing ESG matters in investment decisions
 - Public companies seek to differentiate themselves from competitors with respect to ESG matters
- Current legal requirements regarding ESG reporting
- New SEC proposed rules on mandatory ESG disclosures
 - Primarily intended to enhance and standardize climate-related disclosures
 - Requires a new note to registrants' audited financial statements
 - Subject to audit by an independent registered public accounting firm



Thank you!