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How to plan for the first days as a public company

Going public demands significant attention and energy for all parties, especially the CFO of the company going public. It is tempting to see the process of winning investor approval, communicating your story to potential investors, raising private investment in public equity (PIPE) funds, and timely completion of the transaction as the end of a strategic and monumental task—and it is. However, another set of challenges awaits just beyond as the company is launched as a newly public company.

In a traditional IPO, the company builds toward the first day of trading as a consequence of the pre-IPO process. A traditional pre-IPO company produces SEC-compliant audited financial statements, designs and implements systems to facilitate timely and reliable reporting, builds internal controls over financial reporting, validates processes critical to cybersecurity and information technology, and prepares critical filings for regulators and investor review. Although companies meticulously prepare for the process of going and being public, challenges may still arise beginning on day one.

The SPAC process involves many of these same hurdles, but the target company's management must remain focused on executing the transaction first before tackling post-SPAC processes. Therefore, this post-SPAC work falls to the post-SPAC company and its officers, who must play catch-up.

The one undeniable fact of this catch-up process is that missed deadlines can be negative to the credibility of the newly public company.

When a company goes public (regardless of how), the post-IPO company should be ready with certain filings, processes, and policies in place just prior to the first day its shares are traded. And the company must also report accurate financials on time; depending on filing status, this could be in as few as 45 days after the end of its most recent financial quarter. These form the initial deadlines for the public company process.

Some post-IPO companies already have many of the structures and policies of a public company in place. But not all do. In fact, for some post-IPO companies, it will be a fresh-build challenge.

Since no two post-IPO companies are the same, the plan and workload will need to be tailored for each company likely with many of the work streams running on parallel tracks.

Each post-IPO company should address a number of matters that can be broadly categorized into seven work streams. The matters are:

Finance and accounting

Closing financial reporting and quarterly earnings and other financial disclosures on time.

- Preparing Form 10-Q and 10-K filings requires a disciplined and timely process for collecting accurate data from the business, reviewing the reports, and communicating them to the public. This may include accelerating the company's quarterly close calendar.
- Major and/or material financial events need to be disclosed in a timely manner to the investing public through investor relations and SEC filings.
- Accounting policies and benchmarks need to be defined and implemented, which may require support from dedicated professionals.
- Integration of various key functions, including investor relations, financial planning and analysis, and accounting.

Corporate governance

Corporate board oversight is essential prior to listing; a portion of the board must be independent and nonmanagement, and board members need to understand their responsibilities and fiduciary duties from day one. Overall governance measures need to be in place throughout the organization.

- Selecting a board strategically that brings the right skill set and preparing its members for their responsibilities, and detailing key committee assignments is important; so are protocols for sharing information with the board by key executives, especially the CFO.
- Compliance is a critical function for the establishment and implementation of a range of internal controls and policies that are required by law and various regulations. Certain compliance standards depend on the presence of a rigorous self-reporting mechanism for regulatory failures, for example.
- Enterprise risk management (ERM) is central to all governance structures. Executives and board members require strategic risk management programs and processes. Regulations require directors to disclose their role in risk oversight—and therefore, identification and prioritization of risks, assessment of an organization's risk capabilities, and building risk management programs is a board-level and management-level concern.

Internal processes and controls

Even prior to reporting the first quarter of earnings as a publicly traded company, controls and processes need to be in place to meet regulatory requirements. These center around rules, often in the Sarbanes-Oxley (SOX) Act of 2002, to create internal controls and related policies aimed at safeguarding of assets, reliable financial reporting, and mitigating risk.

- Section 404(a) of SOX requires management to conduct an annual evaluation of the operational effectiveness of its internal control over financial reporting, among other activities. Meeting these requirements should start before becoming a public company in order to mitigate risks for recording of nonroutine, complex, and unusual transactions; place controls over information technology (IT) and related technologies; put formal reviews over financial statements; and set out clear and consistent accounting policies and procedures. As such, meeting Section 404(a) requirements are tied closely to other post-IPO responsibilities.
- Sections 302 and 906 of SOX require certain leaders in a public company to certify that financial reporting fairly presents, in all material respects, the financial condition and results of operations. Organizations need to have a process to review the accuracy and completeness of all disclosures.
- As part of any internal control structure, key functions must be established to have segregated and reportable processes and policies covering a range of core functions, including finance and accounting, IT, treasury, compliance and legal, and human resources. These functions meet both operational and regulatory requirements and therefore should be viewed as essential for a publicly traded company.

Information technology

With information being a crucial asset in the modern corporation, IT, as the custodian and protector of this information, has a front-row seat for major executive-level issues and discussions. But many organizations in the post- IPO phase have comparatively bare IT organizations and capabilities in place. The following should be considered:

- Enterprise resource planning (ERP) solutions are information enablers to key departments such as finance, human resources, and operations as an organization seeks greater performance and sustainable growth. Selecting and implementing the appropriate scalable ERP solution is a crucial early step. Current cloud-based software-as-a-service offerings, properly built and implemented, are an effective and efficient way to help a business benefit from digitation.
- Pervasive and ubiquitous threats to the availability, integrity, and confidentiality of a company's information systems have resulted in investors, regulators, stakeholders, and clients demanding effective oversight and controls over these systems. This requires an integrated approach to managing IT risks, overseeing internal controls, efficient compliance systems, and automation of controls monitoring and testing.

Cyber

Related to IT, an organization's cyber capabilities will be tested every day. But because so much of an organization's operations and value is tied with its ability to protect data and maintain operations after a cyber threat is discovered, this capability cannot be delayed.

- Business continuity and disaster recovery plans are essential protocols to guide executives and the board during a cyber incident. Because cyber threats are constantly evolving, these protocols must be robust and take into account the expanding threat landscape.
- Most organizations face meaningful cyber threats; understanding the current vulnerabilities is a first step toward correcting them. Performing a cyber security assessment that includes components such as application and network security, threat intel, and software vulnerability is important to assess the cyber posture and hygiene and begin the process of building defenses and recovery plans.

Tax

Tax is often central to financial reporting and transaction planning. Upon becoming a public company, the company is often subject to more complex tax requirements, specifically related to the company's tax provision.

- Companies previously operating in passthrough status for tax will likely become part of what is known as an Up-C structure, whereby a new corporation acquires and holds an interest in a target partnership with both entities remaining, resulting in the need for income tax provision calculations for the addition of a corporate entity.
- The Up-C structure is likely to include additional complexities, maintenance, and reporting requirements around tax receivable agreements between sellers of the partnership interests and the public corporation.
- An IPO may cause potential limitations on tax attributes, such as net operating losses and credits, as well as public company limitations on the deductibility of executive compensation.
- For multinational entities, ongoing sustainment means assessing strategies around intellectual property ownership, value chain alignment, and transfer pricing.

Environmental, Social, and Governance ("ESG")

ESG disclosures are a mechanism through which companies can communicate their sustainability performance and how they monitor, manage, and measure sustainability opportunities and risks. For public companies, ESG disclosure may become more important as global regulators react to investor-led demand for more transparency and data on companies' ESG performance. As many ESG standards and frameworks mandate disclosure on how those charged with governance and those in management react to and manage sustainability risks, newly public companies may begin by outlining their "story" pre-regulatory requirement for disclosure. This will give companies a unique opportunity to assess whether they should make changes to their sustainability strategy to better meet the expectations of their stakeholders, including investors, prior to being required to disclose it. Below are some near-term tactics companies can apply as they prepare for a fast-moving and complex ESG landscape:

- In order to understand the evolving regulatory requirements and their impact, companies should routinely monitor new and updated regulations based upon the companies' jurisdictions.
- The ability to track ESG goals and furnish transparent, reliable ESG disclosures hinges on the ability to collect accurate data. Companies should consider the need to invest in technology that tracks emissions and other ESG goals, and a reporting tool to reliably store the data collected.
- As companies shape their ESG disclosures and mature processes for data collection, companies should reassess the state of their current design of internal controls to validate data collected, monitor the in-place systems, and review draft disclosures.
- Companies should consider establishing a formal ESG operating, management, and governance model, to oversee ESG reporting processes and ensure effective communication of the captured ESG data and tracking against targets.

In summary, some leading practices to meeting the demands of the post-IPO process include:

- Developing a realistic plan for meeting key milestones in each of these issue areas while the SEC is reviewing the S-1 filing (if IPO readiness assessment processes were not already completed by the company prior to the filing).
- Determining the core competencies that can be built around internal capabilities and leveraging qualified service providers for others.
- Communicating with board members and management the critical milestones they will need to be aware of in the process and providing guidance so they can work collaboratively.

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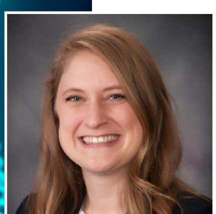

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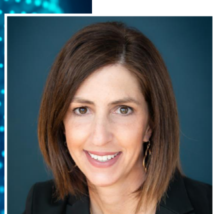

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