Going Public: Key Points

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For companies considering going public, making the right critical decisions can mean the difference between ringing the opening bell and experiencing costly delays or even failing to launch. Even newly public companies can experience challenges in the early stages of their journey. Properly preparing for external scrutiny and increased regulatory oversight is a process that can take a year or even two or three years, which is why preparing early is a must.

In a recent five-part series, Weaver professionals and other industry leaders discussed what to expect and walked participants through the process of building a publicly fit infrastructure. You will find some of the key points from each session here. For more details, visit **https://weaver.com/going-public-series.**

Strategic Considerations

1. As you consider taking a private company public, you need to make sure you have examined the pros and cons of this decision. The biggest benefit is often gaining access to capital for growth, acquisitions, refinancing or recapitalizing, and increased liquidity to shareholders. The drawbacks include the amount of effort and cost involved in such efforts as remaining compliant with regulations, which includes increased costs for audit, legal fees, in addition to scrutiny from investors and the public.
2. It is extremely important to have early conversations with your team of advisors, including legal, accounting, and financial. Having a realistic, well thought-out plan when you start will help you address curve balls as they come up.
3. Setting out a defined project timeline with a clear delineation of roles will be critical to making sure you get through process as smoothly as possible and will help to identify resource constraints.
4. Determine early on whether you qualify as an Emerging Growth Company (EGC) or Smaller Reporting Company (SRC), since these classifications are subject to certain reduced requirements compared to other registrants.

The Foundation

1. One of the biggest distinctions between public and private entities is that public companies generally require much more robust internal control processes to comply with the provisions of Sarbanes Oxley (SOX).
2. Your controls and financial disclosures are only as good as the systems and information that supports them. Make sure you have a risk assessment plan in place that covers all significant processes and explicitly includes IT systems and security to identify early where gaps may exists.

Accounting & Financial Reporting

1. There are historical financial statement requirements that in some cases expand to inclusion of pro forma financial statements.
2. Be intentional about the financial period of your registration statement. Some of this information will need to be updated for the SEC as it becomes stale, and changes in the rules and requirements for significance tests will impact the financial statements required for acquisitions.
3. It will be critical to anticipate the required financial statements and related information needed for quarterly and annual financial statements as well as for acquisitions and dispositions to ensure the information is readily available and that any audits or reviews have been performed timely.
4. There are certain standards that only private companies can use, i.e. amortization of goodwill. Make sure you are aware of the hurdles involved in unwinding these if you go public, as the public company accounting standards will need to be adopted prior to the filing of the initial registration statement.
5. Organizational tax structuring and reporting discussions need to take place early to fully understand how going public will impact your tax position. Any tax restructuring changes, such as going from an LLC to a corporation, will become significant as you move forward.

Governance, Legal & Regulatory

1. Appointment of the right individuals with appropriate backgrounds and skillsets is critical to having an effective board governance function.
2. Know the governance and listing differences between the primary and consider how these align with your company.
3. You will need to consider different board committees, at least the nomination and governance and audit committees, and how to build those out based on who you are recruiting.
4. There are new trends in governance to take into consideration. ESG is going to be front and center. There will continue to be a focus on diversity and inclusion efforts, as well as board effectiveness and effective risk management. Fiduciary duties, code of conduct and ethics requirements remain cornerstones of good governance.

Additional reference articles, on-demand content, and insights are provided to help you on the journey to taking your company public. Please **contact our Weaver Professionals** if you would like to discuss your situation and current goals. We are here to help you understand what to expect and walk you through the process to building a publicly fit infrastructure.