GOING PRIVATE AND OTHER STRATEGIC OPTIONS FOR SMALL PUBLIC COMPANIES

Valerio Giannini - as published in *M&A Today*

Thousands of smaller, public companies in the US are facing depressed stock values plus the disproportionate expenses of compliance with Sarbanes Oxley, but are enjoying none of the traditional benefits of being a public company. The categorical alternatives for such companies would appear to be:

- ***Go Private***
- ***Sell/Merge***
- ***Maintain the Status Quo***

A. GO PRIVATE

1. Go Fully Private (repurchase all public shares)
Advantages

- Eliminates public company maintenance, distraction, cost and liability
- Release from pressure for short-term profits

Drawbacks

- Investor(s) to fund repurchase are hard to find on acceptable terms
- Significant transaction costs (including fairness opinion)
- Liability if fairness opinion is challenged
- Partial or total loss of control to new investor(s)
- Loss of public liquidity option
- Less visibility as acquisition candidate

2. Go Semi-Private (Reduce # shareholders to under 300, and “de-register”).
Advantages (in addition to those of going *fully private*)

- Smaller investment – may not require outside investor
- Potentially lower transaction expense.

Drawbacks (in addition to most of those of going fully private)

- Continuing exposure to remaining semi-public shareholders
- Expense to continue precautionary semi-public company practices.

B. SELL/MERGE

1. Outright Sale (for cash or large public company stock)
Advantage

- liquidity for shareholders

Drawbacks

- No consideration for company being public.
- Low valuation if performance is lagging

Exception may be a strategic buyer who pays a premium over financial value for market position, brand, proprietary technology, know-how, etc.

2. Merger/Acquisition Of Larger Private Company In Related Field For Stock.
Larger Private companies who want to be public may find a merger with a small public company a viable route to accomplish that (a "reverse merger"). Current shareholders would end with a small % of a much larger company.

Advantages
- Near-term liquidity for current shareholders.
- Possible deferral of tax on gain.
- Upside potential for shareholders who want to stay in
- Realization of value of Company being public

Drawbacks
- loss of control
- risk in new company's business
- Not easy. Can consume major time and resources with no guarantees

3.Acquisition/Merger with Comparable Size Company in Related Business.
Advantages:
- Business synergies
- Increase in size is a plus in the public market
- Cost of being public spread over larger base.

Drawbacks:
- Desirable, willing candidates not easy to find
- Probably need to share control
- Risks inherent in combination of smaller companies
- Result still not a "large company" in public eyes

4. Sell Minority Interest To Strategic Investor/Partner/Potential Acquireror
Advantages
- Could meet liquidity needs of certain inside shareholders.
- New capital for growth if equity sold by company
- Business synergies with strategic investor.
- Enhancement of image by association with prestigious investor.
- Probable retention of current control.

Drawbacks
- May limit some future options for sale (e.g. investor first refusal).
- May impact company's market (if investor competes with customers).
- Investor may want say in management.
- Not easy to find right match.

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C. STATUS QUO

Continue As Standalone Public Company For Long or Short Term

This may be the best strategy if the business is viable as is and other options are not desired or available on acceptable terms, but is only as attractive as the plan to achieve and grow profits and the availability of management to carry it out.

Advantages:
- If successful, may provide greatest long term gain in shareholder value.
- Does not preclude other options if and when they present themselves.
- Continued visibility and liquidity, albeit possibly limited.
- Vs.option B, avoids impact on business of Company being "in play"

Drawbacks
- Slow to produce results (vs. sale, merger or going private).
- May not meet immediate liquidity needs of some shareholders.
- Risk that business could deteriorate.
- Continuing public company expense, distraction and liability.

There is no one best answer. The right option(s) for any given company depends on the Company's and its shareholders' needs and capacity.

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The author

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