Building the right board for a SPAC transaction in Europe: Three crucial considerations

The SPAC boom in the United States is coming to Europe. Leaders in a few industries in particular should prepare themselves for interest.

European financial markets have been slower to embrace SPACs than those in the United States. In all of 2020 and the first quarter of 2021, only seven Europe-based SPACs listed themselves (and two of them did so in the United States); there were 14 SPAC transactions in the same period. Indeed, there is some reluctance in Europe to use SPAC transactions, as well as a variety of regulatory structures, all different from those in the United States. However, interest has been building. For example, the Frankfurt Stock Exchange introduced rules specifically to make it easier for SPACs to list. Two SPACs are planning IPOs in Amsterdam this spring, and regulations in London are expected to be relaxed in the coming months.

All this means that European companies will likely have new options for going public, and some may face interest from SPACs whether they like it or not. Companies in the healthcare, technology, and consumer sectors, especially tech-forward and environmentally conscious ones, have been the focus of early interest. Leaders of fast-growing private companies in those sectors will benefit from thinking now about how to build a board that can meet the challenges of a SPAC transaction.

Private company boards typically consist, in the main, of the founders and investor representatives. They do not face the scrutiny or regulatory requirements public company boards do. So, as any company prepares to go public, it often needs to revamp its board to ensure it meets exchange requirements and expectations from public markets. The difference for companies merging with SPACs is that they will need to shore up their governance on an expedited timeline, as the operating company must be able to meet public company reporting obligations on the date of the closing and hit independence milestones across the first year as a public company.

Boards of operating companies that may face interest from a SPAC will benefit from considering both their composition and their processes in three areas: prioritizing independent committee leaders; modeling public company best practices; and being intentional about diversity and inclusion.
In all of these areas, boards should begin their rethink by looking at both regulatory requirements and the actions of best-in-class boards of their public peers.

1. Crucial among expectations for companies considering going public is that chairs of major committees (audit, compensation, and nominating and governance) will be independent. Prioritizing a strong, independent audit chair is typically a good first step. This sends an important signal to the markets about the importance of the role, and having that person in place can help in recruiting for other chair roles. New directors who have public company audit experience or IPO experience (either via a board or executive experience) will likely have a shorter learning curve.
An additional consideration is finding people with experience of specific regulatory requirements in the locations where SPACs are listed, often Amsterdam or Frankfurt. Boards will almost certainly need to reach beyond their existing networks to find qualified new directors and so they will benefit from expanding relationships as soon as possible.

2. Beyond prioritizing independent committee leadership, boards will also benefit from instituting a number of public company best practices in terms of process, including term limits or retirement age and independent director compensation that aligns with their public company peers.
Having best-in-class processes may also help boards attract strong public company directors. Boards considering a SPAC merger may also want to reconsider their size over time; given that early investors often sell off—and then no longer hold board seats—it may be that the board will need to temporarily increase in size to meet expectations for public companies but will naturally shrink to what the chair and nominating committee consider the ideal size for the long term.[1] Conversely, boards may decide to consummate the merger with a relatively small board, focusing on the task at hand and then shortly reconvening to map out a robust board succession strategy.[2]

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3. Finally, expectations for corporate diversity and inclusion have never been higher. This includes diversity in terms of gender, race and ethnicity, and LGBTQ+ status as well as diversity in terms of backgrounds, skill sets, and strategic needs. In Europe, diversity of national background is often a priority; 42% of directors added to European public company boards in 2020 were non-nationals.[3]
Furthermore, many European jurisdictions have or are considering regulations for diversity in terms of gender and race. German companies, for example, require that 30% of supervisory board members be "the respectively underrepresented gender," and the Netherlands is expected to put a similar provision into law shortly.
Other research by Heidrick & Struggles suggests that as any company seeks to add diversity to its board, it should prioritize adding diversity that aligns with the company's overall corporate strategy, including considerations of the employee base and end customers. However, without inclusion, diversity is just numbers. For boards, true diversity requires that chairs in particular need to take responsibility for ensuring the board will have an inclusive culture that will allow the new board to coalesce and newer directors to acclimate and contribute quickly.[4]

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As the SPAC boom approaches Europe, the boards of companies that may find themselves merging with SPACs will best position themselves for fast action by starting now to think about the people and processes they will need.

1 For more on other benefits of reconsidering board fundamentals, see Alice Breeden, Theodore L. Dysart, and David Hui, "Building the foundation for better board refreshment," Heidrick & Struggles, January 7, 2021, heidrick.com.

2 For more on board succession planning, see Bonnie W. Gwin and Jeffrey S. Sanders, "Board succession 2020: Three steps toward long-term effectiveness," Heidrick & Struggles, August 13, 2020, heidrick.com.

3 *Board Monitor Europe 2021*, forthcoming on heidrick.com.

4 For more on board composition and culture, see Alice Breeden, David Hui, and Anne Lim O'Brien, *Future-Proofing Your Board*, Heidrick & Struggles, May 29, 2020, heidrick.com.

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