

Book Review: REVERSE MERGERS: TAKING A COMPANY PUBLIC WITHOUT AN IPO, by David N. Feldman, with contributions by Steven Dresner

Reviewed by Robert W. Wood • Wood & Porter • San Francisco

In recent years, there's a lot more talk about taking companies private than there is about taking them public. In the wake of Sarbanes-Oxley and its aftermath, coupled with well-publicized corporate scandals across a wide array of industries—not even HP is immune these days—public companies face issues that many businesses would much rather avoid.

With this background, it may seem counterintuitive to examine transactions aimed at public offerings. Yet that's what reverse mergers do. Most interestingly, of course, they do so in a way that avoids many of the costs and regulatory hurdles of a true IPO. But if going public has not in recent years been the kind of brass ring it may have once been, just wait. In that inevitable cycle, there is reason to believe going public is still in vogue. A few up-market days makes it interesting.

David Feldman's and Steven Dresner's book, *REVERSE MERGERS: TAKING A COMPANY PUBLIC WITHOUT AN IPO* (Bloomberg Press, 2006), is a slim book of approximately 260 pages that packages in a nice concise way how reverse merger deals get done. It includes some notable war stories, provides a decent list of appendices and includes a helpful glossary. I hope this doesn't sound like criticism, but it strikes me as almost ideal airplane reading.

Although I got my copy from the publisher, I could easily see picking up a book like this in an airport and having a nice romp through it on the plane. It is entertaining, at least to a financial audience, and has a real businessman-to-businessman kind of appeal, covering such essential topics as the following:

- The reasons for going public (including a list of the more notable pros and cons)

- The pluses and minuses of a reverse merger versus an IPO (and don't forget here that this is not merely touting reverse mergers—there's a nice section of the downside of doing a reverse merger versus an IPO)
- Structural aspects of these deals
- Rule 419 (we'll come back to this topic)
- Financing options
- Marketing the deal
- My personal favorite chapter—"shady tactics"

When I say the "shady tactics" chapter is my favorite, it's only because it's entertaining and serves as an appropriate warning to people who buy a "how to" book and then want to implement it. I haven't tried to do one of these transactions, but my guess is that the "shady tactics" chapter alone is worth thousands and thousands of dollars.

The topics enumerated above only take you up to about page 90, so you can see this book packs quite a lot of material into a compact package. All of the above noted points are covered in the first part of the book.

Care and Feeding

Circling back to Rule 419: This is an SEC rule promulgated in 1992 that treats registration statements from shell companies differently from those of operating companies. Plainly, the idea was to help protect shareholders and investors from fraud. Feldman and Dresner give somewhat abbreviated coverage of this important topic, but at least one that lays out the basics. Inevitably, securities lawyers are going to find this treatment overly light. For me it was just right.

Part Two of *REVERSE MERGERS* starts with a brief treatment of deal mechanics, moves into

the due diligence phase and then treats the regulatory issues (including Sarbanes-Oxley and the June 2005 SEC rule impacting reverse mergers). Clearly, this portion of the book doesn't have the zip of the first hundred pages. Still, for someone contemplating one of these transactions, this is essential reading.

Part Three of the book contains "a few *other* simple ways to go public." I'll admit I skipped over much of this, finding it outside the scope of the book's main topic. Still, I suspect some readers will gravitate to this for a more complete menu of going public choices. Viewing all these topics as *hors d'oeuvres*, some of them are clearly more tasty than others. Still, it's nice to have them collected. You can at least have a look at them even if you don't want a taste.

Part Four of the book covers manufacturing shells and current trends. One chapter is devoted to SPACs, or Specified Purpose Acquisition Companies. Another chapter is devoted to Form 10-SB shells. In very general terms, a Form 10-SB is filed with the SEC and allows a company to subject itself voluntarily to SEC reporting under the Exchange Act without registering individual shares for sale or resale. The idea is to file a

Form 10-SB and thereby avoid Rule 419. Without commenting on whether or not this works, there's an interesting discussion about this technique.

Last Words

Finally, Chapter 16 of the book includes an "Experts Speak" colloquy. It's a little unclear exactly who is saying what, but I found this quite interesting. As the book calls them, the "cast of characters" includes Dan Burstein, managing partner of Millennium Technology Ventures Advisors, LP; Alan Gelband, head of AGC Investment Banking; Tim Keating, president of Keating Investments, LLC; Mitchell Littman, partner at the law firm Littman Krooks LLP; David Nussbaum, chairman of EarlyBirdCapital, Inc.; and Charles Weinstein, managing partner of accounting firm Eisner LLP.

I probably won't do a reverse merger anytime soon. Still, I found REVERSE MERGERS to be a compact and clever book that piqued my interest in this topic. It's a slim volume, yet is concisely packed with practical information. Plus, there's a glossary and index, both of which are incredibly handy. I recommend it.

It is available from DealFlow Media for \$51.00 (www.dealflowmedia.com, (516) 876-8006).

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