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Ask The Expert - Mass High Tech

My private company anticipates being acquired by a public company. Should we consider adapting our business practices to meet Sarbanes-Oxley standards to facilitate an eventual sale?

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The Sarbanes-Oxley Act only directly impacts public companies. Yet a private company anticipating an acquisition should consider conforming its business practices to meet its requirements so that, among other things, a potential public acquirer will bear a reduced risk of noncompliance and be more inclined to buy the company. In particular, the private company may find certain changes cost effective such as adding independent directors to its board and evaluating internal controls and other business processes. Rather than dismissing the requirements of Sarbanes-Oxley because they do not directly apply, a pre-acquisition private company should discuss with counsel changes that make sense in light of its business objectives