SPACs, de-SPACs, and Sponsor Liability: Conflicts of Interest, Mismanagement Claims, Disclosure Obligations

TUESDAY, JUNE 8, 2021

1pm Eastern    |    12pm Central   |   11am Mountain    |    10am Pacific

Today’s faculty features:

Dan Brecher, Counsel; Chair, Securities and Investment Banking Group, Scarinci Hollenbeck, New York, New Jersey & Washington D.C.

Adam Brenneman, Partner, Cleary Gottlieb Steen & Hamilton, New York

Mitchell S. Nussbaum, Vice Chair; Co-Chair, Capital Markets and Corporate Department, Loeb & Loeb, New York

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Key Features of a SPAC

A Special Purpose Acquisition Company is a shell company that raises money from the public markets to acquire a private company.

The SPAC conducts an IPO shortly after its formation and attracts public investors based largely on the track record and reputation of its sponsor and management team.

The SPAC uses its capital, including the proceeds of its IPO and private placements, to search for and acquire a private operating company (the initial business combination, or “IBC”). The target becomes a public company upon merging with the SPAC.

(1) Private Placement
(2) Initial Public Offer

Acquisition (18-24 months typically)
SPACs 101: How does a SPAC work?

What do investors get?

A unit including

1 Share
1 fraction of a warrant

What does it cost?

$10.00

(but you can ask for it back at the IBC or if there is no deal)

What do sponsors get?

20% of the SPAC shares (but only if they find a deal) plus private placement warrants

What does it cost?

2% of funds raised + $2-4 million ("At-Risk Capital")

You don’t get it back – and you need it when you do your IPO
But, why (SPAC Participants)?

| SPONSORS | — Retain 20% of the post-IPO SPAC with downside exposure typically limited to IPO expenses (including upfront underwriting discount)
|          | — Provides access to public markets and offers faster capital-raising relative to private fund-raising
| PUBLIC SPAC INVESTORS | — Allows mainstream investors to get involved in private equity/VC deals
| | — Investors hold the right to vote on potential business combinations and can choose to redeem their public shares
| | — If redeemed, investors get their money back (plus a small return) and can retain exposure to future upside (via warrants)
| POTENTIAL TARGETS | — For private companies, going public by merging with a SPAC (vs. doing an IPO), avoids price discovery uncertainty / pricing volatility
| | — IPOs often take longer to complete than reverse mergers with a SPAC
| | — A SPAC merger can provide immediate liquidity and access to management expertise
| | — Downsides include dilution from the Sponsor’s “promote” and uncertainty from SPAC shareholder approval and redemptions
| PIPE INVESTORS | — Are able to participate to (i) evaluate the initial business combination and (ii) perform limited diligence before committing to invest
| | — Locked in the price (typically $10 per share) and fund the transaction shortly before closing
But, why (now)?

- Low interest rate environment makes locking up $$$ for 24 months less disadvantageous
- Recent history of public markets “busts” for VC-backed companies
- Recent track record has erased a previously shady reputation
- Momentum / pandemic boredom
Where do SPACs and PE Funds/Alternative Investment Funds Overlap?

- Seek investments in sectors typically harder for public markets investors to reach
- Selling the “Sponsor Special Sauce”
- Highly structured vehicles
- Often sector/thesis-specific
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Thank You

Dan Brecher  
Scarinci Hollenbeck  
dbrecher@sh-law.com

Adam Brenneman  
Cleary Gottlieb Steen & Hamilton  
abrenneman@cgsh.com

Mitchell S. Nussbaum  
Loeb & Loeb  
mnussbaum@loeb.com