

SEC Rulemaking Update

Special Purpose Acquisition Companies Final Rulemaking

On January 24, 2024, the Securities and Exchange Commission (**SEC**) adopted final rules to enhance disclosures and provide additional investor protections in initial public offerings (**IPOs**) by special purpose acquisition companies (**SPACs**) and in subsequent business combination transactions between SPACs and target companies (**de-SPAC transactions**). The final rules are effective July 1, 2024, with an immediate compliance date for most provisions and a one-year phased-in compliance date for structured data requirements mandating tagging of all information disclosed. The rules were proposed in March 2022 during a period in which a number of private fund managers and their affiliates had participated in the SPAC market as SPAC sponsors or investors, coinciding with the significant number of SPAC IPOs in 2020 (248) and 2021 (613). Since that date, private fund SPAC activity has diminished significantly, as SPAC IPOs have fallen to more normal levels (e.g., only 31 in 2023).

The final SPAC rules include the following provisions:

- **Enhanced Investor Protections in SPAC IPOs and De-SPAC Transactions**
 - Closer alignment of the required disclosures and the legal liabilities that may be incurred in de-SPAC transactions with those in traditional IPOs, including by deeming the target company an issuer that must sign a Securities Act registration statement filed by a SPAC (or other shell company) in connection with a de-SPAC transaction;
 - Required disclosures regarding, among other things, SPAC sponsors, SPAC sponsor compensation, conflicts of interest, dilution, and the target company;
 - Required disclosures in de-SPAC transactions regarding any determination by a board of directors or similar body as to whether the de-SPAC transaction is advisable and in the best interests of the SPAC and its shareholders, if required by law, and any outside report, opinion, or appraisal received that materially relates to the de-SPAC transaction;
 - 20-calendar-day minimum dissemination period for prospectuses and proxy and information statements filed for de-SPAC transactions where consistent with local law; and
 - Required re-determination of smaller reporting company status following the consummation of a de-SPAC transaction and requiring such re-determination to be reflected in filings beginning 45 days after the de-SPAC transaction's consummation.

- **Enhanced Investor Protections in Shell Company Business Combinations**
 - Confirmation that any direct or indirect business combination of a reporting shell company (that is not a business combination related shell company) involving another entity that is not a shell company, is deemed to involve an offer, offer to sell, offer for sale, or sale within the meaning of Section 2(a)(3) of the Securities Act and subject to protections under such act; and
 - Financial statement requirements applicable to transactions involving shell companies and private operating companies that will be better aligned with those in traditional IPOs.
- **Enhanced Projections Disclosure**
 - Adoption of a definition of “blank check company” under the Private Securities Litigation Reform Act of 1995 (**PSLRA**) that makes the safe harbor for forward-looking statements under the PSLRA unavailable for such blank check companies, including SPACs.
 - Required disclosures related to projections, including disclosure of all material bases of the projections and all material assumptions underlying the projections.
 - Updated and expanded guidance on the use of projections in all SEC filings.

See Final Rule – <https://www.sec.gov/rules/2022/03/special-purpose-acquisition-companies-shell-companies-and-projections>