

What is a SPAC?

SPACs represented nearly 20% of the US IPO market in 2017.

So what is a SPAC? A SPAC is an acronym for a Special Purpose Acquisition Corporation or what is more easily understood to be a single purpose, publicly-held, private equity-like vehicle. A sponsor of a SPAC is typically either a private equity fund (or individual professional), venture firm or former CEO of an S&P 500 company, who are required to put up and are “at risk” of losing nearly 5% of the amount raised in the SPAC IPO if they fail to identify and close on an acquisition within a finite amount of time, typically 18-24 months. Through the SPAC IPO, the public co-invests with the sponsors with the expectation that the sponsors will identify and close on the acquisition of a private company that is interesting in being publicly-listed. The public’s capital remains in a trust account for the benefit of the public, until the closing of the proposed acquisition, and is subject to an automatic right of redemption. The public has the opportunity to approve of the acquisition candidate or require a full return of their capital at the closing. The overall market impact is even more significant since the size and type of acquisition candidates tends to be significantly greater than the amount



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raised in the IPO. Simply, the SPAC program is increasing the number of investible companies that are publicly-traded.

In 2017, there were a total of 34 SPAC IPOs, which raised slightly more than \$10 billion dollars. In the first half of 2018, there have been 17 SPACs, which have raised \$4.5 billion dollars. According to SPACanalytics, there have been a total of 300 US SPAC IPOs since 2003; 159 of which have closed their business combinations, 9 more have announced deals, 51 are continuing their search (\$13 billion) and 81 have liquidated and given back their money.

In the last 7 years though, the number of SPACs that have liquidated has been very few and the percentage that have closed on successful business combinations is quite high. A meaningful percentage of the 81 liquidations happened between 2003 and 2011/12. Since that period of time, working with the bankers, other lawyers, accountants and investors in the SPAC industry, we collectively recognized that the dilutive impact of the earlier generation of SPACs was discouraging potential target’s from pursuing a sale to a SPAC, and thereby, unnecessarily forcing the liquidation of those SPACs. To reduce the impact of the dilution, we repriced the warrants issued as part of the IPO to investors to be above market and also subjected them to price appreciation. Over the years, the regulatory tension that existed back prior to 2010 has also dissipated (old news) and both the IPO and proxy process are now normal and timely processes--- the SEC, FINRA and Exchanges treat SPACs as

just any other public companies.

With respect to current themes in the SPAC industry, the vast majority of issuances are done by PE funds and serial SPAC sponsors. The most prevalent theme has been Oil and Gas, although there are numerous general industrial and technology acquisitions as well. The average SPAC IPO is in excess of \$250 million dollars.

For some of your readers you may be asking yourselves “wow, SPACs are back”- “I didn’t realize”, so I appreciate your taking the time to read this article and learning about how the industry has evolved. ■

Douglas S. Ellenoff, a member of Ellenoff Grossman & Schole LLP since its founding in 1992, is a corporate and securities attorney with a focus in business transactions, mergers and acquisitions and corporate financings. In the last several years, he has been involved at various stages in numerous registered public offerings and hundreds of private placements into public companies. Along with other members of his Firm, Mr. Ellenoff has been involved at various stages with over 100 registered blind pool offerings (commonly referred to as “SPACs”); In addition to our IPO experience with SPACs, he has been involved with more than 30 SPAC M&A assignments. The Firm represents nearly 60 public companies with respect to their ongoing 34 Act reporting responsibilities and general corporate matters. He also provides counsel with regard to their respective ongoing (SEC, AMEX and NASD) regulatory compliance.

Like the other innovative securities programs, the Firm has taken a leadership role in the emerging crowdfunding industry, which was signed into law by President Obama on April 5, 2012. The Firm actively participates in many discussions with the SEC and FINRA with respect to the proposed rules which went into effect May 16, 2016. The Firm has sponsored conferences, webinars and has been invited to speak at numerous events on the topic. The Firm is already actively engaged with clients (funding portals, broker-dealers, technology solution providers, software developers, investors and entrepreneurs).

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