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April 9, 2022

The Honorable Gary Gensler, Chairman
U.S. Securities and Exchange Commission
100 F. Street NE
Washington, DC 20549-1090.

RE: Comments on Proposed Rules regarding "Special Purpose Acquisition Companies, Shell Companies, and Projections," Release Nos. 33-11048; 34-94546; IC-34549; File No. S7-13-22

Dear Chairman Gensler,

I appreciate the opportunity to comment on the proposed rules (the "**Proposed Rules**") regarding special purpose acquisition companies ("**SPACs**").

Background

I am a business attorney who helps entrepreneurs launch, fund, and grow innovative businesses across varied industries. I have helped build and sell companies to Capital One, Abbott Laboratories, ING, and Nortek. Among other financing and M&A transactions in recent years, I had the pleasure of working with a highly professional and dedicated team of legal, accounting, and financial professionals to take a promising privately held company through a successful de-SPAC transaction at the end of 2020.

I am also an adjunct law professor at two excellent law schools, where I teach a course called *Counseling Startups: Law, Regulation, and Fundraising,* designed around my book, *Startup Law and Fundraising for Entrepreneurs and Startup Advisors*[1], which is used in law and MBA schools both across the U.S. and internationally.

As a former staffer of both the SEC's Divisions of Enforcement and Corporation Finance, I support the SEC's role in protecting investors from unscrupulous acts and actors. In my time as an Enforcement staffer and as a Special Assistant United States Attorney, I investigated and helped bring civil, administrative, and criminal actions against pump and dump schemes, market manipulations, and other misconduct involving shell corporations.[2] I also helped lead the SEC's charge in shutting down a dozen boiler rooms in Costa Rica and Panama.[3]

In the Division of Corporation Finance from 1993 to 1996, I reviewed IPO registration statements and other transactional filings through the lens of a former Enforcement staffer and prosecutor, making

[1] *Startup Law and Fundraising for Entrepreneurs and Startup Advisors,* published by BLSG, LLC, https://www.amazon.com/dp/0578236702
[2] See, e.g., "Leslie Darwin Murdock Sentenced" at page 5 - https://www.sec.gov/news/digest/1991/dig080791.pdf
[3] See, e.g., "Stanley Langsman Enjoined" at page 2 - https://www.sec.gov/news/digest/1992/dig082492.pdf

successful Enforcement referrals and causing several issuers to make recission offers simultaneously with their public offerings to remedy earlier unregistered, non-exempt offerings.

Thus, I applaud the SEC's desire to reign in any and all misconduct involving SPAC IPOs and de-SPAC transactions, as I would regarding any malfeasance that threatens investor protection or the integrity of financial markets.

Pre-Rule Release Recommendations to the SEC

A month before the Proposed Rules were announced, I wrote an article on SPACs and SPAC regulation titled "Won't SPAC Down."[4] At the end of that article I made the following suggestions for the SEC staff:

- Make sure SPAC Form S-1 IPO filings clearly disclose the equity positions, financial compensation, and possible conflicts of interest of all SPAC sponsors.

- Review de-SPAC Form S-4s with the same rigor received by IPO Form S-1s and compel filers to include all disclosure enhancements the SEC's legal and accounting staff members feel are appropriate to ensure a complete picture for investors. Particular focus should be paid to projections and other disclosures where unwarranted hype might be lurking.

- SEC Corp Fin staff should work closely with their Enforcement colleagues to consider potential enforcement actions when developments or disclosures reveal that a Form S-1 or Form S-4 contained materially misleading disclosures or omissions.

- The Enforcement staff should also be on the lookout independently for potential insider trading or market manipulation on the part of sponsors or other insiders, particularly around the time of announcements regarding potential targets. The task of "blue-sheeting" brokerage firms to view trades before and after announcements is a well-established practice.

I was happy to see elements of the first two of these recommendations in the Proposed Rules.

Contributions of SPACs to Entrepreneurship and Innovation

From my role on the front lines of innovation and entrepreneurship, I believe SPACs have played and continue to play an important role in revitalizing public equity markets and providing strong downstream benefits to private capital markets in support of entrepreneurship and innovation.

SPACs, as a capital formation tool, have primarily benefited industries key to the U.S. agenda, including supporting early-stage innovation and job growth in the carbon-neutral/energy transition sector, including supporting job growth in electric vehicles and clean energy infrastructure, space technology, life sciences, and other cutting edge industries and technologies.

IPOs and de-SPAC transactions give individual companies access to public financial markets, but they also provide liquidity to their investors, allowing them to reinvest that capital in other early-stage companies.

[4] "Won't SPAC Down," StartupGC.us Blog, https://www.startupgc.us/post/won-t-spac-down

Thus, IPOs and SPACs recycle risk-oriented capital in support of entrepreneurship and innovation. Strong IPO markets, like those in 2020 and early 2021, also greatly boost investing confidence among angel investors, VC firms, and PE firms. This investing confidence energizes the vitality of early-stage and growth-oriented private capital markets.

But, as everyone knows, IPO metrics have been down since approximately 2002. And medium and smaller IPOs have all but disappeared.

It seems the traditional IPO market is now limited to "unicorns," leaving substantial unmet funding needs among companies that fall short of billion-dollar valuations.

Additionally, despite the laudable efforts by Congress and the SEC to increase access to capital for startups and emerging growth companies under the JOBS Act of 2012, SPACs contributed much greater vitality to those markets in recent years and arguably with superior disclosure and investor protections than did offerings under Regulation Crowdfunding or Regulation A.

Did Lax SEC Oversight Create a Regulatory Vacuum Resulting in SPAC Concerns?

As suggested in *Won't SPAC Down*, the proposed rules reflect several unfortunate tendencies of government agencies: (i) overacting after the agency, itself, has let things get out of control, (ii) blaming third parties for conditions caused by agency action or inaction, and (iii) enacting overbroad and ill-considered rules that cause more harm than good to the very constituents the agency purports to protect.

An early commenter on the Proposed Rules, Nicholas Wilson, captured the very real concerns expressed in (iii) above with his Comment Letter[5], stating in part:

> *You keep hurting middle class investors like me by creating an environment of constant regulatory uncertainty, and now are threatening to take away SPACs' competitive advantage. In essence you are helping protect no one by making SPACs harder to operate and complete deals.*
>
> *While I appreciate the concern that retail investors may be unclear about many aspects of these mergers and I do want the SEC to strongly enforce against fraud and insider trading, I would also appreciate if you would be concerned for how much damage the SEC has done to retail portfolios like mine by creating an environment of constant regulatory uncertainty.*

I share Mr. Wilson's pain. My holdings in a promising company that went public via de-SPAC transaction are down from a high of 24.40 per share to just over $6.00.

I have no doubt that the SEC's actions and statements have played a substantial role in these losses for me and in losses experienced by thousands of other investors, beginning perhaps with the SEC staff's April 12, 2021 accounting release, *Staff Statement on Accounting and Reporting Considerations for Warrants Issued by Special Purpose Acquisition Companies ("SPACs")* (the "**April 12 Accounting Statement**").[6]

As Ronald Reagan famously quipped, on August 9, 1986, "*The nine most terrifying words in the English language are 'I'm from the government and I'm here to help.*"

From my admittedly armchair perspective, SPACs seem to have needed greater attention earlier from the SEC staff using existing tools and methods. As a former SEC staffer, I remember being confused by how

[5] Nicholas Wilson Comment Letter - https://www.sec.gov/comments/s7-13-22/s71322-20121758-273885.htm

[6] https://www.sec.gov/news/public-statement/accounting-reporting-warrants-issued-spacs

the "Selective Review" process was applied. Unless things have changed dramatically, IPOs on Form S-1 always received a "full review," while equally significant transactions being registered on Form S-4 received much lighter reviews. Despite almost three years of reviewing Forms S-1, S-4, and myriad other transactional filings, the logic of this review dichotomy always eluded me.

If this approach to Selective Review has continued and played any part in de-SPAC transactions receiving more cursory reviews from Division of Corporation Finance staff, I would urge a reversal of that policy. When registrants know that their filings will be reviewed more lightly, it stands to reason that disclosures by unscrupulous actors might be less fulsome.

But based on feedback from others on the front lines of de-SPAC IPOs, the Division of Corporation Finance staff has been reviewing de-SPAC filings aggressively and pushing for appropriate disclosures.

Furthermore, attorneys and other advisors who have done work on SPACs for years are keen to point out that the current approach to SPACs from a regulatory and process perspective was developed and implemented entirely by the SEC, evolving as it did under Rule 419 and various SEC guidance and practice.

This has many wondering, me included, why current SEC leadership seems so alarmed about perceived inadequacies and investor protection risks of a regulatory paradigm the SEC itself created, and why there seems to be a desire on the part of that leadership to not only eliminate SPACs as a viable financing option, but also to possibly apply certain of the proposed rules retroactively to punish SPAC industry participants for their involvement in SEC-reviewed SPAC transactions.

As others are likely to remind the SEC and its staff in this comment process, under the statutes authorizing the SEC and prescribing its regulatory mission and authorities, the SEC is not a "merit" regulator. Rather, the SEC's primary mission with respect to issuers, their access to public markets, and transaction structures is ensuring adequate disclosure to investors.

Thus, the SEC should not be using its rulemaking powers to pick "*winners and losers*" from among legitimate transaction types by trying to kill SPACs in favor of traditional IPOs. Unfortunately, doing just that seems to be a driving motivation behind the Proposed Rules.

Contrary to statements suggesting that the SEC simply wants to level the playing field between traditional IPOs and SPACs, the SEC's proposed blunt instruments seem closer in design and intent to the baton wielded by Tonya Harding's crew against Nancy Kerrigan.[7]

<u>Overview of Feedback re Rule Proposals</u>

At a high level, I would have preferred a more measured and tailored approach to addressing specific SPAC disclosures and investor protection and one reflecting a regulatory mindset seeking to improve and support the SPAC market rather than trying to kill it.

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[7] https://www.biography.com/news/tonya-harding-nancy-kerrigan-attack-photos#:~:text=The%20hitman%20was%20Shane%20Stant,and%20Harding's%20bodyguard%2C%20Shawn%20Eckhardt.

Consistent with all of the foregoing, I am supportive of certain proposals in the Proposed Rules for enhanced disclosures in these areas:

- sponsor compensation,
- potentially dilutive sponsor ownership interests,
- sponsor conflicts of interest regarding differently aligned ownership interests and informational advantages,
- sponsor and insider lockups and related implications, and
- credentials and background information regarding SPAC sponsors.

These bulleted items, primarily focused on SPAC sponsors, would have addressed most of the commonly expressed concerns relating directly to SPACs and investor protection, aside from projections, which I address later.

Possible Section 16 Enhancements. Another area for SEC consideration not addressed in the Proposed Rules is whether the rules under Section 16 of the Exchange Act of 1934 might be modified to require greater reporting of SPAC sponsor securities transactions following de-SPAC transactions. Investors could find it illuminating to know when and in what amounts SPAC sponsors are selling their holdings of post-de-SPAC entities. Current rules generally only require those who serve on the board or as key officers after a de-SPAC to report their sales on Forms 3 and 4. Could the SEC expand the pool of reporting persons within its statutory authority so that other shareholders can see and benefit from the trades of SPAC sponsors in or out of the newly created public entities?

Joining the Dissent. Despite supporting the general thrust of certain elements of the Proposed Rules, I am more aligned with Commissioner Hester Pierce's dissenting views, expressed in her official statement, *Damning and Deeming: Dissenting Statement on Shell Companies, Projections, and SPACs Proposal.*[8]

I share Commissioner Pierce's view that the proposed rules are too heavy-handed and seem intended to destroy SPACs as a viable method for accessing public market funding and affording investors access to those companies in the public markets.

I also feel like many of the rules are unnecessary, too specific, too prescriptive, and likely to result in canned disclosures that provide little substantive value to investors.

Interestingly, performing a word search of the Proposed Rules reveals that the word "already" is used 56 times. And perhaps about 20% of the time or more it is used to admit that a proposed rule is arguably unnecessary because most SPAC filers are already providing the requested disclosures. I am unpersuaded by statements in the Proposed Rules that such proposed rules would be helpful to "standardize" disclosure practices. More accurately, such rules are a solution in search of a problem – fixing something that isn't broken.

Divergence on Target Company Registration. Unlike Commissioner Pierce and possibly many others, I do not object to requiring target companies to become registrants on Form S-4 registration statements and requiring their officers and directors to sign those registration statements. I understand that targets are already co-registrants in many de-SPAC deals and believe this better aligns the de-SPAC regulatory paradigm to the traditional IPO requirements.

[8] https://www.sec.gov/news/statement/peirce-statement-spac-proposal-033022

Protecting Investors through Pain and Loss Therapy. Although investor protection is supposed to be the SEC's guiding North Star, it is hard to ignore the fact that the SEC seems to be intent on indiscriminately casting past, present, and future SPACs as the pariahs of modern finance. The apparent goal seems to be making SPACs highly undesirable, if not untouchable, to underwriters, attorneys, accountants, auditors, and investors.

As noted earlier, the first clear evidence of the SEC's desire to kill off SPACs came with the SEC staff's April 12 Accounting Statement.

The April 12 Accounting Statement arbitrarily required more than 700 publicly traded companies (including many in SEC registration at the time and working against timelines) to immediately revise and restate previously issued and/or then-pending financial statements. I witnessed this expensive, disruptive chaos first-hand.

The total cost of this shocking regulatory fiat ran into the hundreds of millions of dollars in direct and indirect costs. These unnecessary costs were born solely by the impacted companies and their shareholders. Only lawyers and accountants benefitted – SEC-imposed "dilution."

Was the goal of the SEC staff to alert potential investors to meaningful risks related to SPAC warrants being recorded as equity instead of debt? Unlikely. The potential risk supposedly addressed was that SPACs could be required to cash out investors holding warrants during a tender offer. Has this ever happened? If so, what was the financial impact in each case?

The SEC staff had seemingly never raised this warrant issue nor imposed that accounting treatment during its reviews of hundreds of SPAC financial statements.

It was apparent to most informed observers that the SEC staff was not using its position and authority to fix an issue of legitimate concern, but rather to kneecap the SPAC market. And they succeeded, at great cost to 700 companies forced to spend hundreds of thousands on restatements and also at great cost to SPAC shareholders and to the pipeline of companies hoping to access public markets.

It is difficult to equate harming investors with protecting investors.

The April 12 Accounting Statement killed countless SPAC deals and heralded a steep decline in SPAC activity, all cheered on by naysayers in the press and academia. The growing vilification of SPACs also led to broad price declines in SPAC shares, directly harming investors. The April 12 Accounting Statement, and now the Proposed Rules, seem intended to make it clear that the SEC does not like SPACs and will do whatever it deems necessary to make life miserable for all associated with them, whether as sponsors, underwriters, professional advisors, target companies, or investors.

Against that backdrop, the following are specific elements of the Proposed Rules that I strenuously object to:

- requiring every SPAC to state whether it "reasonably believes that the de-SPAC transaction and any related financing transaction are fair or unfair to unaffiliated security holders" and state whether or not it has obtained a third-party fairness opinion (the "**Fairness Proposals**"),
- eliminating the availability of the Private Securities Litigation Reform Act ("**PSLRA**") safe harbor for forward-looking statements in de-SPAC transactions in the manner proposed (the "**Projection Proposals**"),

- imposing underwriter liability on SPAC IPO underwriters and others by deeming them to be underwriters at the de-SPAC stage if they engage in activities that are extremely loosely defined and that likely fall well short of currently understood thresholds of conduct for incurring such liability (the "**Underwriter Proposals**"),
- establishing a non-exclusive safe harbor for SPACs under the Investment Company Act of 1940 for conduct that would not merit 40 Act registration in the first place (the "**40 Act Proposals**").

Detailed Comments

I will allow those who are paid by the hour for their comments to address the minutia within each of the Proposed Rules' 154 individual Requests for Comment. I believe the SEC should wholly reject the following four provisions of the Proposed Rules.

The Fairness Proposals

I object to the Fairness Proposals for two reasons.

First, I believe they represent an attempt to coerce companies to retain the expensive services of bankers and other types of experts to render fairness opinions. While such opinions may often provide insights for investors when voting to approve complex transactions, I do not feel that SPACs are nearly as complex as M&A deals involving the merger of two highly complex entities and the exchanging of formula-driven cash and equity compensation.

I believe the SEC's stated concerns about compensation and dilution complexity and hidden conflicts of interest are overblown and can be addressed through logical disclosure requirements and SEC staff attention to those disclosure concerns.

Requiring companies to spend substantial sums for fairness opinions in the SPAC context seems contrary to the SEC's concerns about "dilution," into which bucket the staff lumps compensation and underwriting expenses. The Underwriter Proposals certainly cannot be squared with the statement that the SEC is simply trying to level the playing field with traditional IPOs, which face no such requirements.

Additionally, The Underwriter Proposals, discussed below, would make providing a fairness opinion potentially untenable for any bank or other valuation firm, given that they would then be deemed an underwriter in the de-SPAC transaction. The fees banks and others would require to assume such risks would limit the availability of de-SPAC fairness opinions to all but the most promising unicorns.

Second, assuming many companies might not feel compelled by the Fairness Proposals to obtain fairness opinions, the resulting disclosures will be essentially meaningless. How many companies are going to state that the transactions they are working on will be unfair to investors? I believe we can expect in approximately 99.99% of filings to see a statement along these lines:

> *"The Special Committee believes, based on the advice of its legal and financial advisors, that the financial and other terms and conditions of the Merger Agreement, by themselves and in comparison to the terms of agreements in other transactions, are substantively and procedurally fair to the unaffiliated shareholders."*

I do not believe such disclosures provide useful or meaningful information to investors.

For the above reasons, I urge the SEC to reject the Fairness Proposals.

The Projection Proposals

I object to the Projection Proposals more in principle than for what they seek to achieve. I believe the SEC would be overreaching its authority in eliminating the availability of the PSLRA safe harbor for forward-looking statements in de-SPAC transactions.

The Projection Proposal would change the existing definition of "blank check company" for purposes of the PSLRA by removing the "penny stock" condition. That was the definition Congress specifically relied upon when it wrote the PSLRA. I believe it would be improper for the SEC to willfully ignore statutory language in this manner.

As with any new rule, I also see potential for unintended consequences. Projection disclosures in SPAC documents are required by rule when those projections have been relied upon by a SPAC's board in evaluating the de-SPAC transaction. I could foresee boards refusing to consider projections in their determinations rather than being subjected to enhanced disclosures and liability.

It is also already standard practice to disclose key underlying risks and assumptions regarding projections and I find it hard to believe that investors are incapable of thoughtfully weighing projections together with a company's other disclosures in their decision-making processes.

Interestingly, should the Projection Proposals be adopted and result in the removal of projections from most de-SPAC registration statements, de-SPAC transactions will certainly look a little more like traditional IPOs, where closed-door roadshow presentations are conducted and sell-side research analysts are used as "conduits" for management projections. None of this information is ever publicly filed or disclosed in a traditional IPO. Thus, the Projection Proposals create increased risks of the very types of "asymmetric information" flows they are purportedly designed to correct.

The Underwriter Proposals

I will simply state that I, and likely many others, view the Underwriter Proposals as an attempted overreach by the SEC to redefine what it means to be an underwriter under the Federal securities laws.

The language of the proposed rules is capriciously vague, giving underwriters no clear guidance on what types of post-SPAC IPO could give rise to substantial underwriter liabilities, either in an action by the SEC or by private litigants.

Further, the language of the proposed rule makes it very clear that myriad others beyond actual underwriters could be swept up by the rule and suffer wholly unexpected liabilities, including attorneys, accountants, financial advisors, and even investors. Worse yet, the SEC's too-clever language that the proposals only "clarify" existing concepts and liabilities seems a not-so-veiled threat that the proposed rules could be applied retroactively.

Our financial markets depend significantly upon predictability, fairness, and risk transparency. The SEC's Underwriter Proposals seem intended to do nothing but increase risk, uncertainty, and regulatory and legal unpredictability, toward the end of killing SPACs.

Or is it simply the SEC's view that underwriters must be hired in the context of every de-SPAC transaction? Does the SEC understand that underwriting agreements are among the most expensive, one-sided, and unfair agreements a company can enter into?

On several occasions I have witnessed investment banking firms fail to succeed in helping a company complete a strategic transaction, but then shake the company down for huge "tail fees" many months later when the company succeeds at finding and closing a transaction wholly on its own. No thank you, SEC.

And how does imposing the additional and very substantial expense of paying underwriting fees square with the SEC's concern about investor dilution? As the SEC knows, underwriting fees often run into millions of dollars. In its recent IPO, Robinhood reported "*underwriting discounts and commissions of $90.8 million.*"[9] Those dollars come from investors.

Unfortunately, I do not believe the goal behind the Underwriting Proposals is to cause SPACs to increase their use of underwriters through the entire process, from SPAC IPO to de-SPAC transaction. Rather, the goal seems to be to frighten many underwriters, attorneys, accountants, auditors, and financial advisors away from doing business with any SPACs and to cause those that continue working with SPACs to greatly increase the fees they charge for SPAC IPOs.

As such, the Underwriting Proposals do not appear to be offered in support of a larger "gatekeeping" vision for underwriters of SPAC IPOs, but rather to greatly discourage, if not kill, SPACs and to drive investors away from them.

The SEC should reject the Underwriting Proposals in their entirety.

The 40 Act Proposals

Sadly, the 40 Act Proposals are no better than the Underwriting Proposals.

There is simply no legal, regulatory, or public policy basis for requiring SPACs to jump through the Investment Company Act's arcane regulatory hoops and register as investment companies just because SPAC IPO trust funds are invested in virtually riskless instruments. The fact that, to my knowledge, the SEC has never imposed this requirement in reviewing any SPAC IPO seems sufficient proof that there is no such legal or regulatory requirement.

Perhaps the SEC is aware of a situation in which SPAC investors were harmed due to catastrophic losses in a SPAC trust fund? Please do tell.

The baseless assertion that SPACs are illegally circumventing 40 Act registration, which the SEC should have promptly helped to stamp out, is driving baseless, costly, and harmful litigation. Again, this litigation is significantly harming SPAC investors, not protecting them.

In an impressive and unparalleled show of unanimity, more than 60 top-tier law firms signed a letter captioned *Over 60 of the Nation's Leading Law Firms Respond to Investment Company Act Lawsuits Targeting the SPAC Industry.*[10] The letter states, in part:

> *"Under the provision of the 1940 Act relied upon in the lawsuits, an investment company is a company that is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities.*

[9] See "Initial Public Offering" at page 13 - https://www.sec.gov/Archives/edgar/data/0001783879/000162828021020850/robinhood424b3-102921.htm

[10] https://www.kslaw.com/attachments/000/009/032/original/Joint_Statement.pdf?1631025916

SPACs, however, are engaged primarily in identifying and consummating a business combination with one or more operating companies within a specified period of time. In connection with an initial business combination, SPAC investors may elect to remain invested in the combined company or get their money back. If a business combination is not completed in a specified period of time, investors also get their money back. Pending the earlier to occur of the completion of a business combination or the failure to complete a business combination within a specified timeframe, almost all of a SPAC's assets are held in a trust account and limited to short-term treasuries and qualifying money market funds.

Consistent with longstanding interpretations of the 1940 Act, and its plain statutory text, any company that temporarily holds short-term treasuries and qualifying money market funds while engaging in its primary business of seeking a business combination with one or more operating companies is not an investment company under the 1940 Act. As a result, more than 1,000 SPAC IPOs have been reviewed by the staff of the SEC over two decades and have not been deemed to be subject to the 1940 Act."

The absurdity of the fake 1940 Act issue is obvious on its face. What investor protection risks are at stake? And what actual risks would be mitigated by SPACs incurring the substantial expense and distraction of registering as investment companies? The answers are "none" and "none."

Does the SEC really want to impose wholly-unnecessary dilution on investors by forcing SPACs to bear the expenses of 40 Act registration? Isn't the SEC against dilution? Taken as a whole, the SEC's Fairness Proposals, Underwriter Proposals, and 40 Act Proposals would seem to cause immense investor dilution for no valid purposes at all.

The 40 Act Proposals are merely absurdities upon absurdities – i.e., a proposal for a Safe Harbor from a meritless threat, in exchange for forcing SPACs to either find a suitable target company within 18 months or liquidate, under the veiled threat of a baseless 40 Act enforcement action.

Under the current difficult market conditions, caused in large part by the SEC itself, reducing the amount of time SPACs have to find a merger target, perform due diligence, and close a deal can only be viewed as harmful to investors.

Again, the SEC's underlying motives for the 40 Act Proposals seem to be (i) greatly increasing the perceived risks, costs, and uncertainties associated with SPACs and thus (ii) greatly reducing their numbers.

The SEC should reject the 40 Act Proposals in their entirety.

Conclusion

Despite my decades-long professional engagement in matters involving the securities laws and my interest in many SEC rule proposals over the years, I have yet to submit formal comments until now. But I humbly submit these comments, as I truly believe the Proposed Rules significantly threaten U.S. competitiveness, entrepreneurship, innovation, and prosperity – causes which are all core to my personal and professional life.

As noted at the outset, I am supportive of appropriate rules to enhance investor protection and provide greater transparency in SPAC IPOs and de-SPAC transactions.

I believe the staff has played a role in creating a regulatory vacuum that has no doubt been filled by some bad behavior. The staff should assess whether and to the extent that is true and more aggressively review SPAC filings.

The staff should also increase its enforcement activity to respond to legitimate concerns it may have regarding SPAC sponsors or target companies.

But what the SEC should not do is promulgate baseless, inappropriate, harmful rules that negatively impact its reputation and respect for law and government generally, merely to get rid of SPACs.

SPACs clearly have a role to play. Otherwise, they would not have eclipsed traditional IPOs in 2021.

I hope that the SEC reconsiders its unnecessarily harmful approaches to SPACs and focuses in good faith on addressing its concerns through the tools it has and through a more thoughtful and productive rulemaking process.

Thank you in advance for your consideration.

Sincerely,

Paul A. Swegle