

Securities and Exchange Commission
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- **17 CFR Parts 210, 229, 230, 232, 239, 240, 249, and 270**
- **Release Nos. 33-11048; 34-94546; IC-34549; File No. S7-13-22**
- **RIN 3235-AM90**
- **Special Purpose Acquisition Companies, Shell Companies, and Projections**

Dear Sir.

Thank you for giving us the opportunity to comment on your proposed rules concerning Special Purpose Acquisition Companies, Shell Companies, and Projections.

You are proposing rules intended to enhance investor protections in initial public offerings by special purpose acquisition companies (SPACs) and in subsequent business combination transactions between SPACs and private operating companies. Specifically, you are proposing specialized disclosure requirements with respect to, among other things, compensation paid to sponsors, conflicts of interest, dilution, and the fairness of these business combination transactions. The proposed new rules and amendments to certain rules and forms under the Securities Act of 1933 and the Securities Exchange Act of 1934 would address the application of disclosure, underwriter liability, and other provisions in the context of, and specifically address concerns associated with, business combination transactions involving SPACs as well as the scope of the Private Securities Litigation Reform Act of 1995. Further, you are proposing a rule that would deem any business combination transaction involving a reporting shell company, including a SPAC, to involve a sale of securities to the reporting shell company's shareholders and are proposing to amend a number of financial statement requirements applicable to transactions involving shell companies. In addition, you are proposing to update your guidance regarding the use of projections in SEC filings as well as to require additional disclosure regarding projections when used in connection with business combination transactions involving SPACs. Finally,

you are proposing a new safe harbor under the Investment Company Act of 1940 that would provide that a SPAC that satisfies the conditions of the proposed rule would not be an investment company and therefore would not be subject to regulation under that Act.

Projections

Although not required by federal securities laws, it is common practice for SPACs to use projections of the target company and post-de-SPAC company to assess and negotiate, for example, the offered consideration, terms and conditions and to allocate risks in those transactions, and in its investor presentations. I generally support your proposals, specifically those that address: historical results; non-GAAP measures; the purpose of projections; bases, assumptions and any factors that may materially impact such assumptions; and reliance on views of management and the board of the SPAC or target company. The proposals should be expected to provide more meaningful information to investors and analysts, which should improve the efficiency of capital deployment and reduce the cost of capital deployed. Furthermore, the proposals should increase protection for investors and others, motivate demand and thus enhance capital formation.

In response to your specific requests for comment I would add the following:

110. I support that you should amend Item 10(b) of Regulation S-K as proposed. In particular I agree with your proposed wording in § 229.10(b)(2)(iv) that: “The presentation of projections that include non-GAAP financial measures should include a clear definition or explanation of those financial measures, a description of the Generally Accepted Accounting Principles (GAAP) financial measure to which it is most closely related, and an explanation why the non-GAAP measure was selected instead of a GAAP measure.” This will improve transparency and increase understanding.

111. I fully agree that the proposed updated guidance should apply to all filings covered by Item 10(b). This is more complete and reasonable.

112. Yes, the proposed amendments to Item 10(b) are necessary in light of proposed Item 1609 of Regulation S-K, which is limited to de-SPAC transactions. This would be more complete and reasonable.

113. There are many ways of presenting (complex) financial information to investors. I would not support more prescription here, as long as information is presented fairly, transparently and is not misleading.

114. I would propose that you should amend §229.1609(b) to require disclosure of specific sensitivity testing on the key assumptions underlying the projection on top of the requirement to disclose “any factors that may impact such assumptions”. This would allow investors to assess the robustness and reliability of the projections and allow easier own analyses thereon.

Please note that the comments expressed herein are solely my personal views

115. For the moment I support that Item 1609 of Regulation S-K should apply only to de-SPAC transactions.

116. For the moment I would not support prohibiting the disclosure of any specific financial measures or metrics. Information should be presented fairly, transparently and should not be misleading.

117. I would not expect that proposed Item 1609 would discourage the use of financial projections in de-SPAC transactions.

Yours faithfully

C.R.B.

Chris Barnard