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June 13, 2022

Office of the Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Proposed Rule, "Special Purpose Acquisition Companies, Shell Companies, and Projections," File No. S7-13-22

Dear Office of the Secretary:

Crowe LLP (we or Crowe) appreciates the opportunity to provide input on the Securities and Exchange Commission (SEC or Commission) proposed rules, "Special Purpose Acquisition Companies, Shell Companies, and Projections" (Proposal or Proposed Rules). We support the SEC's efforts to provide investors of Special Purpose Acquisition Companies (SPAC) with material information, and we have organized our comments to reflect the SEC's tripartite mission of facilitating capital formation, maintaining fair, orderly, and efficient markets, and investor protection.

Capital formation

Transition

SPAC lifecycle considerations
The Proposal summarizes SPAC outcomes from 1990 through 2021,[1] and, given the data presented, it appears (excluding pre-IPO SPACs, completed mergers, and liquidated SPACs), as of December 31, 2021, there were SPACs in different stages of the pre-merger SPAC lifecycle (for example, SPACs actively looking for a merger target, SPACs that have identified a merger target but have not yet filed a registration statement or proxy, SPACs that have identified a merger target but have not had their registration statement declared effective or proxy mailed, SPACs that have had their registration statement declared effective or proxy mailed but have not yet held their shareholder vote).

The Proposed Rules do not currently specify a compliance date. The Proposal generally seeks to align de-SPAC transaction reporting with initial public offerings,[2] and, in the past, certain final rules[3] have provided a different transition when an initial registration statement is filed prior to the effective date of the final rule. Uncertainty related to transition and mandatory compliance dates might be detrimental to capital formation. It would be useful for the Commission to specify in any final rules whether a different transition applies, depending on the stage of the SPAC lifecycle in which the registrant and/or co-registrant exist at the mandatory compliance date.

[1] See Proposed Rules, Table 3. SPAC Outcomes, 1990-2021
[2] Refer to Proposed Rules, Section III
[3] For example, Release No. 33-10786

Maintaining fair, orderly, and efficient markets

Reporting obligations

De-SPAC Target Section 15(d) reporting obligation
The Proposed Rules amend Form S-4 and Form F-4 to treat the SPAC and the target company as co-registrants when the Form S-4 or Form F-4 is filed for a de-SPAC transaction. The Proposal also points out[4] Rule 405 of the Securities Act equates "registrant" with the issuer of the securities for which the registration statement is filed. The Proposal notes[5] that:

> [a]s a co-registrant of the Form S-4 or Form F-4, the private operating company would have an Exchange Act reporting obligation pursuant to Section 15(d) of the Exchange Act following the effectiveness of the registration statement.

When an entity incurs a Section 15(d) reporting obligation, the issuer must file the reports required by Section 13(a) of the Exchange Act (for example, Form 10-K, 10-Q, 8-K). A Section 15(d) reporting obligation can be suspended if certain criteria are met, as provided in Section 15(d) or Exchange Act Rule 12h-3. However, in general, a Section 15(d) reporting obligation cannot be suspended in the year that the issuer's Securities Act registration statement became effective.

Staff Legal Bulletin No. 18 (SLB 18)[6] provides, in part, that Commission staff believe Exchange Act Rule 12h-3(c) does not preclude an issuer from suspending its Section 15(d) reporting obligation, even though the related Securities Act registration statement became effective during that year, in certain circumstances including an abandoned initial public offering when:

> [a]n issuer with no Exchange Act reporting obligations has a Securities Act registration statement become effective, but does not sell any securities pursuant to the registration statement, the issuer files an application to withdraw the registration statement pursuant to Securities Act Rule 477, and the staff consents to the withdrawal.

In certain de-SPAC transactions, the merger agreement is terminated after the effectiveness of the S-4 or F-4 registration statement. In such a circumstance, the Proposed Rules would generally result in the target having a Section 15(d) reporting obligation despite the non-occurrence of the merger, absent the ability to rely on SLB 18 or through alternative Commission relief. We recommend the Commission clarify in any final rule whether the Commission views an unconsummated de-SPAC transaction as analogous to an abandoned initial public offering. If not, the Commission might provide further guidance on the specific circumstances that would allow a co-registrant target in a de-SPAC transaction to rely on SLB 18 or to request Commission relief to terminate its Section 15(d) reporting obligation if the de-SPAC transaction does not occur after effectiveness of the registration statement.

Structured data

Inline XBRL
The Proposed Rules generally require disclosures provided under Item 1610 of Regulation S-K to be subject to Inline XBRL tagging, and we are supportive of the Commission's goal to provide readily available and easily accessible information to stakeholders.

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[4] See Proposed Rules, footnote 141

[5] Ibid

[6] Staff legal Bulletin 18 - Exchange Act Rule 12h-3

Investor protection

De-SPAC target as co-registrant/issuer

PCAOB filing requirements
Registered public accounting firms file Form AP with the Public Company Accounting Oversight Board (PCAOB) for each audit report of an issuer. The Proposed Rules indicate the target will be a co-registrant/issuer in the de-SPAC transaction, which might require certain clarifying revisions to prior PCAOB Form AP staff guidance.[7] We recommend the Commission consider coordinating with the PCAOB to identify implications of any final rule on firm reporting (for example, Form AP, Form 2) and existing PCAOB staff guidance or whether any new PCAOB staff guidance is required.

Closing

We thank the SEC for providing the opportunity to provide feedback on the Proposed Rules, and we are available to answer any questions that the staff might have regarding the views expressed in this letter.

Sincerely,

Crowe LLP

Crowe LLP

[7] See discussion of shell company reverse merger at PCAOB Form AP Staff Guidance. While the current example is clear Form AP is not required because the reverse merger target is not an issuer, if the final rules specify the target in a de-SPAC transaction is an issuer, it would be helpful to revise the example.