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SPACS: OPPORTUNITIES AND RISKS OF A NEW WAY OF GOING PUBLIC

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After their spectacular development in the United States, Special Purpose Acquisition Companies (SPACs) are now growing rapidly in Europe where they appear as a new way of going public, and offer growth prospects for stock markets. The flexibility allowed by the regulatory framework to the structuring of these vehicles emphasises in particular the need to manage any conflicts of interests of stakeholders. Furthermore, in a context where institutional investors are looking for returns, vigilance appears necessary regarding the valuation of transactions initiated by SPACs and investors' performance expectations, which have been often disappointed in the USA. Finally, fears that transparency requirements might be lower for SPACs than for other methods of going public (e.g. IPO, direct listing) appear largely unfounded. Nevertheless, the development of SPACs appears to require monitoring of their activities.

1. SPACS: RAPID GROWTH IN THE MARKET FOR COMPLEX AND FLEXIBLE STRUCTURES

1.1. GROWTH IN THE MARKET BEGAN IN THE UNITED STATES AND HAS REACHED EUROPE

A SPAC is a vehicle without its own operating activities, listed on the stock exchange to raise funds to finance (at least) one M&A with an unlisted company that has not yet been identified when the SPAC is listed. If no merger is completed, then the SPAC is liquidated after a time limit that is generally two years. A distinctive advantage of SPACs is precisely the fact that they have no operating activities and do not identify a target initially. This enables them to limit the content of their prospectus, and thereby enables M&A target companies to obtain a stock market listing without some of the constraints linked to traditional initial public offerings (IPOs). SPACs have existed in the United States since the 1980s. Initially known as "blank check companies"¹ and listed on the Nasdaq, the NYSE has accepted listings since 2008 and has become the main listing market. They have grown in importance in the United States, both in terms of the number of SPACs and the amounts of financing raised (Figure 1). Until 2014, the funds raised represented less than 2% of those from initial public offerings (IPOs). They represented 18% in 2019 and 45% in 2020. Since then, SPACs have developed in Europe, with the United Kingdom leading the way, and other markets such as the Netherlands have attracted some SPACs recently (Graphs 2 and 3). SPACs have been listed in France since 2016,² where increasing interest can be observed in the market.³

SPACs are promoted and managed by founders (called sponsors) whose expertise is supposed to enable them to identify acquisition targets in the fields or sectors concerned. For unlisted target companies, they represent first and foremost a means of going public that is cheaper, less uncertain, and above all faster⁴ than an IPO or a direct listing.⁵ On Euronext, for example, they make it possible to avoid the requirements for a completion letter from the statutory auditors on the prospectus, a public offering and a certificate from the investment services provider, which are needed for an IPO. Furthermore, following the success of certain SPACs which have achieved three-figure yields (Figure 7,⁶ and promotion campaigns that received a lot of media coverage in the United States, often with the active participation of celebrities,⁷ this type of fund-raising is currently also being promoted in Europe as a potentially highly profitable investment, generally among professional investors. In any case, the amounts raised by the SPACs represented at the global level a substantial contribution to the activity of the primary markets (Figure 5) and the aggregate amounts of the merger operations they generate are rapidly rising (Figure 6).

¹ "Blank check companies" because without a business plan. They appoint the founders to merge with a company that is not yet identified. Strictly speaking, US blank check companies have a separate status under Rule 419 of the 1933 Securities Act of the SEC.

² Mediawan, the first Paris-listed SPAC, raised €250m in 2016. In 2020, 2MX Organic launched by X. Niel, M. Pigasse and M. Zouari raised €300m.

³ Numerous plans to launch SPACs are under way in Europe. Cf. for example, Les Echos, "Jean-Pierre Mustier, Tikehau et Financière Agache bouclent le plus grand SPAC d'Europe" 29/04/21, and Asset News, "Energy transition SPAC to be listed on Euronext Paris", 15/06/21.

⁴ A standard IPO takes six months, and sometimes a year or more, while a merger with a SPAC generally takes three to four months.

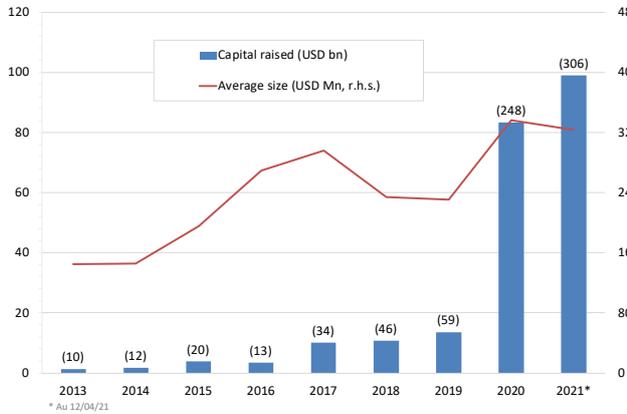
⁵ Unlike an IPO or a SPAC, a direct listing is not generally intended to raise new capital.

⁶ For example, the [Nasdaq](#) (source: SPAC Analytics) identifies the following companies among the top-performing SPACs that completed a merger in 2020: QuantumScape (+1,115%); DrafKings (+444%); Immunovant (+372%); Iridium (+304%); Betterware (+232%), etc. No details are given about the calculation of the yields shown.

⁷ Financiers such as Gary Cohn, former adviser of D. Trump or non-financiers like Chamath Palihapitiya (former executive at Facebook) and celebrities and sports stars showing their interest as sponsors or investors, e.g.: Jennifer Lopez, Shaquille O'Neil, Serena Williams, Alex Rodriguez, Stephen Curry, Naomi Osaka, Tony Hawk, Colin Kaepernick ("Sports stars think they got game in SPAC arena", Wall Street Journal, 05/04/17). Big private equity names often benefit from these reputation effects ("Les SPACs, un pas vers la démocratisation du private equity" EY 18/02/21).

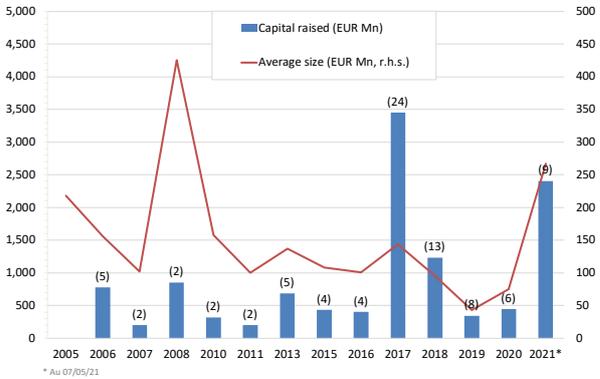
SPAC listing statistics by region: number, amounts raised, average size

Figure 1: United States (ital., USD bn, USD mn/right-hand scale)



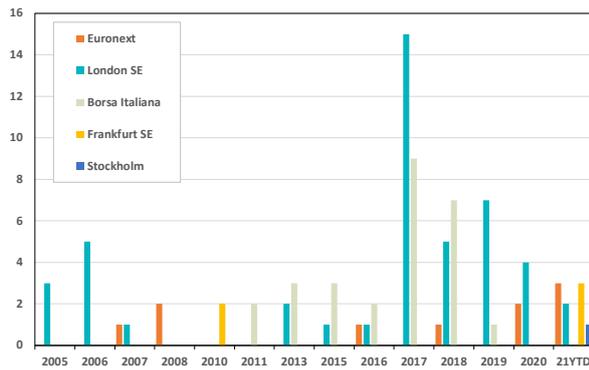
Source: <https://www.spacresearch.com/>; AMF.

Figure 2: Europe (ital., EUR mn, EUR mn/right-hand scale)



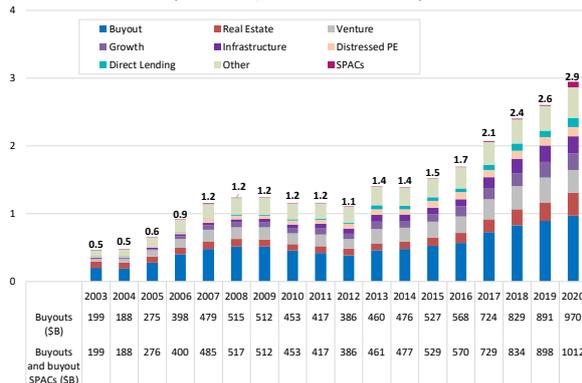
Source: Dealogic; Euronext; AMF.

Figure 3: Historical SPAC listings in Europe by market (number of listings; as of 07/05/21)



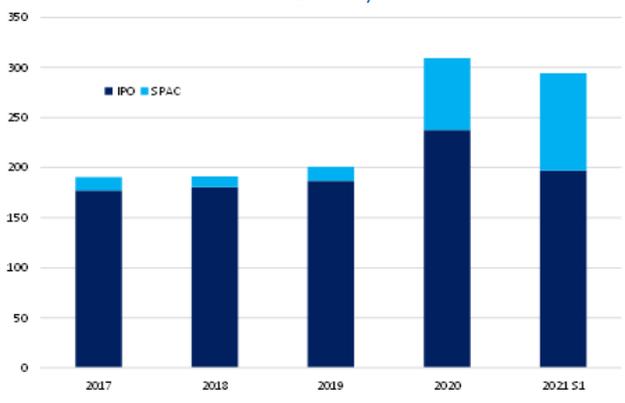
Source: Dealogic, Euronext.

Figure 4: Capitaux raised remaining to be invested (USD bn ; labels : USD trn)



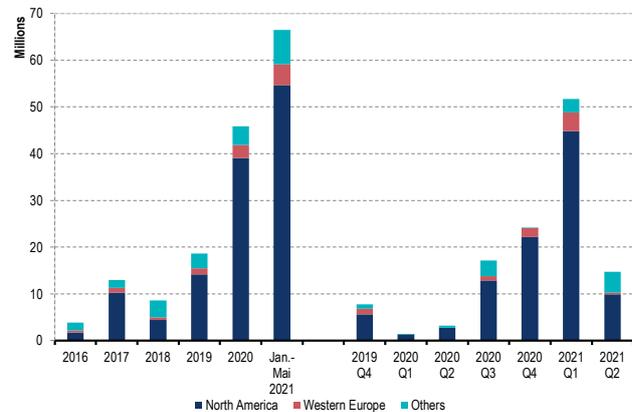
Notes: Buyout includes buyout, balanced, coinvestment and coinvestment multimanager funds; includes funds with final close and represents the year in which funds held their final close; other includes SPAC fund-raising (as measured by IPO fund-raising volumes), private investment in public equity, hybrid funds, mezzanine and natural resources; distressed PE includes distressed debt, special situation and turnaround funds; excludes SoftBank Vision fund. Sources: Preqin; SPACInsider; Bain analysis.

Figure 5: Share of SPACs in IPOs at global level (capital raised ; EUR bn)



Source : Bloomberg, AMF.

Figure 6: SPACs : Merger investment amounts (EUR bn)



Source : Bloomberg, AMF.

1.2. DIVERSE STRUCTURES, WHOSE FORM IS SPECIFIED BY MARKET PRACTICES

As practices are less standardised than in the United States, there is no strict definition or regulatory framework for SPACs in Europe. The specific form of this type of arrangement therefore varies according to the interests of the stakeholders and the applicable legal framework (e.g. company law) in the relevant jurisdictions. Bearing in mind, therefore, that the characteristics that are generally observed do not correspond to regulatory requirements, the lifecycle of a SPAC can be outlined by the following typical case:

- Initially, the founders (sponsors) of the SPAC create a company without an operating activity (shell firm) whose purpose is to merge with an unlisted company which it is their task to identify.⁸ They then acquire a block of shares (called the "promote") at a fixed/preferential price⁹ intended to represent about 20% of the listed SPAC. The founders also acquire preference shares and/or warrants to purchase the shares at their market value. The proceeds from these issues are intended to cover the costs of the initial public offering¹⁰ and the operating costs of the SPAC, in particular to identify a target company.
- The initial public offering, which actually sets up the SPAC, raises considerable capital. The capital raised is generally placed on an escrow account¹¹ in order to finance the merger with the target company¹² and/or repurchase the shares of investors who do not want to take part in the merger proposed by the SPAC. After the IPO, the founders hold a minority but substantial interest (20%) in the SPAC, mainly obtained by dilution of the funds raised by the IPO. They are also allotted warrants and/or preference shares.¹³ Although individual investors appear to represent 40% of SPAC trades in the USA (i.e. twice as many as for S&P 500 and Russell 2000 index company shares),¹⁴ they tend to be intended for (private) placements by institutional investors, and their distribution to retail investors seems much more subdued than in Europe, where their marketing is subject to the specific requirements of MiFID2 (suitability assessment; product governance)¹⁵. On Euronext Paris, for example, they are listed on the professional segment, with high entry costs.¹⁶ In fact, the founders tend to limit the number of investors in order to facilitate dialogue and enable them to ensure the support of investors for the proposed mergers. In principle therefore, SPACs are not very accessible to private individuals. However, although it is not actively promoted, access to shares in listed SPACs does remain possible in principle.

⁸ The initial focus of the SPAC's bylaws on a business sector varies greatly.

⁹ Typically, these shares are purchased for a fixed price of \$25,000 in the US, and for one or a few euro cents per share in Europe.

¹⁰ "the operating costs of the SPAC are deducted at the time of the initial investment. Typically 2% of the value of the SPAC is deducted in subscription fees and a total amount of about USD 2m is held in reserve to cover the operating costs of the SPAC until it is merged with the target company" ("Les SPACs, un pas vers la démocratisation du private equity" EY 18/02/21).

¹¹ In the USA, this deposit must represent at least 90% of the funds raised.

¹² In practice, the term "merger" covers various possible types of transactions. For example, the prospectus of 2MX Organic states: "Business Overview: The Company was formed for the purpose of acquiring one or more operating businesses or companies through a merger, capital stock exchange, share purchase, asset acquisition, reorganization or similar transaction (a "Business Combination")."

¹³ This assumes that, like in France, the preference share and share warrant framework enables the creation of shares with specific rights, thereby differentiating shares subscribed by founders from those offered to investors (cf. [French legal framework](#)).

¹⁴ Financial Times, "Retail investor apathy threatens to derail SPAC deals" of 10/03/21 quotes a report by the Bank of America from Feb. 2021.

¹⁵ According to market estimates, private individuals hold about 8% of SPAC shares in Europe, which is biased upwards by the distribution of the Dutch Star 2 SPAC via private banking channels. Excluding Dutch Star 2, the estimate would be around 5%.

¹⁶ E.g. €1m for SPACs listed in Paris, €100,000 in Amsterdam for Dutch Star Companies One and Two and ESG Core Investments. In the USA, SPAC investors are also generally institutional investors.

➤ Two scenarios may then arise:

- The general case where the SPAC meets its objective: it identifies a target company and starts to merge with it (Initial Business Combination (IBC) or de-SPAC-ing).¹⁷ At that point (*Table1*):
 - SPAC investors decide whether to approve the merger at a general meeting.¹⁸ They then have a right of withdrawal which may eventually compromise the proposed deal, in particular if the target company demands a minimum cash contribution from the SPAC;
 - If necessary to conclude the deal, the founders complete the financing by requesting contributions from third party investors (e.g. private placements by institutional investors) or existing investors (e.g. shareholders of the target company) or complete the financing themselves. As they have lots of capital (dry powder, Figure 4) to invest, private equity funds are often asked to subscribe via public investments in private equity.¹⁹ The SPAC can raise debt capital²⁰ at that point;²¹
 - Investors also receive warrants that can be exercised under certain conditions (e.g. after a set period of time, or when the share price exceeds a set limit).
Once the merger is complete, the preference shares of the SPAC founders are converted into ordinary listed shares fungible with those of other investors. In the United States, the average interest in the merged company amounts to 11.7% for founders and 22.8% for other investors in the SPAC (Klausner, Ohlrogge, Ruan (2021)).

- In less frequent cases where no acquisition is made after two years, the SPAC is liquidated and the amounts raised are returned to the unitholders, minus the management fees. In fact, a further payment to the SPAC by the founders often encourages the shareholders to approve an amendment to the bylaws postponing the deadline for liquidation. Even so, in the USA 11% of SPACs repay the amounts raised. A distribution waterfall is then implemented, which determines the repayments made according to the categories of shares issued. Typically the SPAC's debts are repaid first, followed by the nominal value of the ordinary shares, the premium on ordinary shares and then the nominal value of the founders' shares, before any surplus is distributed, e.g. via a premium for founders or payment for special shares.

¹⁷ NB: in the USA (not in Europe), stock exchanges require the book value of the IBC target to be at least 80% of the deposits on the SPAC escrow account, significantly restricting the ability of SPACs to carry out IBCs.

¹⁸ Mergers are generally subject to the approval of the general meeting, but for 2 MX Organic for example, they must be approved by the board of directors. In the USA, a simple majority of votes is required for approval, unless a higher limit is set.

¹⁹ PIPE: raising of capital reserved for an institutional investor by allocating shares at a preferential price i.e. with a discount compared with the market price. A traditional PIPE issues ordinary or preferred shares at a set price for the investor; a structured PIPE issues convertible debt. According to Morgan Stanley, PIPEs contributed capital of \$12.4bn to 46 SPACs in 2020. Although it can be explained by the size of the funds that they have to invest, we may wonder why private equity funds make these investments in listed shares.

²⁰ As in LBOs, leverage makes it easier to acquire the target company. The current market standard is 7x equity capital. Furthermore, it can be seen that, following the Archegos affair, US prime brokers limit the leverage of hedge funds that invest in SPACs. Financial Times, "Archegos fallout hits market for blank-check companies", 28/05/21.

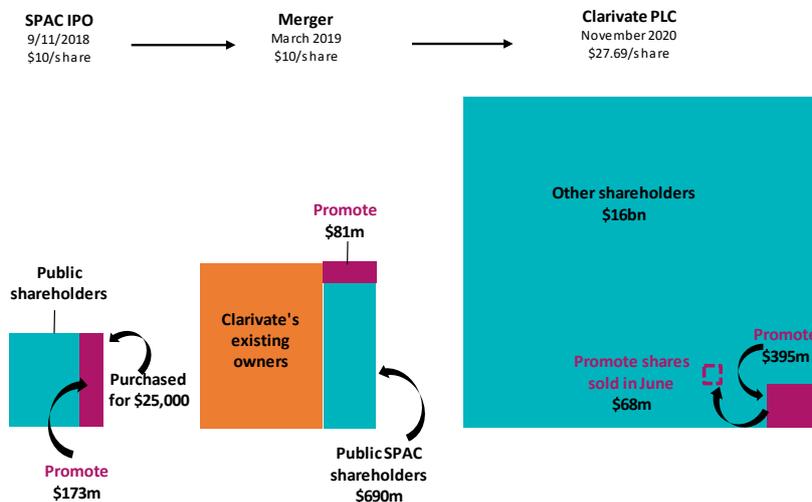
²¹ It should be noted that the SEC required the recognition of SPAC warrants to be reclassified as debt (cf. "[Staff Statement on Accounting and Reporting Considerations for Warrants Issued by SPACs](#)" of 12/04/21).

Table1: Example of SPAC issues and financing

	Founders	Investors (generally professionals)	Any additional investments (to finalise the merger)
Creation of the SPAC	<ul style="list-style-type: none"> Block of preference shares (promote) acquired for example for \$25,000 or €0.01/share Purchase of “units” combining ordinary shares and warrants (right to buy shares after the IBC at a set price) 		
Listing of the SPAC	<ul style="list-style-type: none"> Promote converted into ordinary shares (block of 20% of the capital) 	<ul style="list-style-type: none"> Purchase of preference shares allowing shares to be bought back by the SPAC under certain conditions (i.e. to no longer be a shareholder after the IBC) - e.g. for €10 per share. Purchase of warrants (right to buy shares at a set price after the IBC), i.e. 1 warrant or a fraction of a warrant (1/2, 1/3, 1/4 etc.) per share. 	
Merger with the target company	<ul style="list-style-type: none"> Further contributions possible 	<ul style="list-style-type: none"> Possible to withdraw before the IBC (may result in an additional financing requirement for the SPAC) 	<ul style="list-style-type: none"> Contribution possible via a capital increase reserved for certain institutional investors (e.g. PIPE) Possible to allocate warrants

Source: AMF.

Figure 7: Clarivate: example of a successful SPAC in the United States



Source: Financial Times.

2. THE RISKS DEPEND LARGELY ON THE SPECIFIC STRUCTURES OF THE SPACS

SPACs may represent several types of risks.

Firstly, risks linked to the existence of conflicts of interests, above all affecting the sponsors (founders), who are often private equity fund managers²², and the various stakeholders, investors and issuers. By their nature, they should be overcome by increased transparency, i.e. reducing the asymmetry of information on the protections offered and the factors and incentives to ensure the balancing of the different interests involved.

Given their nature as shell firms, they generally make up for the investors' lack of visibility via contractual mechanisms that provide certain types of protection, which are typically: mechanisms for repayment of the funds invested placed on an escrow account, after the time allowed to complete the initial acquisition (IBC); the planned IBC is submitted to the shareholders for approval; right of withdrawal (repurchase of shares by the SPAC) prior to the IBC. However, risks may remain for investors,²³ particularly if the founders have an incentive (e.g. when the two-year deadline is about to expire) to make deals that are not in line with the interests of the (other) investors in the SPAC. The promote can prove to be a highly profitable option, as this interest which is acquired at a low price may be worth millions if the IBC is successful (Figure 8). Although it is a key incentive for founders to make a deal, it does represent a cost that is not very visible for investors, as it is obtained above all by diluting their interest in the SPAC. Especially, its effect may be asymmetric, as the founders may still have an incentive to carry out mergers even if the SPAC results in negative performance for investors. Moreover, by offering the founders a proportion of the capital of the merged entity, they may be encouraged to target large deals to maximise their profit (e.g. five or six times the value of the SPAC) which may increase the difference between their interests and those of the investors. Other conflicts of interests may result from differences in the treatment of investors, for example, those who take part in the merger compared with those who do not take part, or compared with new (institutional) investors required to complete the financing to finalise the merger, who may be offered preferential terms. Finally, the founders may have other incentives. SPACs are often promoted by private equity managers, possibly exposed to conflicts of interest, for example if they want to sell companies held by their fund by listing them on the stock exchange via a SPAC.

Klausner, Ohlrogge, Ruan (2021)²⁴ have shown that in the USA, the performance of SPACs on completion of a merger is poor for investors in the vast majority of cases - and most often negative if warrants are not taken into account. Furthermore, this performance is correlated to the dilution of their investments in the SPAC.²⁵ The authors also note the size of investments in SPACs by hedge funds, which have a highly dilutive effect for the remaining investors when they exercise their right to withdraw prior to the merger. The aim of these investments is therefore merely the return of the initial investment (with interest) and the allocation, at that point, of free warrants. Figure 9, which shows the average annual return of SPACs that merged in the year in question, reveals that they have never outperformed the Russell 2000 index of US small and mid-caps. In the best years, they underperformed that index by 10%, and often by 40% or more, one year after the merger. A comparison with yields on IPO indices is even less flattering. For the founders on the other hand, the average performance is 400% three months after the merger (Figure 8). One year after the merger, it is 187% (median: 32%), with some achieving yields of 1000%, while a few others make a loss.

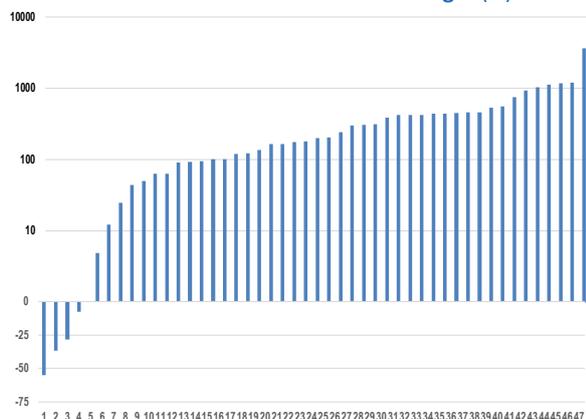
²² See AMF 2021 Markets and Risk Outlook (ch. 3).

²³ Cf. e.g. speech by John Coates, Division of Corporation Finance, SEC "[SPACs, IPOs and Liability Risk under the Securities Laws](#)" (08/04/21). We note however the more general account by the SEC of the risks linked to SPACs in "[Public Statement Financial Reporting and Auditing Considerations of Companies Merging with SPACs](#)" on 31/03/21.

²⁴ Klausner, Ohlrogge, Ruan (2021); A Sober Look at SPACs; ECGI Working Paper Series in Finance.

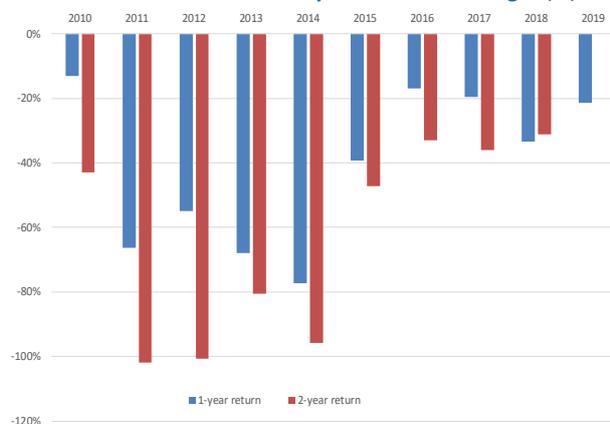
²⁵ This measurement of ex-post dilution of 47 SPACs that completed mergers in the US between January 2019 and June 2020 amounts to 67%. It represents the ratio of the actual amount invested by SPACs in target companies, to the amount initially raised from investors, and therefore includes other dilutive elements than the promote. The return for the SPAC from the merger must therefore exceed 33% for investors to receive a positive return. The authors also note that the dilutive effect is inversely proportional to the performance of the SPAC.

Figure 8: SPAC return distribution for founders 3 months after the merger (%)



Source: Klausner, Ohlrogge, Ruan (2021).

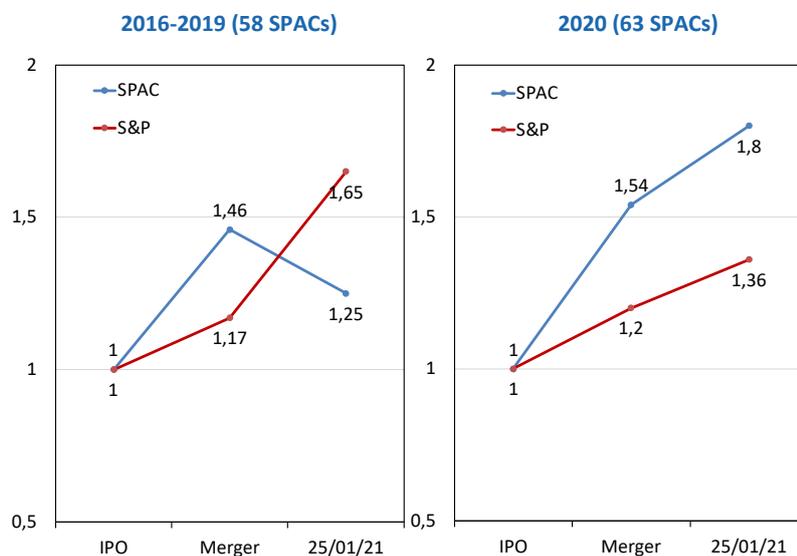
Figure 9: Outperformance of SPACs compared with the Russell 2000 index 1 and 2 years after the merger (%)



In this context, it is important for the stakeholders of the SPAC (founders, investors, target companies) to ensure that there are appropriate incentives and that sufficient information exists to perform due diligence, especially since in principle this type of vehicle does not require an underwriter.²⁶ In the absence of strictly binding standards, the protections offered must be assessed by the specific characteristics of the structure of each SPAC, for example the maximum time limit for completing the initial merger, the possibility and the conditions for repayment of the funds invested in case of withdrawal prior to the IBC or liquidation of the SPAC, the applicable conditions for custody of the funds raised (e.g. placement on an escrow account), the dilutive effect on the other investors of the founders' interests and the requests for withdrawal by investors prior to the IBC, the terms and conditions for approval of the IBC (e.g. by the board of directors or the general meeting, percentage of votes required, etc.), the information disseminated for that purpose, etc. Ultimately, it is important for the investor, in particular, to assess the cost of financing the structure and transactions of the SPAC, and its impact on the expected return on investment and the planned transactions, as well as more generally the structure of the transaction (contributions by and conditions offered to the different types of investors in the SPAC taking part in the IBC). Klausner, Ohlrogge, Ruan (2021) suggest two mechanisms for reducing the conflicts of interest of founders: an obligation to disclose side payments in the form of shares or warrants allocated to certain unitholders in return for commitments not to buy back their shares, and an obligation to state the cash per share that they will contribute during the merger in different takeover scenarios. More generally, in the absence of an underwriter, the aim is to ensure that the stakeholders of the SPAC (founders, investors, managers of the target companies) have sufficient information to perform due diligence, and appropriate incentives, based on sound management of conflicts of interest.

²⁶ An underwriter assumes part of the risks of a transaction on its books, against payment. This type of activity is the prerogative of investment banks for IPOs and is also requested for SPAC IPOs (cf. Rampell, Kupor (2020), In defense of the IPO, and how to improve it, 28/08/20).

Figure 10: Recent performance of SPACs in the USA (pre and post IBC – in millions of dollars and IPO=1)



Source: SPACInsider, Bain & Co.

Table 2: Acquisition of European target companies by US SPACs (at 05/05/21)

Announcement date	IBC target	Nationality of the target	Name of the buyer	Amount of the IBC (EUR mn)
30/03/21	Cazoo Ltd	UK	Ajax I	1,878.2
29/03/21	Global Blue SA	Switzerland	Far Point Acquisition Corp	1,877.4
23/02/21	Software Luxembourg Holding SA	Luxembourg	Churchill Capital Corp II	984.2
29/01/21	Ardagh Metal Packaging SA	Luxembourg	Gores Holdings V Inc	926.2
12/10/20	EVBox BV	Netherlands	TPG Pace Beneficial Finance Corp	832.0
27/10/20	Lilium GmbH	Germany	Qell Acquisition Corp	830.0
13/10/20	Genius Sports Group Ltd	UK	dMY Technology Group 2	830.0
25/09/20	Freyr AS	Norway	Alussa Energy Acquisition Corp	700.6

Source: Bloomberg; Euronext.

Finally, SPACs more generally reinforce the link between private and public methods of financing²⁷ by providing a means for unlisted companies to go public. We may therefore wonder what the effect of the development of this method of financing will be on standards for admission to trading. In a context of international competition between markets to attract issues,²⁸ it raises the question of the risk of a decline in standards for admission to trading due to SPACs. To assess this, it is necessary to compare the requirements (e.g. for transparency) for admission to trading by IPO with those for mergers of SPACs. In the United States, the SEC states that: *"It is not clear that claims about the application of securities law liability provisions to de-SPACs provide targets or anyone else with a reason to prefer SPACs over traditional IPOs"*.²⁹ Indeed, given the questions about the presentation of financial projections³⁰ (regarding the ability to relate the growth targets declared to the fundamentals of the target companies), the SEC emphasises the importance of transparency regarding these transactions³¹ and has launched an investigation into the information disclosed on the planned merger of the SPAC Stable Road Acquisition Corp with Momentus. In view of these developments and the new market equilibria that are being formed, the structure and pricing of SPACs should change. It is important therefore not to see them only in terms of past practices, or those observed in the USA. For example, some recent studies appear to show, in spite of the wide dispersion of observations and the lack of hindsight,³² an average improvement in the performance of SPACs in the USA at the end of 2020 (Figure 10), which would qualify the results of Klausner, Ohlrogge, Ruan (2021). Notwithstanding this point, these studies identify an outperformance by SPACs before the IBC, which justifies the "free rider" strategy of certain hedge funds which invest in SPACs without taking part in the IBC.

Based on these observations, the following views are expressed regarding the risks identified:

- SPACs are characterised above all by their initial lack of operating activity, which necessarily limits the content of their initial prospectus, even if information about the business sector, the sponsors and any material conflict of interests must be disclosed. However, the adequacy between the requirements applying³³ to the different listing methods (IPO, direct listing, SPAC) does not appear to be brought into question. The advantages of SPACs for issuing companies - in particular the guaranteed (pre-negotiated) listing price and streamlined process - must be related to the risks observed for post-merger performance.³⁴ Each method of listing makes sense depending on the context and the company concerned. To simplify matters: *"if it is necessary to raise capital, an initial public offering, in spite of its shortcomings, is logical and probably the best option. Failing that, direct listing may be preferable. To raise capital quickly and have greater certainty about the transaction price, a SPAC may be the best solution"*.³⁵
- After several years of stock market attrition in favour of unlisted methods of financing, and a lengthening of the lifespan of firms before they go public, the success of SPACs highlights the complementary nature of these financing methods. Specifically, they offer an exit pathway to private equity funds seeking to divest and appear able to provide a new area of growth for stock exchanges.³⁶

²⁷ The rapid development of private finance is described in Section 3.2 of the AMF 2019 Risk Outlook. The implications for public markets are discussed in particular by S. Rošov (2018), Capital Formation: The Evolving Role of Public and Private Markets, CFA Institute Position Paper. SPACs therefore emphasise the complementary nature of these methods of financing, but also make the dividing line between them less clear.

²⁸ A report by Lord Hill aims in particular to reform British rules to encourage the development of SPACs in the United Kingdom. On the London stock exchange, SPACs are not eligible for listing on the Premium Segment of the official list, and trading of their shares is suspended during the IBC, as the acquisition is seen as a reverse takeover. As a result, investors can neither give their opinion (vote) on the IBC, nor withdraw before its completion.

²⁹ Cf. footnote 23.

³⁰ Numerous lawsuits in the US claim breaches by founders of their fiduciary duty and disclosure obligations.

³¹ Financial Times; A reckoning for SPACs. Will regulators deflate the boom? 04/05/21.

³² As 60% of SPAC IBCs in 2020 took place in the last quarter, their performance could only be assessed in the short term.

³³ It should be noted that the requirements of the European "Prospectus" Regulation (Delegated Regulation 2019/980) apply to SPACs and result in a certain number of transparency requirements, relating for example to risks, conflicts of interest and their management and structure.

³⁴ We emphasise here the importance of transparency regarding the merger, which is not covered by the SPAC prospectus.

³⁵ Rampell, Kupor (2021), "In defense of the IPO, and how to improve it", Andreessen & Horowitz, 28/08/20.

³⁶ Lubochinsky, Manière (2021), Eclipse ou crépuscule? Pourquoi les Bourses n'ont plus la cote; Rapport de l'Institut Messine; February.

- The flexibility allowed as regards the structure of SPACs appears to allow the market to factor in the criticisms made of them. In particular, it could favour fair treatment of unitholders and encourage sponsors to create long-term value. In this context, certain market practices could help to increase transparency, such as taking multiple scenarios into account in the reference documents, for example.
- Different stakeholders in SPACs, in particular the sponsors and/or certain types of investors, are exposed to conflicts of interest. Furthermore, these vehicles involve complex legal structures, and are therefore intended above all for institutional investors who are likely to exercise critical judgement on the structure of the arrangements proposed, the stakeholders' incentives and the target companies' valuations. To date, access by private individuals to SPACs via listings is limited, and is still to be assessed in this context.
- The possibility of regulatory competition to attract SPACs means they should be considered from an international perspective to avoid a race to the bottom. At this stage, the fact that SPAC regulations are anchored in existing company and stock market laws offers the assurance of a certain stability of legal protections. Moreover, we have seen growth in cross-border activities by SPACs, with the masses of capital to be invested accumulated by SPACs and other investment funds, in particular in the USA resulting in an increase in transatlantic investments (cf. Table 2), for example.
- Finally, the rapid development of SPACs, in the context of abundant financing mentioned above (Figure 4) shows the contribution of SPACs to aggregate "dry powder"), as well as of persistently low interest rates, is the result of the search for attractive returns by investors at the risk of putting pressure on certain market valuations (speculative bubbles).³⁷ This is to be feared in particular in "narrow" market segments and/or those where there is strong competition between investors, and in particular certain segments of the technology market.³⁸ This emphasises not only the importance of the professionalism of the valuations of acquisition targets by financial intermediaries,³⁹ but also the risk of investing after unsustainable price rises, and more generally, the need to examine the endogeneity of the price rises of the assets in question.

³⁷ Le Figaro, "La bulle des SPAC se dégonfle", 01/06/21 quotes a market participant: "*The craze [in the USA] was such that SPACs were valued on average at almost 130% of the cash they held*", and reports a recent correction of SPAC valuations

³⁸ Cf. e.g. Braw (2021), Tulipmania in Space, Foreign Policy, 12/05/21.

³⁹ Cf Bain & Co (2021).