Decoding the Special Purpose Acquisition Companies: A New Frontier in Tech Start-Up Financing

David Tan[*], Hari Sutra Disemadi[**], Lu Sudirman[***]

DOI: https://doi.org/10.22304/pjih.v11n1.a5

Submitted: January 24, 2023| Accepted: January 23, 2024

Abstract

The emergence of SPAC has democratized participation in the burgeoning equity market. Capital raised during a SPAC's Initial Public Offering (IPO) is typically held in escrow identifies a suitable acquisition or merger target. This study explores the concept of SPACs, their operational mechanisms, their appeal to tech startups, and their presence in Asia, with a specific focus on the Indonesian jurisdiction. The study also aims to identify the potential risks SPACs may pose to the equity market to inform more effective regulation. Employing normative legal research and prioritizing secondary data, the findings of this paper indicate that SPACs have evolved from a niche option to a significant facilitator for private enterprises seeking to enter public markets through an IPO. The study further reveals that, despite the risks associated with SPACs and their current unpreparedness for IPOs in Indonesia, lessons from foreign experiences could guide the development and implementation of domestic regulations. While SPACs have demonstrated their value and promise to become a significant market force, calls for swift regulatory action should balance the benefits of SPACs against the need for thoughtful regulation, presenting an opportunity to reconsider existing IPO regulations.

Keywords: acquisition, securities law, SPAC.

A. Introduction

PADJADJARAN Journal of Law Volume 11 Number 1 Year 2024 [ISSN 2460-1543] [e-ISSN 2442-9325]

[*] Assistant Professor of Law at Batam International University Faculty of Law, Jl. Gajah Mada, Baloi – Sei. Ladi, Batam 29442, Indonesia; Doctoral student at Pelita Harapan University School of Law, The Plaza Semanggi, Jl. Jend. Sudirman Number 50, South Jakarta, DKI Jakarta 12930, Indonesia; LL.M. Student at the Dickson Poon School of Law, King's College London (University of London), Somerset House East Wing, Strand, London, WC2R 2LS, England, United Kingdom of Great Britain and Northern Ireland; S.H., M.H., M.M. (International University of Batam), M.Kn. (Batam University), david.tan@uib.ac.id.

[**] Head of the Law Science Undergraduate Programme at Batam International University Faculty of Law, Jl. Gajah Mada, Baloi – Sei. Ladi, Batam 29442, Indonesia; Doctoral Student at Pelita Harapan University School of Law, The Plaza Semanggi, Jl. Jend. Sudirman Number 50, South Jakarta, DKI Jakarta 12930, Indonesia; S.H. (Muhammadiyah Luwuk-Banggai University), M.H. (Diponegoro University), hari@uib.ac.id.

[***] Dean of the Faculty of Law at Batam International University Faculty of Law, Jl. Gajah Mada, Baloi – Sei. Ladi, Batam 29442, Indonesia; Dr. (Gadjah Mada University); S.H. (Janabadra University), M.M. (Atma Jaya Yogyakarta University), M.Hum. (Gadjah Mada University), lu@uib.ac.id.

The "public-private divide" constitutes a set of demarcations distinguishing public corporations, public funds, and public markets from their private counterparts within the framework of most securities laws, standing as a pivotal concept in the field.[1] The division effectively establishes two largely coherent legal domains: a heavily regulated public sector and a less regulated private sector.[2] In this structure, the majority of the publicly listed securities can be securely purchased and held by investors without requiring prior knowledge of the security or company's conditions.[3]

This arrangement in the contemporary equities market, known as "indirect investor protection," proves to be effective without direct investor engagement.[4] Public markets are known as the medium for raising capital. However, many rising businesses may also raise capital through the emergence of private equity[5] and venturing finance. However, this changed with the advent of Special Purpose Acquisition Company (SPAC).[6] SPACs, by design, jeopardize "indirect investor protections" in the equity market while also posing a risk to inexperienced investors by luring them into subpar investment vehicles.[7] SPACs, once obscure within the financial industry, emerged as Wall Street's latest craze in 2020. They have risen to prominence domestically and internationally over recent years, with their capitalization expected to reach a time high of US$157 billion in 2020.[8] The US Initial

---

1 Elisabeth de Fontenay and Gabriel Rauterberg, "The New Public/Private Equilibrium and the Regulation of Public Companies," *Columbia Business Law Review* 2021, no. 3 (2021): 1201, https://doi.org/10.52214/cblr.v2021i3.9108.

2 George S. Georgiev, "The Breakdown of the Public-Private Divide in Securities Law: Causes, Consequences, and Reforms," *New York University Journal of Law & Business* 18, no. 1 (2021): 224.

3 The systems that make this possible is referred to as "indirect investor protection," or safeguards that is efficacious without the involvement of the investors directly (their agents). The market price which is determined by traders competing for securities who are far more knowledgeable about the underpinning parameters of the industry represents the most crucial aspect that is holding these systems. *See* Holger Spamann and Hao Guo, "The SPAC Trap: How SPACs Disable Indirect Investor Protection," *Yale Journal on Regulation* 40 (2022): 76, https://doi.org/10.2139/ssrn.4135558.

4 Paul Davies, *Introduction to Company Law, 3rd Ed* (Oxford: Oxford University Press, 2020), 53.

5 Private equity, in its most basic form, is a stake in a company that has yet to be publicly listed and traded on any prominent exchanges. *See* Jay Geiss, "The IPO Alternative: Special Purpose Acquisition Companies are Gaining Traction in Private Equity," *Journal of Corporation Law* 47, no. 1 (2021): 235.

6 A.C. Pritchard and Robert B. Thompson, "The Future of Securities Law in the Supreme Court," *Columbia Business Law Review* 2021, no. 2 (2021): 906, https://doi.org/10.52214/cblr.v2021i2.8640.

7 SPACs accomplish this goal by giving investors a choice to take a specific action between a financial redemption or a post-merger stock as a payment for the identical investment. *See* Spamann and Guo, "The SPAC Trap: How SPACs Disable Indirect Investor Protection," 76-77.

8 Lerong Lu and Lingsheng Zhang, "Singapore's SPAC Listing Regime: A Game Changer or a GAP Filler?" *Securities Regulation Law Journal* 50, no. 1 (2022): 25, https://dx.doi.org/10.2139/ssrn.3929493.

Public Offering (IPO)[9] market saw a surge in SPACs in 2020, spotlighting companies such as BuzzFeed Inc.[10] and Nikola Motor Co.[11] Major stock exchanges, including NASDAQ and the NYSE, facilitate the trading of SPACs.[12] Contrary to perceptions of novelty, SPACs have existed since the early 1980s rather than being a recent corporate innovation. The uptick in SPAC activity in 2020 stemmed from several factors: a low-interest rate environment, volatile market dynamics, a decline in IPO activities, and a heightened demand for financing, all of which were responses to the pandemic-induced economic slowdown.[13]

This study contributes to existing scholarship in several significant ways. Initially, it elucidates the institutional characteristics of SPACs, aiming to offer insights in response to pressing inquiries, with the aspiration of making a notable contribution to the equity market, including the context of Indonesia. For clarity and organization, the remainder of this paper is divided into four sections. The first section outlines the research background, setting the stage for the investigation. The second section explores the potential risks SPACs may pose to the equity market and examines regulatory responses to these novel financial instruments. The final section concludes the paper, summarizing key findings and implications of the research.

B. Special Purpose Acquisition Companies: What, How, and Why

1. What and How

SPACs, known as "blank check companies" or "reverse merger companies," operate without day-to-day business activities. They enter the equity market with the intention of raising funds through their Initial Public Offering (IPO) to acquire or merge with one or more unspecified businesses or entities.[14] Nussbaum and Miller

---

9 The rationale for IPO has strong academic underpinnings, yet comparatively untapped reason for going public is to pool funds for potential takeovers. *See* Milos Vulanovic, "SPACs: Post-Merger Survival," *Managerial Finance* 43, no. 6 (2017): 679, https://doi.org/10.1108/MF-09-2016-0263.

10 Jessica Bursztynsky and Alex Sherman, "BuzzFeed Shares Close down 11% on First Day of Trading After SPAC Merger," accessed on December 24, 2022, https://www.cnbc.com/2021/12/06/buzzfeed-stock-falls-surge-on-first-day-of-trading-after-spac-merger.html.

11 Michael Wayland, "DOJ and SEC Send Warning to SPACs with Criminal Charges Against Nikola Founder Trevor Milton," accessed on December 24, 2022, https://www.cnbc.com/2021/08/02/nikola-founder-criminal-charges-puts-other-spacs-on-notice.html.

12 Mira Ganor, "The Case for Non-Binary, Contingent, Shareholder Action," *University of Pennsylvania Journal of Business Law* 23, no. 2 (2021): 410, https://dx.doi.org/10.2139/ssrn.3530596.

13 Usha Rodrigues and Mike Stegemoller, "Exit, Voice, and Reputation: The Evolution of SPAC," *Delaware Journal of Corporate Law* 37, no. 3 (2014): 875, https://doi.org/10.2139/ssrn.1948642.

14 Jay Geiss, "The IPO Alternative: Special Purpose Acquisition Companies are Gaining Traction in Private Equity," 236.

introduced SPACs in 1993, providing private companies a pathway to access equity markets. Despite being a groundbreaking fundraising mechanism, SPACs saw limited use in the 1990s.[15] The U.S. Securities and Exchange Commission (SEC) defines a SPAC as a company established specifically to pool capital for financing a merger or acquisition opportunity within a set timeframe (pre-determined maturity).[16] Advocates of SPACs might argue that SPACs emerged as a response from the private sector to regulatory overreach, offering an innovative solution to traditional financing challenges. This article also defines SPACs in the sense that given the resemblance between how SPACs and private equity firms operate, and in order to point out the unique aspects of their managerial mechanisms to obtain their objective, SPACs also qualify as an alternative solution for capital investment, while completely aware of SPACs in a study in which have a multifaceted nature.

SPACs represent neither a novel phenomenon nor an entirely new *modus operandi*. Riemer detailed SPACs as the evolved form of the "unscrupulous" blank check firms[17] that disrupted the American capital markets in the 1980s. According to Riemer, SPACs could be considered a valuable corporate innovation, especially considering the constraints imposed on smaller companies by the 2002 Sarbanes-Oxley Act, which sought to access capital in the equity markets.[18] The act has significantly increased oversight in the United States, starkly contrasting the regulatory environment that existed two decades prior.[19]

The life cycle of a SPAC may appear uniform, yet it unfolds through three principal stages: incorporation, listing (the SPAC IPO stage), selecting a target firm, merger or acquisition (initial business combination stage), or liquidation of the

---

[15] Lerong Lu and Lingsheng Zhang, "Singapore's SPAC Listing Regime: A Game Changer or a GAP Filler?" 26.

[16] Maria Lucia Passador, "In Vogue Again: The Re-Rise of SPACs in the IPO Market," *Brooklyn Journal of Corporate, Financial & Commercial Law* 16, no. 2 (2022): 108, https://doi.org/10.2139/ssrn.3820957.

[17] Pink sheet or "penny stocks" are securities that were transacted despite not really being registered on any prominent stock market. Such securities are usually not subjected to compliance requirements and market standards. As a result of lax governmental regulation, pink sheet stocks are regarded as riskier form of investment, hence full of speculations. Trading happens immediately between two sides, beyond the bourse's oversight. As a result, activity in "pink sheets market" is commonly intermittent and sporadic. *See* John R. Nofsinger and Abhishek Varma, "Pound Wise and Penny Foolish? OTC Stock Investor Behavior," *Review of Behavioral Finance* 6, no. 1 (2014): 4, https://doi.org/10.1108/RBF-12-04-02.

[18] The Act specifies the way all publicly traded corporations must render their financial information available to the public. In this case, small firms may find the Act's provisions burdensome, while the repercussions for failing to comply were severe. *See* Milan Lakicevic and Milos Vulanovic, "A Story on SPACs," *Managerial Finance* 39, no. 4 (2013): 386, https://doi.org/10.1108/03074351311306201.

[19] George S. Georgiev, "The Breakdown of the Public-Private Divide in Securities Law: Causes, Consequences, and Reforms," 224.

SPAC.[20] SPAC is initially incorporated as a regular company, establishing it as a legal entity across most jurisdictions.[21] It is a legal entity,[22] typically a group of founders referred to as "sponsors," that develops and manages SPACs. These sponsors appoint the SPAC's governing board and outline the SPAC's charter with the assistance of legal advisors.[23]

Public corporations commonly have two types of shares: founders' shares (Class A Shares) and investment shares (Class B Shares).[24] The law primarily ensures that the company receives the full value of the shares it issues and that the proceeds are retained within the company. Theoretically, members who control the company could transfer all its assets to themselves, leaving the company's creditors with nothing.[25] Contrastingly, a warrant (share warrant or equity warrant) allows an investor to purchase a company's stock at a predetermined price ("exercise price") within a specified timeframe. These warrants enable access to the equity capital of a targeted corporation. Frequently, shares and warrants are bundled and sold as "investment units," offering investors a packaged financial instrument.[26]

SPAC managers embark on the search for prospective business acquisitions, enabling private firms to indirectly access the equity markets through SPACs, thereby raising capital and positioning the targeted firm to benefit from the acquisition and merger or A&M. Consequently, a private firm can indirectly enter the equity markets through SPAC and raise capital. It puts the targeted firm in a position to benefit from the A&M.[27] Each SPAC investment unit typically consists of one common share and one warrant, allowing the purchase of an additional share at a future date for a reduced price.[28]

SPAC's public existence commences on the IPO date, with the investment manager tasked with identifying a target company within a specific period, often two

---

20 Maria Lucia Passador, "In Vogue Again: The Re-Rise of SPACs in the IPO Market," 108.

21 Lorraine Talbot, *Critical Company Law*, *2nd Ed.* (Oxon: Routledge, 2016), 92.

22 Hence, the Salomon principle and corporate veil. *See* Alastair Hudson, *Understanding Company Law*, *2nd Ed.* (Oxon: Routledge, 2018), 22.

23 A. J. Harris, "SPAC the Deck: Why the Control Exerted by SPAC Sponsors Subjects De-SPAC Transactions to Entire Fairness Review," *Fordham Journal of Corporate and Financial Law* 27, no. 2 (2022): 567.

24 David Tan, "Scrutinizing Perseroan Perorangan: The Brainchild of Societas Unius Personae in the Realm of Indonesian Company Laws," *Lex Scientia Law Review* 6, no. 2 (2022): 393, https://doi.org/10.15294/lesrev.v6i2.56059.

25 Janet Dine and Marios Koutsias, *Company Law, 9th Ed.* (London: Bloomsbury Publishing, 2020), 69.

26 Lukáš Weiss, "SPACs in the AIFMD Context," *Financial Law Review* 25, no. 3 (2022): 35.

27 Niharika Anand, "Special Purpose Acquisition Company," *Court Uncourt* 7, no. 4 (2020): 21.

28 Milan Lakicevic and Milos Vulanovic, "A Story on SPACs," 402.

years.[29] This IPO structure makes SPAC securities liquid and fungible, allowing numerous investors to distribute risks.[30]

In this second phase, SPACs must complete the acquisition of target companies post-IPO while managing their stock value. Failure to do so obliges SPACs to initiate liquidation procedures and distribute the remaining funds to investors on a pro-rata basis.[31] On the contrary, if SPAC shareholders approve a corporate takeover (A&M), SPAC managers, underwriters, and legal advisors proceed with releasing escrow funds. Consequently, SPAC sponsors receive a substantial share of capital from the transaction, known as the sponsor's "promote".[32]

SPAC executives must obtain shareholder approval before proceeding with the de-SPAC process. SPAC charters and bylaws grant all common shareholders redemption rights, regardless of their voting decisions. Moreover, since the funds remain in escrow and thus are protected, they are not impacted by votes on the de-SPAC (A&M) deal.[33] The targeted firm also becomes publicly listed through the SPAC's A&M, often referred to as a "de-SPAC transaction," instead of conducting its own IPO.[34] Combined, de-SPAC transactions and SPAC's IPO complete the process of introducing a privately held company to the stock market, circumventing the steps involved in the traditional IPO procedure. Although SPAC and conventional IPO procedures aim to achieve the same goal—listing a privately owned firm on a public exchange—they employ distinct methods.[35]

Should a significant number of investors exercise their redemption rights, this could jeopardize the SPAC's ability to identify a viable target company for A&M.[36] Obtaining the necessary votes for approval can also present challenges, typically

---

29 Amisha Raghuvanshi, "The Embryonic Stage of Special Purpose Acquisition Companies in India: Prevailing Obstacles and the Way Forward," *Nirma University Law Journal* 11, no. 2 (2022): 104.

30 Thomas Walter Kollruss, "Consolidated Financial Statements and Global Tax Policy (OECD BEPS) Insights from a Multijurisdictional Case Study," *SN Business & Economics* 2, no. 9 (2022): 14, https://doi.org/10.1007/s43546-022-00294-3.

31 Lerong Lu, "Singapore Exchange Embraces the Listing of Special Purpose Acquisition Companies (SPACs): Motivations, Advantages, and Regulations," *The Company Lawyer* 43, no. 9 (2022): 297.

32 Elizabeth A. Nelson, "Special Purpose Acquisition Companies and the PSLRA's Safe Harbor for Forward Looking Statements," *North Carolina Banking Institute* 26 (2022): 237.

33 Mira Ganor, "The Case for Non-Binary, Contingent, Shareholder Action," 411.

34 Amisha Raghuvanshi, "The Embryonic Stage of Special Purpose Acquisition Companies in India: Prevailing Obstacles and the Way Forward," 105.

35 Nelson, "Special Purpose Acquisition Companies and the PSLRA's Safe Harbor for Forward Looking Statements," 237.

36 Neal F Newman and Lawrence J Trautman, "Special Purpose Acquisition Companies (SPACS) and the SEC," *University of Pennsylvania Journal of Business Law* 24, no. 3 (2022): 659, https://dx.doi.org/10.2139/ssrn.3905372.

requiring a majority vote. This requirement aligns with the corporate codes of most states, which usually mandate a majority vote for such decisions. However, this is different in Indonesia.[37] In instances where the target business may be entirely suitable, this voting criterion still enables shareholders to veto a prospective A&M.[38]

2. The Why: SPACs' Allure to Start-up Tech Companies Seeking IPOs, Its Advantages and Disadvantages

Emerging technology and start-up companies often prefer to list through SPACs because they provide a rapid and efficient IPO process and opportunities to collaborate with experienced corporate leaders.[39] Thanks to its configuration, the SPAC operational framework may accommodate the interests of numerous distinctive economic actors. In the sense that SPACs are considered as a "poor man's private equity fund," which gives small time businesses an opportunity to attain easy financing for going ahead with their business venture. SPACs provide a low-cost way to acquire and obtain funding out of the equity market to facilitate the pursuit of a venture and capital gain (which is primarily speculative in nature). Moreover, SPACs allow the executives of a smaller private corporation to retain ownership whilst still on the receiving end of the injected funding. This appeal of SPACs is making significant inroads into Asian markets, with prominent financial executives from Singapore, Hong Kong, and India initiating their SPACs to acquire firms in various industries across Asia.

This is more significant in Asia, where SPACs potentially address the financing requirements of the continent's rapidly growing Unicorn technology start-ups.[40]

---

[37] According to Indonesian company law, the General Meeting of Shareholders has to approve the merger, consolidation, and acquisition—hence, A&M, with decisions approved by at least three quarters of the number of votes casted, unless the articles of association (this is often known to many jurisdictions as company charter, constitution, the *statuten*, foundation statues, or sometimes even as bylaws) determine for a larger requirement in decision-making. *See* Article 89 paragraph (1) Article 125 paragraph (1) and Article 127 paragraph (1) of the Law Number 40 of 2007 on the Limited Liability Company which has been amended by the Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on the Job Creation to become Law.

[38] Neal F Newman and Lawrence J Trautman, "Special Purpose Acquisition Companies (SPACS) and the SEC," 664.

[39] Amisha Raghuvanshi, "The Embryonic Stage of Special Purpose Acquisition Companies in India: Prevailing Obstacles and the Way Forward," 105.

[40] Start-ups or unicorn companies are businesses which have achieved US$1 billion market valuations without utilising outside funding (purely retaining their status as privately funded and held enterprises). Previously thought to be so uncommon as to be comparable to the mythical creature itself—unicorn. Moreover, these "non-public" capital raising transactions, sometimes known as "private IPOs" or "PIPOs." *See* Keith C. Brown and Kenneth W. Wiles, "The Growing Blessing of Unicorns: The Changing Nature of the Market for Privately

Achieving "unicorn" status represents a significant milestone, yet most unicorn start-ups relinquish this coveted position upon entering the public market.[41] SPAC financing offers these unicorn start-ups an alternative to navigating the financing challenge, enabling them to secure funding while maintaining their unicorn status. Furthermore, start-ups often find their financial independence needs to be improved by intricate bureaucracies and administrative processes, making the simplicity and efficiency of SPACs highly attractive.[42] Investors now demonstrate a heightened willingness to invest in enterprises lacking business activities and with operations that remain undefined. This growing inclination stems from the perception of institutional valuations as encompassing

"Knightian Uncertainty,"[43] thereby elevating the appeal of SPACs. The inclination to deem certain risks, akin to Knightian Uncertainty, as negligible has fostered a speculative attitude toward investment vehicles characterized by innovativeness. This phenomenon, coupled with the "bandwagon effect" and the "fear of missing out" on emerging opportunities, has been linked to a surge in SPAC-related retail activity.[44]

The advantages of SPACs are numerous. As the proprietors of a SPAC, individuals can utilize the funds garnered through the IPO, thereby incurring lower risks and costs. The establishment process for a SPAC is streamlined, with IPO funds being refunded if a corporate acquisition and merger (A&M) does not materialize, offering shareholders downside protection until the completion of the commercial A&M.[45] Moreover, SPACs provide an avenue for small businesses to raise capital without the necessity of launching their own IPOs. Since investors often do not favor smaller business IPOs, these entities face limited options for capital raising. Essentially, SPACs can be particularly beneficial for the target company's owners and management, significantly mitigating potential challenges small businesses may

---

Funded Companies," *Journal of Applied Corporate Finance* 32, no. 3 (2020): 52, https://doi.org/10.1111/jacf.12418.

41 Lerong Lu and Lingsheng Zhang, "Singapore's SPAC Listing Regime: A Game Changer or a GAP Filler?" 33.

42 Ninis Nugraheni, "Crowdfunding-Based Fiduciary Warrant in Providing Capital Loans for Small and Medium Enterprises," *Hasanuddin Law Review* 6, no. 3 (2020): 225, https://doi.org/10.20956/halrev.v6i3.2201.

43 Knightian uncertainty in economics acknowledge the absence of any quantifiable understanding about a certain hypothetical eventuality. This idea recognises a basic level of human ignorance, a constraint on knowledge, and a basic unpredictable nature of upcoming occurrences. *See* Shabnam Mousavi and Gerd Gigerenzer, "Risk, Uncertainty, and Heuristics," *Journal of Business Research* 67, no. 8 (2014): 1671, https://doi.org/10.1016/j.jbusres.2014.02.013.

44 Retail investors frequently face the peril because they do not possess the ability to grasp the knowledge and performance appraisal of SPACs' portfolio. *See* Akanksha Maria Paul, "Jumping into the SPAC Race: Protecting the UK Retail Investor," *Cambridge Law Review* 7, no. 1 (2022): 41.

45 Niharika Anand, "Special Purpose Acquisition Company," 21.

encounter when going.[46] An additional advantage for SPAC investors is the opportunity to participate in private equity-style deals without committing millions of dollars to the venture.[47]

However, SPACs possess no assets beyond the management's claimed expertise; investors depend on the managers' ability to execute a well-informed acquisition and merger (A&M) decision and negotiate a favorable agreement with the target company. Consequently, SPAC managers find themselves in a critical situation. Their strong motivation to finalize the A&M within the stipulated timeline can lead to scenarios where SPAC managers may overpay for the target company or endeavor to persuade shareholders to approve a less-than-ideal A&M proposal.[48]

3. An Outlook on SPACs Amid the Asian Equity Market

The incorporation of SPACs has not yet gained traction across all Asian economies despite the region's robust private equity sector. Currently, only two Asian jurisdictions, Malaysia and South Korea, have regulations governing SPACs. South Korea was the first Asian nation to legislate and permit SPACs to be listed on its stock exchange in late 2009.[49] Malaysia, the sole country in Southeast Asia to do so, followed suit in 2011.[50] Generally, the regulations enacted by both countries mirror those applicable to SPACs in the United States. Moreover, the Singapore Exchange (SGX) recently started allowing the public listing of SPACs on its main board on September 3, 2021. Furthermore, the Hong Kong Stock Exchange (HKEX) has considered amending its listing rules to accommodate SPACs while intensifying penalties for the illegal trading of shell companies.[51] These pioneering moves by Asian stock exchanges to offer SPAC listing services will likely serve as precedents and role models for many other Asian nations regarding institutional governance structures, especially Indonesia.

As previously established, Indonesia's current regulatory framework does not support the SPAC model. The prerequisites for corporations to publicly list equities

---

46 Brandon Schumacher, "A New Development in Private Equity: The Rise and Progression of Special Purpose Acquisition Companies in Europe and Asia," 399.

47 Brandon Schumacher, 400.

48 Brandon Schumacher, 400-401.

49 Milan Lakicevic, Yochanan Shachmurove, and Milos Vulanovic, "Institutional Changes of Specified Purpose Acquisition Companies (SPACs)," *The North American Journal of Economics and Finance* 28 (2014): 151, https://doi.org/10.1016/j.najef.2014.03.002.

50 Lerong Lu and Lingsheng Zhang, "Singapore's SPAC Listing Regime: A Game Changer or a GAP Filler?" 26.

51 Lerong Lu and Lingsheng Zhang, 26.

on the Indonesian Stock Exchange constitute a barrier to the implementation of the SPAC framework in Indonesia. At present, corporations must meet several requirements to be eligible for a public listing, including but not limited to:[52]

(1) Engaging in commercial operations within the same main business (core business) for at least the last 36 months;
(2) Demonstrating operating income for the corporation over the last three years;
(3) Reporting at least an annual pre-tax operating revenue of IDR 1 billion over the past financial year and a share capitalization value of at least IDR 100 billion, or reporting at least an annual pre-tax operating revenue of IDR 40 billion over the past financial year and a share capitalization value of at least IDR 200 billion; and
(4) Possessing net tangible assets of at least IDR 100 billion, as indicated in the latest audited financial report.

Currently, Special Purpose Acquisition Companies (SPACs) are unable to conduct Initial Public Offerings (IPOs) in Indonesia due to their lack of operational revenues or tangible assets. A critical requirement for incorporating a limited liability company in Indonesia is the necessity to state the company's business purposes and objectives, commonly referred to as the object clause.[53] With certain exceptions, neither the company nor those engaging with it can enforce a contract if its action falls outside its object clause, a principle known as *ultra vires*.[54] Consequently, although SPACs are technically established corporations from an economic standpoint, they serve only a pass-through function and do not meet the statutory prerequisites.[55] The Indonesian legislature has yet to formulate comprehensive statutory guidelines for SPACs. The argument that Indonesian investors need more experience and savvy is becoming increasingly untenable. Indonesia is poised for significant global financial development, which necessitates revising incorporation, accountability, and oversight laws.

C. Do SPACs Pose a Danger to the Prevailing Equity Market? *Sic et Non*

---

52 *See* Regulation Number I-V regarding Special Provisions for Registration of Shares and Equity-Type Securities Other than Shares on Acceleration Boards Issued by Listed Companies and Decree of the Board of Directors of Indonesian Stock Exchange Number: Kep-00059/BEI/07-2019 dated 22 July 2019.

53 *See* Article 2, Article 9 paragraph (1) letter c, Article 15 paragraph (1) letter b, Article 18, and Article 29 paragraph (2) letter a of the Law Number 40 of 2007 regarding Limited Liability Company which has been amended by the Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on the Job Creation to become Law.

54 Douglas Smith, *Company Law* (New York: Taylor & Francis, 2018), 62.

55 Medha Pandey and Adarsh Choubey, "Regulatory Challenges Arising Due to the Emergence of Special Purpose Acquisition Companies (SPAC) in the Indian Corporate Environment," *International Journal of Law Management & Humanities* 4, no. 5 (2021): 1102, https://doij.org/10.10000/IJLMH.112008.

1. Arbitrage of Alternative?

The current economic ecosystem is constrained by biased interests, allowing certain businesses to influence wealth redistribution and garner distortionary revenues without contributing anything valuable or advancing society through creating jobs or socially beneficial innovations. This paper acknowledges that critics of Special Purpose Acquisition Companies (SPACs) may argue that going public via SPAC mergers constitutes regulatory arbitrage.[56]

This process allows companies to bypass the stringent regulatory scrutiny of a traditional Initial Public Offering (IPO) listing, providing investors with information that may be less comprehensive but appears overly confident and overvalued. Furthermore, SPACs inherently carry the risk of insider trading. Should an investor of a SPAC obtain confidential information about a target firm that is already publicly listed, trading securities of the SPAC based on that information would likely be unlawful.

The primary distinction of a SPAC lies in the method of determining the operational corporation's pricing. Instead of relying on an investment banker's valuation to set the price for public investors, SPAC pricing is determined through negotiations between the SPAC's sponsor and the company's executives. Furthermore, going public via a SPAC is not without obligations.[57] The potential for costs incurred in the later stages of a SPAC's operation may indicate an inherent element of arbitrage, reinforcing the theory of the greater fool.

Historically, blank check companies were among the most lucrative instruments for profiting from penny stock "pump-and-dump" schemes.[58] This speculative strategy is predicated on the notion that one can benefit by betting on future equity values, assuming a "greater fool" will always be willing to pay more than the current investor. This arrangement suggests that sponsors can profit even if a prospective

---

56 Measures to take advantage of regulatory framework's weaknesses and inadequacies to alleviate regulatory obligations are known as regulatory arbitrage. It is possible to engage in regulatory arbitrage by circumventing or neutralising regulations. Regulatory arbitrage makes government oversight more difficult to develop and less efficacious. *See* Heikki Marjosola, "The Problem of Regulatory Arbitrage: A Transaction Cost Economics Perspective," *Regulation and Governance* 15, no. 2 (2021): 388, https://doi.org/10.1111/rego.12287.

57 Jay Geiss, "The IPO Alternative: Special Purpose Acquisition Companies Are Gaining Traction in Private Equity," 249.

58 "Pump-and-dump" refers to the practise of an investor promoting (pumping) the value of an equities he owns (and oftentimes completely controls) before selling (dumping) his ownership when the equity achieves an inflated value. *See* Beau Duty, "Business Judgment Rule or Due Diligence? How to Reduce Vicarious Liability for SPAC Directors and Officers," *University of Arkansas at Little Rock Law Review* 44, no. 2 (2021): 252.

SPAC merger or acquisition fails,[59] leading to a potential conflict of interest among sponsors, the executive team, and investors. Investors in SPACs also face specific risks, chiefly because SPACs hold no tangible assets.[60]

Despite the complexities associated with Special Purpose Acquisition Companies (SPACs), they represent an innovative alternative that provides several advantages. There are three primary factors contributing to the growing prominence of SPACs. Firstly, SPACs offer a unique pathway for raising public funds, presenting a cost-effective solution for private companies compared to the upfront costs associated with Initial Public Offerings (IPOs).[61] Secondly, SPACs facilitate a quicker process for private entities to access funding, often securing Private Investment in Public Equity (PIPE) within four to six weeks, markedly faster than traditional IPO methods.[62] Thirdly, institutional and procedural safeguards are in place to protect investor capital, including the implementation of numerous anti-fraud mechanisms. Additionally, before any de-SPAC transaction, the SPAC's executive board is bound by the company's fiduciary duties to its stakeholders, ensuring a layer of accountability and protection for investors.[63]

2. The Knightian Challenge: Risk or Uncertainty?

The inclination of investors to accept "Knightian Uncertainty" has resulted in enhancements to equities regulations. As privatized valuations came to be seen as embodying Knightian Uncertainty, Special Purpose Acquisition Companies (SPACs) have risen in popularity among retail investors.[64] Regrettably, individuals often assess an innovation solely by its apparent merits, neglecting to acknowledge the presence of any statutory and regulatory safeguards designed to provide protection—this observation also holds true for SPACs.[65]

Regarding risk and uncertainty—and the indistinct boundary between them—SPACs could theoretically facilitate the listing of high-growth, early-stage companies

---

59 Naturally, the founding sponsors are compensated for the risk they undertake. Sponsors are likely to suffer a loss of their entire portfolio if the real worth of their founder shareholdings did not necessarily appreciate substantially or if SPAC is inevitably liquidated due to its inability to ensure an acquisition since the funds they contribute is put to pay for the IPO, recurring governance reporting and disclosure, and the costs of running SPAC. *See* Jay Geiss, 250.

60 Jay Geiss, 251.

61 Beau Duty, 257.

62 As compared to 4-6 months in a conventional IPO (depending on the jurisdictions). *See* Beau Duty.

63 Beau Duty, 257-258.

64 Shabnam Mousavi and Gerd Gigerenzer, “Risk, Uncertainty, and Heuristics,” 134.

65 Swankit Kumar Nanda and Deyasini Chakrabarti, “SPAC: The Way Ahead to Future,” *International Journal of Law Management & Humanities* 5, no. 1 (2022): 93.

in industries that public investors find difficult to assess. These companies require public backing, enabling the public to invest in an initial phase. The overall economy could benefit from this theoretical situation.[66] Challenging conventional wisdom, businesses with inherent deficiencies often make their way into the capital markets rather than meritorious firms with compelling yet complex business models. These companies are justifiably excluded from participating in traditional IPOs due to unresolved legal issues, weak financial positions, or dubious operations that generate little to no revenue, much less profit.

Anecdotal evidence suggests that SPACs actively seek private equity investments from companies considering an exit or in need of financial injections. Retail investors appear to be left out of the loop, bearing the risks or uncertainties by "flying blind" and committing before an acquisition or merger transaction is revealed.[67] Individual (retail) investors are particularly vulnerable due to their inability to rely on the judgment of seasoned shareholders, a consequence of information asymmetry.[68]

3. The Tendency for SPAC's Sponsors and Executives to "See Things Through"

The owners of a SPAC are likely to own a significant portion of the target business, creating a potential incentive to realize substantial profits from the acquisition and merger (A&M). There is a tendency for shareholders and executives to enthusiastically promote the potential of SPAC's A&M to secure deal approval.[69] Moreover, SPAC executives receive compensation only when an A&M transaction is finalized.[70] This situation fosters a belief among SPAC shareholders and executives that they can control a significant share of the business, a share they would not have access to without the A&M.[71] Frequently, SPAC executives and sponsors may prefer to identify a target company that is easier to merge within a specified timeframe, rather than seeking the most suitable target.[72] Additionally, more is needed to say

---

[66] Bobby V. Reddy, "Warning the UK on Special Purpose Acquisition Companies (SPACs): Great for Wall Street but a Nightmare on Main Street," *Journal of Corporate Law Studies* 22, no. 1 (2022): 36, https://doi.org/10.1080/14735970.2022.2036413.

[67] Bobby V. Reddy, 37.

[68] Mira Ganor, "The Case for Non-Binary, Contingent, Shareholder Action," 412.

[69] Andrew F Tuch and Joel Seligman, "The Further Erosion of Investor Protection: Expanded Exemptions, SPAC Mergers, and Direct Listings," *Iowa Law Review* 108, no. 1 (2022): 340.

[70] Samantha K. Keleher, "SPACs and the Present Regulatory Conundrum," *Virginia Law and Business Review* 16, no. 2 (2022): 366.

[71] Shabnam Mousavi and Gerd Gigerenzer, "Risk, Uncertainty, and Heuristics," 136.

[72] Lu, "Singapore Exchange Embraces the Listing of Special Purpose Acquisition Companies (SPACs): Motivations, Advantages, and Regulations," 297.

that an executive was selected or appointed merely at the discretion of those in charge, which is often the case in corporate executive appointments.[73] Instead, the focus should be on ensuring executives fulfill their duties with diligence, dedication, and personal accountability.[74]

4. Efforts to Regulate SPACs and Its Regulatory Paradox Against IPOs

This paper has established that equities oversight safeguards the general public from participating in equities with questionable worth. It accomplishes this by primarily forbidding businesses from offering unregulated equities to inexperienced investors and incentivizing the sale of equities on equity markets. Berle and Means argued that the traditional view of shareholders as the actual owners of a corporation has evolved. In contemporary corporations, investors effectively entrust their wealth to those managing the corporation, transitioning from the role of independent owners to potentially merely recipients of capital returns.[75] Over recent decades, the financial landscape has become increasingly complex and uncertain. The private sector and governmental agencies have proactively responded to these challenges by expanding regulatory frameworks or developing increasingly sophisticated risk management strategies.

The prevailing financial regulatory paradigm focuses on rational actors making decisions within environments characterized by identifiable, measurable risks. In this context, complexity is not seen as detrimental because the acquisition of more excellent knowledge is always valued over limited understanding, with the premise that decisions should fully consider all relevant information. This pursuit of ever-greater precision has continuously increased the complexity and intricacy of financial regulations.[76] Regulators are tasked with protecting investors from Knightian risks[77] and uncertainty, maintaining a clear distinction between investment and speculation—a necessity for the efficient operation of equity markets.[78] The objective of such regulation should be to prevent private enterprises with

---

73 Lee Roach, *Company Law*, *2nd ed.* (Oxford: Oxford University Press, 2022), 199.

74 A. J. Harris, "SPAC the Deck: Why the Control Exerted by SPAC Sponsors Subjects De-SPAC Transactions to Entire Fairness Review," 583-584.

75 Carsten Gerner-Beuerle and Michael Schillig, *Comparative Company Law* (Oxford: Oxford University Press, 2019), 232.

76 David Aikman (et.al.), "Taking Uncertainty Seriously: Simplicity versus Complexity in Financial Regulation," *Industrial and Corporate Change* 30, no. 2 (2021): 318, https://doi.org/10.1093/icc/dtaa024.

77 Some instances of risks suggested by Knight involve circumstances when probability can be calculated beforehand (*a priori*). *See* David Aikman (et.al.), 318.

78 Shabnam Mousavi and Gerd Gigerenzer, "Risk, Uncertainty, and Heuristics," 146.

indeterminate potential from issuing securities to uninformed investors.[79] However, this perspective should not inherently classify the concept of SPACs as malevolent or unjust. It may be prudent to afford SPACs the benefit of the doubt. The current benchmark for the effective design of financial regulations leans towards simplicity rather than complexity. When regulations become overly complex, significant resources may be diverted to exploiting regulatory loopholes and ensuring compliance, leading to potentially unproductive societal behavior.

Additionally, complexity often creates perverse incentives, as certain entities may benefit from navigating these intricacies. On the contrary, more straightforward regulations are easier to understand and communicate to key stakeholders, potentially offering broader benefits. Clarity could lead to improved decision-making. While simple rules are not a panacea, favoring simplicity over complexity could enhance societal outcomes in a world characterized by Knightian uncertainty.[80] Therefore, governmental financial regulations should address the financial industry's complexity and uncertainty with a straightforward and simple approach while ensuring that protective measures to safeguard stakeholders' interests are effectively implemented.[81]

Equity regulation aims to ensure that transactions on a stock exchange reflect investment rather than speculative activity. Companies with a promising potential for creating substantial future value should be allowed to raise capital from investors under more favorable conditions compared to those with lesser prospects.[82] SPACs particularly challenge the established norms, as they offer an alternative avenue for raising capital outside traditionally regulated equity markets. Additionally, there needs to be more concern regarding entrepreneurs' strong incentives to increase private company valuations rapidly. Often characterized by a risk-taking mindset, startups may only partially value the importance of transparent disclosure to investors, perceiving it as a hindrance to their business ventures.[83]

---

79 James J. Park, "Investor Protection in an Age of Entrepreneurship," *Harvard Business Law Review Business Law Review* 12, no. 1 (2022): 130.

80 David Aikman (et.al.), "Taking Uncertainty Seriously: Simplicity versus Complexity in Financial Regulation." 342.

81 The current innovation has undoubtedly stimulated collaboration between members of various societies and went beyond borders, causing an immediate territorial impact in today's globalised economy. *See* Russel Butarbutar, "Legal Formulation to Overcome Base-Erosion and Profit-Shifting Practices of Digital-Economy Multinational Enterprise in Indonesia," *Padjadjaran Jurnal Ilmu Hukum* 9, no. 3 (2022): 324, https://doi.org/10.22304/pjih.v9n3.a2.

82 Shabnam Mousavi and Gerd Gigerenzer, "Risk, Uncertainty, and Heuristics," 147-148.

83 Shabnam Mousavi and Gerd Gigerenzer, "Risk, Uncertainty, and Heuristics." 149.

This paper presents several recommendations for market authorities, drawing on regulatory and jurisdictional experiences with SPACs in the United States and adopting a simplistic market approach. While proposing reforms to SPAC regulations, this paper does not necessarily advocate for private businesses to favor IPOs over SPACs, as neither method consistently surpasses the other in performance. However, it identifies a compelling rationale for recommending enhanced regulatory scrutiny.

a) To institute new, stricter regulations for information disclosure to protect investors and maintain equity market integrity. Investors in Special Purpose Acquisition Companies (SPACs) often make their investment decisions based on less rigorously scrutinized information than the material presented in traditional IPOs.[84] Furthermore, the absence of a measurable company history disadvantages investors.[85] The disclosure requirements could enable novice investors to better understand market trends and positioning, thereby identifying potential investment concerns. Market authorities might mandate that SPAC executives provide more detailed, significant, and authentic disclosure in their prospectuses or periodic reports. Additionally, there could be a focus on enhancing shareholders' rights, including the right to ask questions, propose resolutions, vote by proxy, and participate in general meetings through electronic means.[86]
b) This study emphasizes the crucial role of investment banks as gatekeepers in SPAC Acquisitions and Mergers (A&M) processes, mirroring their responsibilities in Initial Public Offerings (IPOs). It posits that when investment banks participate in SPAC transactions, they must ensure the integrity and thoroughness of disclosures to investors, acting as diligent overseers. Should these entities neglect to conduct comprehensive investigations, this paper argues that they should be held accountable for any deficiencies in the information provided to investors. This recommendation highlights the importance of rigorous vetting by investment banks to protect investor interests and maintain market transparency.
c) To enhance accountability through the implementation of liability aggravation policies for key stakeholders. Elevating the responsibilities of principal

---

[84] Andrew F Tuch and Joel Seligman, "The Further Erosion of Investor Protection: Expanded Exemptions, SPAC Mergers, and Direct Listings," 343.

[85] Sean Meyer, "Attack on the SPAC: The Push to Regulate Special Purpose Acquisition Companies as Investment Companies Under the Investment Company Act," *University of Cincinnati Law Review* 91, no. 1 (2022): 249.

[86] Nicola de Luca, *European Company Law*, *2nd Edition* (New York: Cambridge University Press, 2021), 273.

stakeholders is a pivotal measure for mitigating "agency costs" in SPACs. The phrase “agency cost” specifically refers to the effect of the division of ownership and management in contemporary organizations, in which the interests of owners and managers could conflict. The issue of agency cost is pervasive among individual retail investors and executives across both SPAC and target companies. Executives must adhere to a stringent standard of care, aligning with the duty of care stipulated in the nomination statements of most jurisdictions.

This duty towards the company translates to a commitment to safeguarding capital. Often, the failure of executives to conduct thorough due diligence stems not from a deliberate intention to deceive investors but from an oversight of significant red flags. The crux of the matter lies in the behavioral aspect; even if specific details about SPACs and their target companies elude defendants, they are obligated to seek out relevant information to fulfill their duty of due diligence. Consequently, any failure to act upon or rectify inaccurate or fraudulent information must be construed as negligence on the part of the executives in performing their due diligence responsibilities.

d) Introducing a pre-emptive right for exercising the redemption right[87] in SPAC. Shares in a company in a corporation are, by default, freely transferable, barring any limitations set by the company’s articles of association.[88] These provisions shift the majority of the expenses and the risk of capital dilution onto shareholders who opt not to exercise their redemption right, offering investors the opportunity to assess the proposed corporate acquisition and relinquish their shares if desired.[89] An alternative approach could involve structuring warrants and shares in a way that mandates shareholders who redeem their shares to forfeit them while allowing those who do not redeem to retain their holdings. Furthermore, considering the liquidity of SPAC shares, it would be more practical

87 The shareholder’s pre-emptive right is an ability to partake in future stock issuances by the corporation to avoid shareholder dilution. *See* Mira Ganor, “The Case for Non-Binary, Contingent, Shareholder Action.” 416.

88 The articles of nearly all (if not all) private companies restrict members’ rights to transfer their shares. This is done to ensure control over the management and direction of the company. Although a share is a chose in action, the transfer of shares is not governed solely by the ordinary rules of assignment of choses in action. The legal title to shares is transferred only by registration of the new holder’s name in the company’s register of members. In this case, however, bearer shares are an exception. *See* Sarah Worthington, *Sealy and Worthington’s Text, Cases, and Materials in Company Law, 11th Ed.* (Oxford: Oxford University Press, 2016), 599.

89 Gül Okutan Nilsson, “Incentive Structure of Special Purpose Acquisition Companies,” *European Business Organization Law Review* 19, no. 2 (2018): 268, https://doi.org/10.1007/s40804-018-0105-7.

for investors to have the option to transfer their shares rather than liquidate them.

e) Adopting emerging technological innovations, such as distributed ledger technology, is essential. Such innovations, including algorithmic trading, generate substantial interest in the securities market and its regulation.[90] These technologies possess the potential to boost liquidity, improve price efficiency, and enhance information dissemination. By reducing the price of clearance and settlements, blockchain technology could increase liquidity in both the public and private market forces. By driving down costs incurred when going public, such as those related to dividend payouts, the innovation may potentially convince businesses to IPO. Moreover, distributed ledger technology could enhance pricing accuracy by offering continuous, near real-time access to unprocessed data from issuers to securities analysts, potentially without incurring extra costs.

f) This study recognizes the A&M (acquisition and merger) period as a factor perpetuating these misaligned motivations and recommends its extension, subject to further research to determine the duration required. The current two-year waiting period for acquisitions appears arbitrary and exacerbates the issue of executive teams hastily pursuing takeovers, disadvantaged by negotiating under a stringent deadline.

g) To address the misaligned incentives between SPAC executives and shareholders, executive compensation should be linked to the acquired company's performance once it goes public. This requires the executive team to retain their shares for a specified period, thereby internalizing certain liabilities and ensuring they have a vested interest in the company's success, or "skin in the game."

h) This paper recommends granting SPAC shareholders more significant influence over the selection of businesses that SPACs aim to acquire. Currently, SPAC investors are limited to merely voting to approve proposed acquisitions. This restriction denies investors any further means to impact a SPAC's management—or mismanagement—. Expanding the rights and powers of SPAC investors while they participate in SPACs is crucial to fostering more active and informed involvement in future SPAC ventures.

---

90 Edward F. Greene (et.al.), “The Need for a Comprehensive Approach to Capital Markets Regulation,” *Columbia Business Law Review* 2021, no. 2 (2022): 792, https://doi.org/10.52214/cblr.v2021i2.8637.

Although the rationale for these recommendations is primarily derived from the United States and European capital markets, adjustments to the SPAC framework will be necessary to accommodate the unique characteristics of each country, should SPACs become more widespread. It is noteworthy that despite the growing popularity of SPACs, businesses are increasingly of the opinion that the costs associated with undertaking an Initial Public Offering (IPO) may surpass the benefits. This situation presents a regulatory paradox, where traditional IPOs coexist with SPACs—a model intrinsically designed to disclose less information, thereby having fewer disclosure requirements.

As previously mentioned, authorities should consider the benefits of SPACs and their regulatory potential as a genuine opportunity to reevaluate regulations governing IPOs instead of forcing SPACs into an IPO-based regulatory framework or excessively regulating SPACs to the point of diminishing their value to consumers and investors—as observed in traditional IPOs, which have led to restrictive outcomes—curtailing the broad opportunities for individual investors to participate in the economy.[91] This approach contrasts with the narrative of stringent regulatory standards. It is essential to recognize that SPACs and IPOs are not mutually exclusive but offer distinct avenues for companies to access public markets.[92]

Policymakers could interpret the current interest in SPACs not as evidence of their misalignment with regulatory objectives warranting elimination but as a signal that the standard IPO process could be simplified while maintaining its security and efficiency for introducing private companies to the stock market. This supervisory gap may be narrowed partly by regulating SPACs, as previously discussed and partly by easing the burdensome requirements and costs associated with the traditional IPO route for private businesses. Furthermore, examining the bottlenecks in the IPO process that have led entrepreneurs to revive an old corporate structure rather than pursue a conventional IPO is worthwhile.

If existing IPO procedures have become a barrier to private companies considering going public, authorities must take steps to enable and encourage new market entrants without compromising the investor protections that make such investments appealing.[93] In such circumstances, there is an increased demand for financial support from Indonesian and other Asian enterprises to navigate these

---

91 Samantha K. Keleher, "SPACs and the Present Regulatory Conundrum." 371-373.

92 Samantha K. Keleher, 373.

93 Sean Meyer, "Attack on the SPAC: The Push to Regulate Special Purpose Acquisition Companies as Investment Companies Under the Investment Company Act," 250.

challenging times. Allowing SPACs to list at this critical juncture offers an alternative investment route for small investors and aids the corporate sector in raising funds for post-pandemic economic recovery.[94]

D. Conclusion

SPACs, like all investments, inherently carry risks and represent a futuristic venture requiring careful oversight. The introduction of precise regulations in specific domains will address the regulatory gaps associated with SPACs. This document validates the value of SPACs for technology startups and underscores the current inadequacies within the Indonesian corporate law framework for accommodating SPACs.

Moreover, the Indonesian Stock Exchange's stringent compliance and regulatory demands pose additional obstacles to SPAC operations within Indonesia, necessitating ongoing governmental support and intervention. Despite calls for swift regulatory actions, the rapid expansion of SPACs has limited regulators' ability to bridge existing gaps effectively. If excessively regulated, policymakers and lawmakers may inadvertently promote SPACs as an alternative to traditional IPOs without offering tangible benefits. To navigate these complexities, it is recommended that policymakers and lawmakers enforce enhanced information disclosure rules, ensure investment banks act as gatekeepers, uphold strict duties of care, mandate preemptive rights, and leverage emerging technologies like distributed ledger, among other measures outlined in this paper.

E. Acknowledgment

The authors express profound appreciation and gratitude to Dr. Lerong Lu, Dr. Anat Keller, Mr. Ilias Ioannou, and Mrs. Cari Hyde-Vaamonde from the Law & Policy of Financial Technologies (7FFLL552) module offered during the Autumn Term at the Dickson Poon School of Law, King’s College London (University of London), for their invaluable assistance which significantly supported this research. Additionally, our sincere thanks are extended to the entire team and the Padjadjaran Journal of Law editorial board for the considerable time and effort invested in enhancing this work.

The authors also extend their deep appreciation for the financial support partially provided by Batam International University through Research and Publication Grant Number 025/LPPM/KP-UIB/III/2023 for this study. Additionally, this paper was developed as part of the lead author's independent research during

---

94 Lerong Lu and Lingsheng Zhang, “Singapore’s SPAC Listing Regime: A Game Changer or a GAP Filler?” 33.

their tenure at the Dickson Poon School of Law, King's College London, funded by the British Government Chevening Scholarship. It is important to note that the views expressed in this paper are solely those of the authors and do not necessarily reflect the positions of the Foreign, Commonwealth & Development Office (FCDO) or any other affiliated institutions.

References

Books

Davies, Paul. *Introduction to Company Law*, *3rd Ed*. Oxford: Oxford University Press, 2020.

De Luca, Nicola. *European Company Law, 2nd Ed*. New York: Cambridge University Press, 2021.

Dignam, Alan and John Lowry. *Company Law, 12th Ed*. Oxford: Oxford University Press, 2022.

Dine, Janet and Marios Koutsias, *Company Law, 9th Ed*. London: Bloomsbury Publishing, 2020.

Gerner-Beuerle, Carsten and Michael Schillig, *Comparative Company Law*. Oxford: Oxford University Press, 2019.

Hannigan, Brenda. *Company Law*, *6th Ed*. Oxford: Oxford University Press, 2021.

Hudson, Alastair. *Understanding Company Law*, *2nd Ed*. Oxon: Routledge, 2018.

Roach, Lee. *Company Law, 2nd Ed*. Oxford: Oxford University Press, 2022.

Smith, Douglas. *Company Law*. New York: Taylor & Francis, 2018.

Talbot, Lorraine. *Critical Company Law, 2nd Ed*. Oxon: Routledge, 2016.

Worthington, Sarah. *Sealy and Worthington's Text, Cases, and Materials in Company Law*, *11th Ed*. Oxford: Oxford University Press, 2016.

Other Documents

Aikman, David (et.al.) "Taking Uncertainty Seriously: Simplicity versus Complexity in Financial Regulation." *Industrial and Corporate Change* 30, no. 2 (2021): 317–345. https://doi.org/10.1093/icc/dtaa024.

Anand, Niharika. "Special Purpose Acquisition Company." *Court Uncourt* 7, no. 4 (2020): 21–22.

Brown, Keith C. and Kenneth W. Wiles. "The Growing Blessing of Unicorns: The Changing Nature of the Market for Privately Funded Companies." *Journal of Applied Corporate Finance* 32, no. 3 (2020): 52–72. https://doi.org/10.1111/jacf.12418.

Bursztynsky, Jessica and Alex Sherman. “BuzzFeed Shares Close down 11% on First Day of Trading after SPAC Merger.” Accessed on December 24, 2022. https://www.cnbc.com/2021/12/06/buzzfeed-stock-falls-surge-on-first-day-of-trading-after-spac-merger.html.

Butarbutar, Russel. “Legal Formulation to Overcome Base-Erosion and Profit-Shifting Practices of Digital-Economy Multinational Enterprise in Indonesia,” *Padjadjaran Jurnal Ilmu Hukum* 9, no. 3 (2022): 323–342, https://doi.org/10.22304/pjih.v9n3.a2.

Duty, Beau. “Business Judgment Rule or Due Diligence? How to Reduce Vicarious Liability for SPAC Directors and Officers.” *University of Arkansas at Little Rock Law Review* 44, no. 2 (2021): 251–280.

Fontenay, Elisabeth de, and Gabriel Rauterberg. “The New Public/Private Equilibrium and the Regulation of Public Companies.” *Columbia Business Law Review* 2021, no. 3 (2021): 1199–1243. https://doi.org/10.52214/cblr.v2021i3.9108.

Ganor, Mira. “The Case for Non-Binary, Contingent, Shareholder Action.” *University of Pennsylvania Journal of Business Law* 23, no. 2 (2021): 390–428. https://dx.doi.org/10.2139/ssrn.3530596.

Geiss, Jay. “The IPO Alternative: Special Purpose Acquisition Companies Are Gaining Traction in Private Equity.” *Journal of Corporation Law* 47, no. 1 (2021): 235–258.

Georgiev, George S. “The Breakdown of the Public-Private Divide in Securities Law: Causes, Consequences, and Reforms.” *New York University Journal of Law & Business* 18, no. 1 (2021): 221–316.

Greene, Edward F. (et.al.) “The Need for a Comprehensive Approach to Capital Markets Regulation.” *Columbia Business Law Review* 2021, no. 2 (2022): 714–795. https://doi.org/10.52214/cblr.v2021i2.8637.

Harris, A. J. “SPAC the Deck: Why the Control Exerted by SPAC Sponsors Subjects De-SPAC Transactions to Entire Fairness Review.” *Fordham Journal of Corporate and Financial Law* 27, no. 2 (2022): 563–618.

Keleher, Samantha K. “SPACs and the Present Regulatory Conundrum.” *Virginia Law and Business Review* 16, no. 2 (2022): 357–374.

Kollruss, Thomas Walter. “Consolidated Financial Statements and Global Tax Policy (OECD BEPS) Insights from a Multijurisdictional Case Study.” *SN Business & Economics* 2, no. 9 (2022): 1–17. https://doi.org/10.1007/s43546-022-00294-3.

Lakicevic, Milan and Milos Vulanovic. “A Story on SPACs.” *Managerial Finance* 39, no. 4 (2013): 384–403. https://doi.org/10.1108/03074351311306201.

Lakicevic, Milan, Yochanan Shachmurove, and Milos Vulanovic. “Institutional Changes of Specified Purpose Acquisition Companies (SPACs).” *The North*

American Journal of Economics and Finance 28 (2014): 149–169. https://doi.org/10.1016/j.najef.2014.03.002.

Lu, Lerong. "Singapore Exchange Embraces the Listing of Special Purpose Acquisition Companies (SPACs): Motivations, Advantages, and Regulations." *The Company Lawyer* 43, no. 9 (2022): 296–300.

Lu, Lerong, and Lingsheng Zhang. "Singapore's SPAC Listing Regime: A Game Changer or a GAP Filler?" *Securities Regulation Law Journal* 50, no. 1 (2022): 25–55. https://dx.doi.org/10.2139/ssrn.3929493.

Marjosola, Heikki. "The Problem of Regulatory Arbitrage: A Transaction Cost Economics Perspective." *Regulation and Governance* 15, no. 2 (2021): 388–407. https://doi.org/10.1111/rego.12287.

Meyer, Sean. "Attack on the SPAC: The Push to Regulate Special Purpose Acquisition Companies as Investment Companies Under the Investment Company Act." *University of Cincinnati Law Review* 91, no. 1 (2022): 230–252.

Mousavi, Shabnam, and Gerd Gigerenzer. "Risk, Uncertainty, and Heuristics." *Journal of Business Research* 67, no. 8 (2014): 1671–1678. https://doi.org/10.1016/j.jbusres.2014.02.013.

Nanda, Swankit Kumar, and Deyasini Chakrabarti. "SPAC: The Way Ahead to Future." *International Journal of Law Management & Humanities* 5, no. 1 (2022): 87–100.

Nelson, Elizabeth A. "Special Purpose Acquisition Companies and the PSLRA's Safe Harbor for Forward Looking Statements." *North Carolina Banking Institute* 26 (2022): 229–247.

Newman, Neal F. and Lawrence J Trautman. "Special Purpose Acquisition Companies (SPACS) and the SEC." *University of Pennsylvania Journal of Business Law* 24, no. 3 (2022): 639–699. https://dx.doi.org/10.2139/ssrn.3905372.

Nilsson, Gül Okutan. "Incentive Structure of Special Purpose Acquisition Companies." *European Business Organization Law Review* 19, no. 2 (2018): 253–274. https://doi.org/10.1007/s40804-018-0105-7.

Nugraheni, Ninis. "Crowdfunding-Based Fiduciary Warrant in Providing Capital Loans for Small and Medium Enterprises." *Hasanuddin Law Review* 6, no. 3 (2020): 224–231, https://doi.org/10.20956/halrev.v6i3.2201.

Pandey, Medha, and Adarsh Choubey. "Regulatory Challenges Arising Due to the Emergence of Special Purpose Acquisition Companies (SPAC) in the Indian Corporate Environment." *International Journal of Law Management & Humanities* 4, no. 5 (2021): 1094–1111. https//doij.org/10.10000/IJLMH.112008.

Park, James J. "Investor Protection in an Age of Entrepreneurship." *Harvard Business Law Review* 12, no. 1 (2022): 107–156.

Passador, Maria Lucia. "In Vogue Again: The Re-Rise of SPACs in the IPO Market." *Brooklyn Journal of Corporate, Financial & Commercial Law* 16, no. 2 (2022): 105–166. https://doi.org/10.2139/ssrn.3820957.

Paul, Akanksha Maria. "Jumping into the SPAC Race: Protecting the UK Retail Investor." *Cambridge Law Review* 7, no. 1 (2022): 33–56.

Pritchard, A.C., and Robert B. Thompson. "The Future of Securities Law in the Supreme Court." *Columbia Business Law Review* 2021, no. 2 (2021): 881–913. https://doi.org/10.52214/cblr.v2021i2.8640.

R. Nofsinger, John and Abhishek Varma. "Pound Wise and Penny Foolish? OTC Stock Investor Behavior." *Review of Behavioral Finance* 6, no. 1 (2014): 2–25. https://doi.org/10.1108/RBF-12-04-02.

Raghuvanshi, Amisha. "The Embryonic Stage of Special Purpose Acquisition Companies in India: Prevailing Obstacles and the Way Forward." *Nirma University Law Journal* 11, no. 2 (2022): 101–114.

Reddy, Bobby V. "Warning the UK on Special Purpose Acquisition Companies (SPACs): Great for Wall Street but a Nightmare on Main Street." *Journal of Corporate Law Studies* 22, no. 1 (2022): 1–44. https://doi.org/10.1080/14735970.2022.2036413.

Rodrigues, Usha and Mike Stegemoller. "Exit, Voice, and Reputation: The Evolution of SPAC." *Delaware Journal of Corporate Law* 37, no. 3 (2014): 849–927. https://doi.org/10.2139/ssrn.1948642.

Schumacher, Brandon. "A New Development in Private Equity: The Rise and Progression of Special Purpose Acquisition Companies in Europe and Asia." *Northwestern Journal of International Law and Business* 40, no. 3 (2020): 391–416.

Spamann, Holger and Hao Guo. "The SPAC Trap: How SPACs Disable Indirect Investor Protection." *Yale Journal on Regulation* 40 (2022): 75–86. https://doi.org/10.2139/ssrn.4135558.

Tan, David. "Scrutinizing Perseroan Perorangan: The Brainchild of Societas Unius Personae in the Realm of Indonesian Company Laws." *Lex Scientia Law Review* 6, no. 2 (2022): 391–442. https://doi.org/10.15294/lesrev.v6i2.56059.

Tuch, Andrew F. and Joel Seligman. "The Further Erosion of Investor Protection: Expanded Exemptions, SPAC Mergers, and Direct Listings." *Iowa Law Review* 108, no. 1 (2022): 303–377.

Vulanovic, Milos. "SPACs: Post-Merger Survival." *Managerial Finance* 43, no. 6

(2017): 679–699. https://doi.org/10.1108/MF-09-2016-0263.
Wayland, Michael. "DOJ and SEC Send Warning to SPACs with Criminal Charges against Nikola Founder Trevor Milton." Accessed on December 24, 2022. https://www.cnbc.com/2021/08/02/nikola-founder-criminal-charges-putother-spacs-on-notice.html.
Weiss, Lukáš. "SPACs in the AIFMD Context." *Financial Law Review* 25, no. 3 (2022): 33–49.

Legal Documents

Law Number 40 of 2007 on the Limited Liability Company [*Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas*].
Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on the Job Creation to become Law [*Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja menjadi Undang-Undang*].
Regulation Number I-V on the Special Provisions for Registration of Shares and Equity-Type Securities Other than Shares on Acceleration Boards Issued by Listed Companies.
Decree of the Board of Directors of Indonesian Stock Exchange Number: Kep-00059/BEI/07-2019 dated July 22, 2019 [*Keputusan Direksi Bursa Efek Indonesia Nomor: Kep-00059/BEI/07-2019 tanggal 22 Juli 2019*].