

Snapshot: SPACs - the Luxembourg alternative

Insights - 30/03/2021

Will 2021 be the year of special purpose acquisition companies (SPACs) in Luxembourg?

While SPACs have existed for decades on public markets, a revival seems to be taking place, with SPACs representing about 60 percent of IPOs in the US in 2020. February 2021 saw the launch of the first Luxembourg SPAC^[1] in more than 10 years, highlighting the potential for Luxembourg to become the European hub for this type of funding structure. The jurisdiction not only offers a flexible and tax efficient legal framework but also the ability to rely on the European passport mechanism set forth in the Prospectus Regulation^[2].

What is a SPAC?

A SPAC is essentially a shell company formed with no business purpose or undertaking other than to raise funds for some future undefined object, and then later use the proceeds of that offering to acquire a private company in a reverse merger.

The success of a SPAC is therefore mainly based on the confidence that investors have in the founders of the SPAC and, in particular, their sector expertise and their ability to make one or more acquisitions. In order to mitigate for the lack of visibility, different mechanisms are put in place to ensure a certain protection for investors.

The SPAC itself has a limited time in which to identify a target and complete its acquisition, usually between 18 and 24 months. If the SPAC fails to complete an acquisition by the applicable deadline, the funds raised in the IPO are returned to investors. Investors also have the right to redeem their shares and receive back their original investment immediately before an acquisition takes place if they do not want to participate.

For more details, please see our publication [2020: Private Equity embraces the Special Purpose Acquisition Company during a record year.](#)

What are the advantages of a SPAC for private equity players?

SPACs are generally structured like a private equity fund. This is particularly the case with regard to the terms of governance of the SPAC and the profit-sharing of the founders - who are generally both managers and investors – which is directly linked to the success of the SPAC.

However, unlike private equity funds, SPACs don't fall within the scope of the AIFM directive^[3] because they will become an operating company and/or holding company of a group upon the combination with the target.

Another benefit of SPACs is to allow the public to carry out private equity transactions by going through the stock exchange, allowing investors to benefit from all the guarantees offered by listed companies (notably in terms of regulation and information) and can then easily exchange securities.

The other major advantage of a SPAC is its ability to act quickly. With large cash reserves at their disposal, once they are listed, they can seize opportunities much faster than if they had to raise funds after having identified the target.

Listing a SPAC in Luxembourg

Upon its admission to listing in Luxembourg, the SPAC will have to comply with the admission rules applicable to the Luxembourg Stock Exchange or, if listed in another country in accordance with the passport mechanism set forth in the Prospectus Regulation, by the rules of such exchange.

In accordance with the Prospectus Regulation, a SPAC will have to use a prospectus approved by the Commission de Surveillance du Secteur Financier.

The prospectus or the information document will set out the terms and conditions of the offer as well as the main characteristics of the securities offered. Thus, the total amount of the offer (with a possible extension or over-allotment clause allowing the amount to increase), the number of securities offered, the price of each security or the minimum subscription amount per investor will be contractually specified. Close attention will also have to be paid to the description of the investment scope and parameters to be taken into account by the SPAC to identify an appropriate target in order to comply with the requirements of the Transparency Directive^[4].

Once listed, the SPAC will also be subject to all applicable market rules, both on market abuse and disclosure requirements. The investor thus benefits from the security and liquidity of the market concerned.

[1] Lakestar SPAC 1 SE

[2] Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the

prospectus to be published when securities are offered to the public or admitted to trading on a regulated market

[3] Law of 12 July 2013 relating to alternative investment fund managers, transposing the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on alternative investment fund managers.

[4] Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market.

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Meet the Author



[Bertrand Gérardin](#)

Partner

[Luxembourg Legal Services](#)

E: bertrand.geradin@ogier.com

T: [+352 2712 2029](tel:+35227122029)

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