MARSH

SPECIAL PURPOSE ACQUISITION COMPANIES

SPAC Risk Specialists: Protecting Your Assets Before and After IPO

Protecting the personal assets of the directors and officers of a SPAC requires a deep understanding of the potential liabilities and risks associated with raising capital, pursuing a target, and completing the business combination.

Marsh is the insurance partner for more than 30% of the SPACs that have emerged from IPO in the last 18 months, managing risk for more than $20 billion in assets for our SPAC clients.

Spotlight on SPAC D&O Risk

The directors and officers of special purpose acquisition companies (SPACs) face unique exposures and a direct risk to their personal assets as the funds held in SPAC trusts cannot be used to indemnify them. In the absence of a properly crafted insurance program, individuals could be forced to dip into their own pockets to cover the defense costs and potential settlements as a result of a claim.

A record 428 federal securities class action lawsuits were filed in 2019 – the third consecutive year of more than 400 lawsuits. The 2019 filings drove more than $1 trillion in market capitalization losses. These lawsuits highlight the liabilities that SPACs and their directors and officers could face arising from:

- Representations made within IPO road shows, S-1s, and quarterly and annual filings.
- Due diligence and business combination proxy filings.
- Ongoing operations of post-combination entities.

Managing the Risk

Marsh's SPAC clients count on us to provide:

- D&O insurance policy terms that line up with a SPAC's due diligence period.
- Proprietary SPAC peer benchmarking inclusive of pricing.
- Pre-negotiated tail coverage to cover claims against the SPAC brought after completion of a business combination.
- Claims advocacy in the event of a loss.
- Broad policy conditions including coverage for:
  - ✓ Claims brought by prospective targets and PIPE investors.
  - ✓ Alleged violations of the Securities Exchange Acts of 1933 and 1934, Dodd-Frank, and Sarbanes-Oxley.
  - ✓ Investigations by regulators.
  - ✓ Indemnity owed to sponsor entities and underwriters named in suits.
  - ✓ Personal assets of the D&Os.
  - ✓ Balance sheet protection for the SPAC.

MARSH & McLENNAN COMPANIES

REPS AND WARRANTY INSURANCE MIGHT BE THE RIGHT CHOICE

In addition to providing improved deal certainty and reducing friction in negotiating a suitable indemnity, the use of reps and warranty insurance on SPAC deals offers the buyer the following benefits:

- Provides recourse for the buyer where there is no seller indemnity available in the purchase agreement.
- Provides a key differentiator in competitive auction processes, which is crucial for a SPAC with a limited time horizon to make an acquisition.
- Preserves key relationships with the founder sellers by eliminating the need to pursue claims against them post-closing.
- Reduces the risk of litigation against the sellers for breach of contract post-closing which could otherwise result in negative publicity and an adverse effect on the stock price.

Additional Solutions & Services

1. Transaction risk

- Pre-acquisition insurance and risk management due diligence.
- Insurance capital solutions to address deal risks: representations and warranties, environmental, tax
- Post-acquisition insurance placement and transaction related insurance needs: key person, claims-made run-off.
- Exit solutions that address legacy liabilities in strategic sales, bankruptcies, and initial public offerings (IPO).

2. Portfolio-level risk

- Execution of pre-acquisition proposed savings using Marsh's unique purchasing platform.
- Optimize costs across a portfolio of investments with portfolio buying approaches.
- Institute loss reduction strategies to drive down costs for life of investment.
- Deep industry knowledge
  - More than 20 global groups providing industry-specific experience and insights.
  - Customized insurance and risk solutions for the post-close entity, ensuring a smooth transition from SPAC to operating company.
- Annual metrics based performance review.

3. Cost-savings and liquidity strategies

- Property and casualty cost take-out strategy and actions.
- Health and benefits options that reduce cost and improve employee retention.
- Risk financing optimization.
- Surety solutions to replace LOC obligations.
- Trade credit to provide balance sheet protection and potential growth levers.

4. Value-added services

- Project finance, structured credit, and political risk.
- Enterprise-level risk optimization assistance (ERM).
- Oliver Wyman actuarial services.

Contact our specialists to learn more.

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