

business law today

Month-In-Brief: Securities Law

— CURRENT MONTH (APRIL 2021)

Securities Regulation

April 8, 2021: Acting Director of the SEC's Division of Corporation Finance Releases Public Statement re: Liability Risks in De-SPAC transactions

By John Patrick Clayton, Kerry E. Berchem, Alice Hsu, Anthony J. Renzi Jr., Jacqueline Yecies & Stephanie Lindemuth, Akin Gump

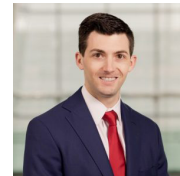
On April 8, 2021, John Coates, the Acting Director of the SEC's Division of Corporation Finance, released a [public statement](#) expressing concern about claims of some practitioners and commentators regarding SPACs. In particular, Mr. Coates questions

the view that a private company faces less exposure to securities law liability when "going public" through a business combination with a SPAC (a "de-SPAC" transaction) than when employing a conventional IPO structure. After emphasizing the significant investor protections concerns this assertion raises, Mr. Coates refutes the claim by describing the manner in which the existing federal securities law regime protects SPAC investors. Mr. Coates also proposes an interpretation of the Private Securities Litigation Reform Act (PSLRA) that would limit the scope of its safe harbor when SPAC participants make forward-looking statements in connection with de-SPAC transactions.

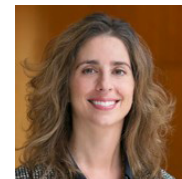
Despite the customary disclaimer cautioning readers that the public statement only expresses the views of Mr. Coates and not those of the SEC, the public statement may provide insight as to how the SEC Staff is thinking about de-SPAC transactions. Our [full publication](#), dated April 14,

2021, summarizes Mr. Coates's points relating to material misstatements or omissions, the PSLRA, and steps to mitigate liability exposure.

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