



January 31, 2024 | 1 minute read

SEC Makes Clear It Is Serious About SPAC IPO Disclosures



A requirement of the special purpose acquisition company (SPAC) structure is that the management team of a SPAC cannot have pre-identified a target business with which it intends to complete a business combination at the time of the SPAC's initial public offering. In order to ensure that management takes this requirement seriously, the U.S. Securities and Exchange Commission (SEC) has long required SPACs to include language in their IPO prospectuses along the lines of the following: *We have not selected any specific business combination target and we have not, nor has anyone on our behalf, initiated any substantive discussions, directly or indirectly, with any business combination target.*

On January 25, 2024, the SEC announced that it settled charges against Northern Star Investment Corp. II that it made misleading statements in forms filed with the SEC. The charges were based, in part, on Northern Star having pre-identified its target. In addition to a cease and desist order, Northern Star is required to pay \$1.5 million of penalties if it closes a business combination. It's also possible that the SEC investigation contributed to the termination of the proposed business combination, and recently Northern Star filed a [proxy statement](#) to terminate its existence as a SPAC and continue its life as a public (non-SPAC) shell company.

The SEC's investigation and settlement with Northern Star emphasizes how important it is for SPACs not to have a pre-set business combination at the time of IPO. SPACs should only have substantive communications and negotiations with potential targets after the IPO has closed. In addition, post closing of their IPO, SPACs should conduct a robust process to find the best potential target company to combine with. Doing otherwise risks SEC investigation and comprises the SPAC's ability to complete a business combination.

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