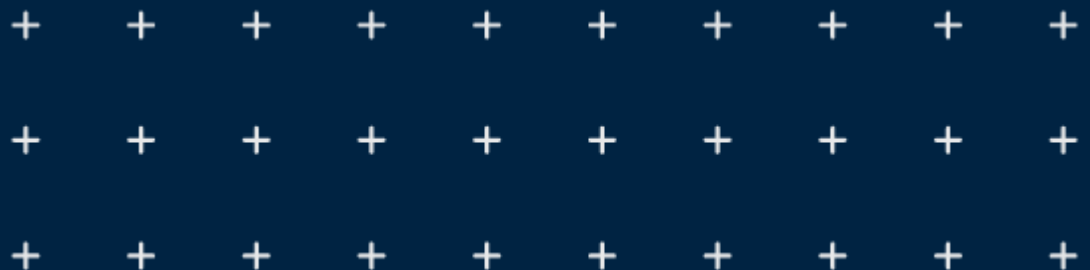




SPAC AND DE-SPAC D&O CONSIDERATIONS

D&O ALERT:
IMA EXECUTIVE RISK SOLUTIONS

2022



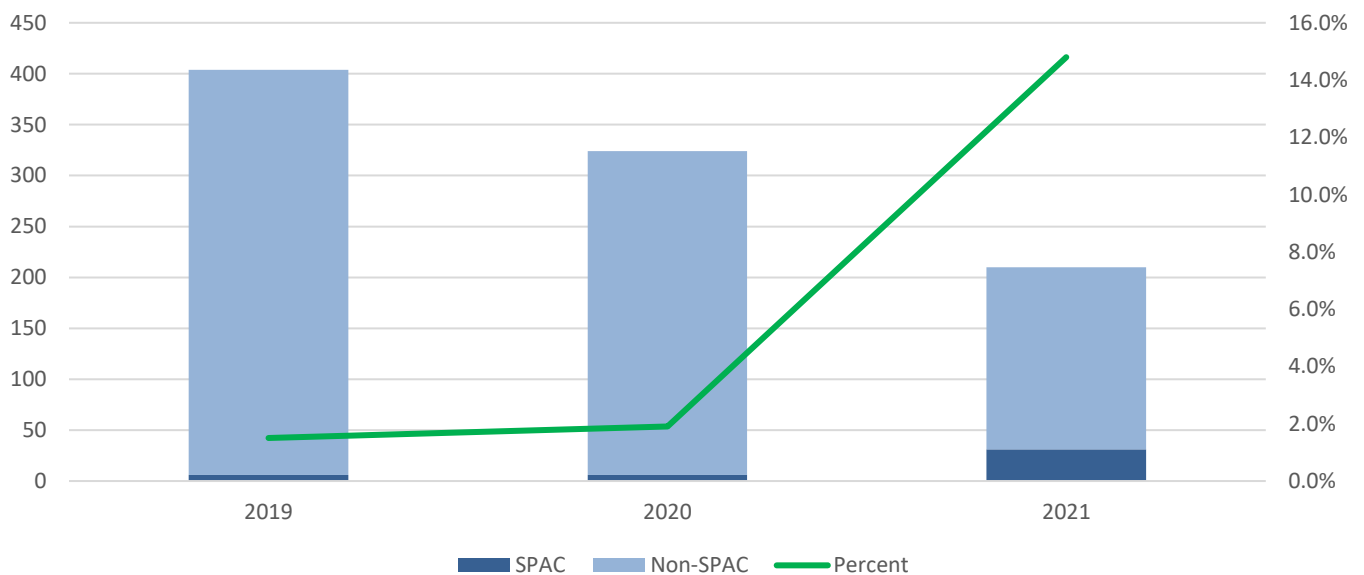
IMA EXECUTIVE RISK SOLUTIONS

D&O Alert: De-SPAC Considerations

D&O Insurance and De-SPAC Litigation Trends

D&O insurance for companies that have entered the public markets via a business combination (i.e., a “de-SPAC” transaction) has become extremely costly and typically only responds after exhaustion of an extremely high retention (aka, deductible). Furthermore, SPAC-related litigation trends have not been favorable over the last 12-18 months. Prior to this timeframe, SPAC-related litigation was rather uncommon. In fact, of the over 700 D&O claims that were filed in 2019 and 2020, only 12 were SPAC related. However, despite the overall *decrease* in filings we have seen over the last two years, SPAC-related filings have been *increasing* of late. In 2021, SPAC related filings increased significantly, with a total of 31 filings. On a percentage basis, this means **SPAC related filings have gone from 1.5%-2% of all filings in 2019/2020 to 15% of all filings in 2021 (and 25% of all filings through 1Q22).**

SPAC Related Filings as a Percentage of Total (2019-2021)



In addition to this increase in litigation, those being targeted as defendants has also evolved. Most SPAC related D&O litigation is now brought against the de-SPAC company, its directors and/or officers, and possibly also the SPAC entity and/or its sponsors. Because of the possibility for overlapping allegations (i.e., those that cover both the SPAC and de-SPAC entities) it is important that the de-SPAC D&O program be designed to properly respond to the most likely forms of litigation.

Sources: Stanford Law School Securities Class Action Clearinghouse; Cornerstone Research; IMA Executive Risk Solutions

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D&O Alert: De-SPAC Considerations

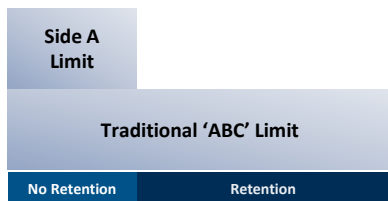
D&O Insurance Considerations for De-SPAC Companies

In our opinion, there are two key considerations that every de-SPAC company must properly address in order to secure the most competitive D&O program possible. First, the vast majority of D&O programs for de-SPAC companies are NOT properly structured. For example, many D&O programs will *exclude* coverage for claims brought by parties who also happen to be (or were) shareholders of the SPAC, while others will exclude coverage for the SPAC and any affiliated or related entity (which of course includes the go-forward entity).

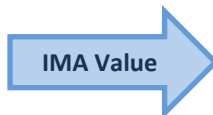
In addition, because of the increase in litigation and unfavorable press relating to SPACs, most D&O underwriters have an unfavorable opinion of the space and provide terms and conditions that reflect this negative connotation. Examples include inflated D&O retentions and premiums, along with a limited scope of coverage.

At IMA, we have developed a ***unique and creative way to represent our de-SPAC clients***, which is supported by data & analytics and results in vastly better D&O program terms. Following is an example of how this unique approach translates into meaningfully better D&O program terms for our de-SPAC clients:

De-SPAC D&O Program (prior to IMA engagement)



D&O Renewal Program (following IMA engagement)



- \$15M Retention
- Narrow Scope of Coverage
- Standard De-SPAC Pricing (several million dollars)

- \$5M Retention
- Broad Scope of Coverage
- 26% Premium Decrease
- Renewed with Incumbent Carriers

Sample Client = Electric Vehicle (EV) company that completed its business combination in 2021

We would welcome an opportunity to discuss our unique approach to D&O for de-SPAC companies, and whether it might be of value for your upcoming renewal.

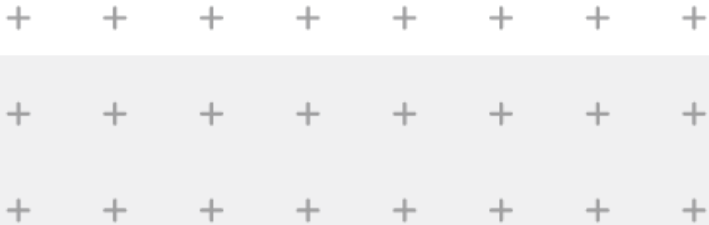
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About IMA

IMA Financial Group is a privately held, diversified financial services firm focused on protecting client assets and creating exceptional value for our clients around the world. Our diverse team of experienced and talented professionals shares an unwavering commitment to excellence.

IMA Executive Risk Solutions is our world-class team of 20+ professionals focused on providing thoughtful advice, a unique legal perspective, a broad range of executive risk insurance solutions, and excellent service to our valued clients. Our professionals have deep experience handling complex executive risk exposures for a variety of clients – from pre-IPO start-ups to multi-billion dollar corporations.

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