

House of Representatives Looks into SPACs, Focused on Protecting Investors

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On November 16, 2021, the House Financial Services Committee cleared two proposals geared towards protecting investors and holding accountable offerors in connection with SPAC transactions.

The [first proposal](#), from Representative Brad Sherman (D-CA), is titled “Protecting Investors from Excessive SPACs Fees Act of 2021.” If enacted, it would bar investment advisors from marketing SPACs to retail investors. To do so, Section 2 of H.B. 5913 would add a fifth category of prohibited transitions by investment advisors into Section 206 of the Investment Advisors Act of 1940:

“(5) to facilitate the transaction of, or recommend, securities of a special purpose acquisition company, as defined by the Commission, to a person who is not an accredited investor (as defined in section 2(a) of the Securities Act of 1933 ([15 U.S.C. 77b](#))), unless—

“(A) the promote or similar economic compensation of the special purpose acquisition company is 5 percent or less; or

(B) the special purpose acquisition company makes such disclosures to the Commission as the Commission, by rule, may determine to be necessary or appropriate in the public interest or for the protection of investors.”.

The [second proposal](#), from Representative Michael F.Q. San Nicholas (D-GU), would exclude certain SPACs from the safe harbor protection currently in place for forward looking statements. Recorded as H.B. 5910 and the “Holding SPACs Accountable Act of 2021,” this Bill would amend the safe harbor provisions of both the Securities Act of 1933 and the Securities Exchange Act of 1934 by removing the term “blank check company” and using a broader definition for SPACs and their financial cousins: “a development stage company that has no specific business plan or purpose or has indicated that its business plan is to acquire or merge with an unidentified company, entity, or person.” This bill is of particular note given the SEC’s [public statement from April 2021](#) hinting that [SPACs may have limited or no access to the safe harbor for forward-looking statements](#).

The House of Representatives are not the only body interested in SPACs. Since he was appointed, SEC Chair Gary Gensler has been closely watching SPACs and potential regulatory malfeasance. In a [recent speech to the Small Business Capital Formation Advisory Committee on September 27](#), Chair Gensler noted that he previously “asked staff for recommendations about how we might update our rules so that investors are better informed about the fees, costs, and conflicts that may exist with SPACs.”

We will continue to follow these bills and any related SPAC regulations closely, and will keep you updated.

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