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Preparing for Life as a Public Company

PLANNING YOUR IPO OR SPAC AHEAD OF TIME

EVENT PRESENTED BY

IDBTECH™ VIOLA GROWTH

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Israeli startups break records

nocamels
ISRAELI INNOVATION NEWS

Israeli Tech Firms Break Funding Records Again, Raise $11.9B In 1st Half Of 2021

THE TIMES OF ISRAEL

Israeli startups join craze as SPACs pack stock market with quickie IPOs

CTECH

Israeli tech companies shatter 2020 fundraising record in under six months, raising $10.5 billion

A reminder from the SEC…

- On March 31, 2021, Paul Munter, the Securities and Exchange Commission (SEC)'s Acting Chief Accountant delivered remarks noting: *"A target company should also **evaluate the status of various functions**, including people, processes, and technology, **that will need to be in place to meet SEC filing, audit, tax, governance, and investor relations needs post-merger**. It is essential for the combined public company to have a capable, experienced management team that **understands what the reporting and internal control requirements and expectations are of a public company** and can effectively execute the company's comprehensive plan on an accelerated basis."*
- The SEC Staff also released a Statement on Select Issues Pertaining to SPACs where it addressed *"certain accounting, financial reporting and governance issues that should be **carefully considered before a private operating company** undertakes a business combination with a [SPAC]."*

Traditional IPO vs. Merging with a SPAC

	TRADITIONAL IPO	MERGING WITH A SPAC
TIMING	A traditional IPO generally will require four to six months.	Merging with a SPAC may require three to four months from the entry into the letter of intent.
PRICING AND VALUATION	While, with a traditional IPO, equity research analysts may provide some insight on pricing, and additional insight may be gleaned from test the waters meetings, pricing uncertainty may exist until the end of the roadshow.	Valuation will be set when the definitive merger agreement is announced; however, the terms may be renegotiated depending on market conditions and SPAC stockholder reaction.
EXPOSURE TO MARKET VOLATILITY	A traditional IPO may be subject to market uncertainty; IPO windows may open and close unexpectedly.	A SPAC merger with a SPAC may be less impacted by market volatility.
FINANCIAL STATEMENT REQUIREMENTS	An EGC may benefit from the financial statement accommodations.	Target will be required to produce the same types of financial statements required in connection with an IPO. The target may have to produce pro formas and may need to restate financial statements following completion of the merger.
OTHER DISCLOSURE REQUIREMENTS	An EGC may rely on the accommodations available to it.	Target will be required to produce the same disclosures that would have been required of it in an IPO; however, target will not benefit from review and comments from underwriters.
CONFIDENTIAL REVIEW	An IPO issuer may benefit from the confidential review process.	The proxy statement or proxy/prospectus will be filed publicly.
ROAD SHOW	An IPO issuer's management will be required to devote considerable time to road show presentations; however an IPO issuer that is not a shell company can benefit from a taped road show. The road show may provide useful feedback from institutional investors.	Target will be required to engage in presentations to the SPAC sponsors as well as usually undertake investor meetings for potential PIPE investors. SPACs cannot rely on the communications safe harbors available to operating companies; SPACs cannot use FWPs or rely on the taped road shows. SPACs can use Rules 165 and 425 to do taped meetings, as long as the materials and script are filed.
DILIGENCE	Issuer will be subject to a diligence review by the underwriters and their counsel.	The SPAC and its counsel and financial advisers, and the PIPE placement agent, its counsel and the potential PIPE investors may all undertake diligence.

Traditional IPO vs. Merging with a SPAC

	TRADITIONAL IPO	MERGING WITH A SPAC
FORECASTS	No use of projections in an IPO prospectus or road show prospectus.	The target will include projections in the proxy statement. These projections also will be shared with potential PIPE investors. Projections for the target are included in the proxy/prospectus.
CORPORATE AND OTHER APPROVALS	Generally, most VC-backed or PE-backed companies will have addressed the mechanics for conversion of any preferred stock upon occurrence of a qualifying IPO.	The target may need to negotiate with existing stockholders to obtain approvals for the merger with the SPAC. The SPAC must also obtain approval from its stockholders.
TRANSACTION COSTS	Legal, accounting, underwriting and other costs will be substantial.	Costs may be comparable to, or exceed, those associated with, an IPO.
LIQUIDITY POST-IPO	Post-IPO, the underwriters will generally make a market in the issuer's stock.	SPAC stockholders may not be interested in the continuing company; there will not necessarily be a market maker.
RESEARCH COVERAGE	Generally, the equity research analysts associated with the underwriters will provide research coverage.	There may not be as much certainty regarding research coverage following the SPAC merger.
RULE 144	Available to stockholders subject to compliance with applicable conditions.	Rule 144 will not be available for one year following filing of the Super 8-K with Form 10 information.
EGC STATUS	EGC status may continue to be available for up to five years.	Given that the SPAC, which was an EGC, may have completed its IPO sometimes prior to the merger, the target may not have a full five years of EGC status.
WKSI STATUS	A traditional IPO issuer may initially be eligible to qualify as a WKSI subject to meeting the public first and other requirements.	A former SPAC will remain an ineligible issuer for three years following the completion of the merger.

Public company readiness: Corporate governance

Before SPAC Merger Agreement Finalized	Before S-4 Finalized	Through to Shareholder Vote	Through Post-Merger

Stock Exchange Requirements
• Review of board composition and structure (controlled company/ majority independent)
• Adopt committee charters for:
    • Audit committee
    • Compensation committee
    • Nominating and governance committee
• Code of business ethics
• Adopt policies regarding:
    • Whistleblower
    • Regulation FD and communications
    • Insider trading and blackout
    • Related person transaction
    • Stockholder recommendations of director nominees
• Stockholder communications with board of directors
	• Vet/recruit directors
	• Vet/recruit additional exec officers
	• Obtain additional directors and officers ("D&O") questionnaires
	• Adopt new certificate of incorporation for public company
	• Adopt new bylaws
	• Enter into director indemnification agreements
	• Enter into D&O policy
		• Prepare Section 16 filings	

Public company readiness: Compensation plans

Before SPAC Merger Agreement Finalized	Before S-4 Finalized	Through to Shareholder Vote	Through Post-Merger
	• Finalize a new option plan for company • Finalize a director comp plan or policy • Award initial grants	• Vet/discuss any 409A valuation • Formalize employment agreements • Formalize any consulting agreements • Formalize/verify non-disclosure agreements (“NDAs”) for employees • Employee handbook/manual • Other human resources & benefits review	

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Public company readiness: Risk management assessment/compliance policies

<table>
<tr><th>Before SPAC Merger Agreement Finalized</th><th>Before S-4 Finalized</th><th>Through to Shareholder Vote</th><th>Through Post-Merger</th></tr>
<tr><td></td><td colspan="2">Privacy policy
Document and records retention policy
Cybersecurity risk analysis
Intellectual property assessment, including assessing use of any open source software (if relevant)
Insurance (ensure that insurance policies are in place; adequate)
Vendor management program
Foreign Corrupt Practices Act (“FCPA”) review (if relevant)
Anti-money laundering policy
Tax review/review prior to S-4 being finalized any tax issues
Business continuity policy</td><td></td></tr>
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Public company readiness: Ongoing public company reporting

<table>
<tr><th>Before SPAC Merger Agreement Finalized</th><th>Before S-4 Finalized</th><th>Through to Shareholder Vote</th><th>Through Post-Merger</th></tr>
<tr><td></td><td></td><td colspan="2">• Auditor pre-approval policy
• Audit committee checklist
• Audit committee assessment
• Nominating & governance committee checklist
• Nominating & governance committee assessment
• Compensation committee checklist
• Compensation committee assessment
• Disclosure committee charter
• Put in place upward certification process
• Website review
• Investor relations website (to comply with securities exchange requirements)
• 34 Act reporting calendar, with schedule for earnings calls, 10-Qs, and 10-Ks
• Required 8-K checklist
• Quarterly blackout calendar
• Signature authority policy/matrix</td></tr>
</table>

Public company readiness: Ongoing public company reporting *(cont'd)*

Before SPAC Merger Agreement Finalized	Before S-4 Finalized	Through to Shareholder Vote	Through Post-Merger

		• Work with audit firm/consultant/accounting/finance:
		    • Ensure PCAOB financial statement availability
		    • Assess accounting systems and confirm sufficiency for reporting purposes
		    • Begin process of establishing internal controls for accounting and reporting purposes
		    • Determine key metrics to be disclosed to investors quarterly
		    • Determine non-GAAP measures to be reported
		    • Establish process for month-end and quarterly financial close process with a financial close process task list
		    • Produce template for earnings release
		    • Evaluate need for an internal audit function (internal or outsourced)
		• Investor Relations
		    • Communications/Reg FD training
		    • Retain public relations firm/investor relations firm/consultant
		• Establish process for managing press releases and other communications (formalize review, approval, dissemination process, etc.)	

Our focus on Israel

CHAMBERS GLOBAL recognizes our partners' commitment to Israel by ranking Phyllis Korff and Anna Pinedo as Experts Based Abroad for Capital Markets: Israel and for Corporate/M&A Israel.

TOP RANKED Chambers Global 2021
Phyllis G Korff
Capital Markets: Israel
Corporate/M&A: Israel

TOP RANKED Chambers Global 2021
Anna Pinedo
Capital Markets: Israel

Mayer Brown lawyers have a long history of commitment to the Israeli market, including representation of Israeli companies and their financial advisers; placement agents and underwriters; and venture, private equity and other strategic and financial investors. The breadth of the firm's presence, as well as its experience in capital markets, mergers and acquisitions, technology transaction, cybersecurity and data protection, intellectual property and licensing, regulatory matters, tax, regulatory matters, real estate and litigation and dispute resolution, enables the firm to provide thoughtful and effective counsel. We advise Israeli companies globally, at every stage of development, and bring to bear our broad industry experience.

Phyllis Korff

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With over 35 years representing US and international issuers and investment banks in a wide variety of financing matters, Phyllis has worked on scores of IPOs, as well as follow-on offerings, exchange offerings, and other transactions registered with the Securities and Exchange Commission. She has advised on countless IPOs for Israeli companies and companies with significant Israeli operations, on both the issuer and underwriter side. Prior to her recognition as Senior Statesperson, Phyllis had been ranked Tier 1 for Capital Markets: Equity by *Chambers Global* and *Chambers USA*.

Anna Pinedo

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As the co-leader of Mayer Brown's Capital Markets Practice, Anna represents issuers, investment banks/financial intermediaries, and investors in financing transactions, including IPOs and other public offerings and private placements of equity and debt securities. She is ranked as a leading lawyer by *Chambers Global, Chambers USA, IFLR1000*, and *The Legal 500 US*. Anna is also included in *Euromoney's* "Best of the Best USA" Expert Guides, as one of the top 30 capital markets practitioners in the United States.

The *Free Writings & Perspectives* (FW&Ps) blog provides news and views on securities regulation and capital formation. *Visit our blog and access our SPAC and IPO resource pages, where you'll find additional presentations, charts, podcasts and other resources.*