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February 2008 / Special Alert

A legal update from Dechert's Corporate and Securities Group

Nasdaq Proposes Listing Standards for SPACs

The Nasdaq Stock Market, Inc. ("Nasdaq") has announced that it intends to adopt listing standards for special purpose acquisition companies ("SPACs"). Until now, SPACs have been listed on the American Stock Exchange, on an offshore exchange such as Euronext Amsterdam or the AIM segment of the London Stock Exchange, or unlisted. Under the Nasdaq proposal, which still must be approved by the Securities and Exchange Commission before becoming effective, SPACs would be required to comply with the initial listing standards applicable to all operating companies listed on Nasdaq as well as three additional SPAC-specific requirements. These include:

- The issuer must deposit gross proceeds of the initial public offering in an escrow account maintained by an insured depository institution or in a separate bank account established by a registered broker or dealer.
- Within 36 months of the closing of its initial public offering, the issuer must complete an acquisition or acquisitions equal to at least 80 percent of the value of the escrow account at the time of the initial business combination.
- Prior to completion of an initial business combination, the issuer's shareholders and a majority of its independent directors must approve such business combination. Following the initial business combination, the combined company must satisfy all of Nasdaq's requirements for initial listing.

These requirements largely codify market practice for SPACs, developed initially from SEC rule 419, which applies to small blind-pool issuers. No other secondary securities market has adopted such criteria.

In practice, we do not expect that the Nasdaq listing criteria will lead to changes in market practice. For example, the issuers of stock typically agree to keep most of what is raised in interest-bearing escrow and return the money if the issuer does not complete an initial business combination within 18 to 24 months. Further, SEC-registered SPACs require that their shareholders approve specific business combinations. By formalizing the SEC requirements, however, Nasdaq seeks to ensure that contractual investor safeguards are effectively policed through its continuing listing requirements.

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