

Note that the SEC is also considering that disclosures emphasize the independence, or lack of independence, of the party providing the Fairness Opinion, (*ibid.*, p56, footnote #100):

“... this disclosure could include whether the compensation for a financial advisor’s fairness opinion is conditioned on the completion of the de-SPAC transaction or whether the amount of compensation due the financial advisor may include a bonus or may be increased depending on the ultimate financial terms of the de-SPAC transaction.”

The items listed above are just some of the recommendations of the SEC. The entire document includes proposed changes to the Securities Act of 1933, Securities Exchange Act of 1934, Private Securities Litigation Reform Act of 1995, and Investment Company Act of 1940 : www.sec.gov/rules/proposed/2022/33-11048.pdf.

The Value of Independence

Marshall & Stevens has always structured its fairness opinion assignments in this light – we are an independent advisor to the board and our compensation is fixed and without any bonus or upside if we ultimately determine that the transaction is fair. We have always believed this is the best way to advise the board on whether to proceed or not with a significant, public or private company transaction. We also believe that an independent Fairness Opinion carries much more weight versus an opinion provided by a party that has compensation reliant upon the closing of a transaction.

Founded in 1932, Marshall & Stevens provides independent Fairness Opinions, Solvency Opinions, and valuations of business enterprises, intangible and tangible assets, debt and equity instruments, and real estate for public and private company transactions.

For more information, please contact us or visit our website at marshall-stevens.com.



Ralph Consola has been with Marshall & Stevens since 1999. He works with clients and trusted advisors to provide independent Fairness Opinions, Solvency Opinions and the valuation of businesses, equity, debt, and assets, both tangible and intangible.

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