AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5913
OFFERED BY MR. SHERMAN OF CALIFORNIA

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting Investors from Excessive SPACs Fees Act of 2021”.

SEC. 2. PROHIBITION RELATING TO CERTAIN SPECIAL PURPOSE ACQUISITION COMPANIES.

(a) INVESTMENT ADVISERS.—Section 206 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–6) is amended—

(1) in paragraph (3), by striking “or” at the end;

(2) in paragraph (4), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(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 the special purpose acquisition company discloses to the Commission, in a manner that is accessible and user-friendly to retail investors and by a date that is as early as reasonably possible, but in no case later than a minimum number of days (as established by the Commission, in the public interest and for the protection of investors) before a merger or redemption date such that an investor has the ability to make an informed decision with respect to the merger or redemption (including whether to redeem the equity securities of the special acquisition company, hold such securities, or make another investment decision)—

“(A) with respect to each merger by the special purpose acquisition company—

“(i) the amount of cash per share expected to be held by the special purpose acquisition company immediately prior to the merger under such various redemption scenarios as the Commission, by rule, determines to be necessary or appropriate in the public interest or for the protection of investors;
“(ii) a graphical representation of the cash per share depletion relating to each redemption scenario described in clause (i);

“(iii) any payments or agreements to pay sponsors or investors in public equity for participating in such merger, including any rights or warrants to be issued to such sponsors or investors, and an assessment of the dilutive impact issuing such rights and warrants may have with respect to shareholder voting rights;

“(iv) any fees or other payments to the sponsor, underwriter, or any other party, including an assessment of the dilutive impact to shareholder voting rights of any warrant that remains outstanding after investors redeem shares pre-merger; and

“(v) using standard accounting practices to compute the present value of any securities the sponsor receives, the share price immediately post-merger that will be required to make the merger more profitable for the sponsor than a liquidation, taking into account—
“(I) any new securities the sponsor purchases at the time of the merger; and

“(II) the price the sponsor pays to receive such new securities;

“(vi) the redemption deadline and estimated redemption price per share;

“(vii) the valuation of the target business prior to the completion of the business combination;

“(viii) the identity of the sponsor and any controlling members of the special purpose acquisition company, the prior experience of such sponsor and members with special purpose acquisition companies, and the standardized performance for all such special purpose acquisition companies;

“(ix) contact information for questions regarding shareholder meetings and redemptions;

“(x) the location (whether on a website or otherwise), if applicable, where additional information can be found with respect to the information described in clause (i) through (ix); and
“(xi) the length of time the sponsors of the special purpose acquisition company intend to retain economic risk in the post-merger company; and

“(B) such other information as the Commission, by rule, determines to be necessary or appropriate in the public interest or for the protection of investors, including retail investors.”.

(b) BROKERS, DEALERS, AND ASSOCIATED PERSONS OF BROKERS OR DEALERS.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following:

“(p) PROHIBITION RELATING TO CERTAIN SPECIAL PURPOSE ACQUISITION COMPANIES.—

“(1) IN GENERAL.—A broker, dealer, and any associated person of a broker or dealer shall be prohibited from facilitating or executing the transaction of, or recommending, 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 the special purpose acquisition company discloses to the Commission, in a manner that is accessible and user-friendly to retail investors and by a date that is as early as reasonably
possible, but in no case later than a minimum num-
ber of days (as established by the Commission, in
the public interest and for the protection of inves-
tors) before a merger or redemption date such that
an investor has the ability to make an informed deci-
sion with respect to the merger or redemption (in-
cluding whether to redeem the equity securities of
the special acquisition company, hold such securities,
or make another investment decision)—

“(A) with respect to each merger by the
special purpose acquisition company—

“(i) the amount of cash per share ex-
pected to be held by the special purpose
acquisition company immediately prior to
the merger under such various redemption
scenarios as the Commission, by rule, de-
determines to be necessary or appropriate in
the public interest or for the protection of
investors;

“(ii) a graphical representation of the
cash per share depletion relating to each
redemption scenario described in subclause
(I);

“(iii) any payments or agreements to
pay sponsors or investors in public equity
for participating in such merger, including any rights or warrants to be issued to such sponsors or investors, and an assessment of the dilutive impact issuing such rights and warrants may have with respect to shareholder voting rights;

“(iv) any fees or other payments to the sponsor, underwriter, or any other party, including an assessment of the dilutive impact to shareholder voting rights of any warrant that remains outstanding after investors redeem shares pre-merger; and

“(v) using standard accounting practices to compute the present value of any securities the sponsor receives, the share price immediately post-merger that will be required to make the merger more profitable for the sponsor than a liquidation, taking into account—

“(I) any new securities the sponsor purchases at the time of the merger; and

“(II) the price the sponsor pays to receive such new securities;
“(vi) the redemption deadline and estimated redemption price per share;
“(vii) the valuation of the target business prior to the completion of the business combination;
“(viii) the identity of the sponsor and any controlling members of the special purpose acquisition company, the prior experience of such sponsor and members with special purpose acquisition companies, and the standardized performance for all such special purpose acquisition companies;
“(ix) contact information for questions regarding shareholder meetings and redemptions;
“(x) the location (whether on a website or otherwise), if applicable, where additional information can be found with respect to the information described in clause (i) through (ix); and
“(xi) the length of time the sponsors of the special purpose acquisition company intend to retain economic risk in the post-merger company; and
“(B) such other information as the Commission, by rule, determines to be necessary or appropriate in the public interest or for the protection of investors, including retail investors.

“(3) ASSOCIATED PERSON OF A BROKER OR DEALER DEFINED.—In this subsection, with respect to a broker or a dealer, the term ‘associated person of a broker or dealer’ means an individual who represents the broker or dealer in effecting or attempting to effect a purchase or sale of securities.”.