The Deal

Faced with returning millions, Arowana makes deal for portfolio company

SPAC Arowana Inc.'s $162 million merger with VivoPower is teed up, but VivoPower comes from Arowana International, an investment firm controlled by the SPAC's sponsor.

By Bill Meagher Updated on August 12, 2016, 11:31 AM ET

Arowana Inc. (ARWA), a special purpose acquisition company sponsored by Australian investment conglomerate Arowana & Co., spent 15 months combing the Asia Pacific region for an appropriate merger partner in the energy industry.

It turns out the investment company discovered the best fit for the deal was a company it already owned.

Arowana Inc. is acquiring solar power company **VivoPower International plc** from **Arowana International Ltd.** in a transaction valued at $162 million.

Arowana International Ltd., which is listed on the Australian Securities Exchange as AWN, owned a 63% stake in VivoPower prior to the agreement, according to the company's website. However, a statement from the investment conglomerate says that VivoPower is wholly owned by Arowana International. Following the transaction, it is expected to own between 30% and 46%, according to the prospectus.

It is definitely unusual: said Doug Ellenoff, a founding partner in the New York law firm of Ellenoff Grossman Schole LLP, which has a robust **SPAC** practice.

He added that there was nothing inherently wrong with a SPAC essentially merging with a company controlled by its sponsor, but such a deal would require the SPAC to obtain an independent opinion and valuation for shareholders.

The SPAC plans to hold a meeting Nov. 1 to allow shareholders to vote on the transaction. The company expects the deal to be completed in the fourth quarter.

SPACs are investment vehicles that raise money by going public. Investors bet on the management team's ability to find a merger with upside. SPACs typically have between 18 and 24 months to make that happen, or cash the vehicle out and return the capital raised in the offering.

Kevin Chin is the SPAC's CEO and chairman of the board. Gary Hui is CFO, CIO and director. They are joined on the board by **John Moore,** Dudley Hoskin and Kien Kwan.

Chin is the founder of Arowana & Co. Hui is an executive director and fund manager for Arowana International, and formerly was managing director for Indus Capital, a hedge fund founded by Soros Fund Management Partners.

Moore is a former federal minister of defense for Australia and a director for Arowana International. Hoskins is a portfolio manager with **Tudor Investment Corp.** in Greenwich, Conn. Kwanis a former CIO and executive director with Arowana International.

Efforts to reach Arowana Inc. to talk about the merger were unsuccessful.

The company is named after the Arowana fish, a freshwater bony fish found in South America, Africa, Asia and Australia, with a jumping ability that can carry it six feet out of the water. It was at one time thought to be endangered, but is now farmed in Southeast Asia where some of those farms are protected by concrete walls topped with barbed wire, guard dogs and watchtowers.

Headquartered in London with offices in the U.S., Australia, Singapore and Manila, VivoPower provides solar energy for clients in commercial, industrial and government sectors via power support services and ground and rooftop sales. It also plans to generate revenue through providing energy efficiency, storage services, and providing green power services and technology.

Both the SPAC and Arowana International are controlled by Arowana & Co., which includes operating subsidiaries and assets in Australia, the U.S., **New Zealand** and Asia. So the transaction transfers VivoPower from Arowana's holding company to its SPAC.

Moreover, the merger is conditional on VivoPower acquiring VivoPower Pty Ltd. and Aevitas 0 Holdings Pty Ltd., which are affiliates of officers and directors of Arowana. In turn, Aevitas 0 Holdings will acquire more than 99% of Aevitas Group Ltd.

The merger calls for the SPAC to pay Arowana International $56.5 million less unpaid fees and expenses and for the SPAC to receive 9.4 million shares.

The SPAC raised $84.4 million in a May 2015 initial public offering, which included a $10.8 million overallotment and a $4.5 million private placement. Arowana had 18 months to locate a merger partner and close on the transaction. The original registration statement said that Arowana intended to target an energy company in the Asia Pacific region.

EarlyBirdCapital Inc. and I-Bankers Securities Inc. were underwriters for the offering. **Graubard Miller** advised the SPAC while **Maples and Calder** provided offshore counsel for the Cayman Islands-registered investment vehicle. **McDermott Will & Emery LLP** counseled the underwriters

For the merger deal, Graubard once again acted as legal counsel to Arowana, while EarlyBird served as M&A adviser, and stands to bank $3.3 million if the transaction closes.

Arowana International was advised by **Herbert Smith Freehills LLP** and **Winston & Strawn LLP** and **Watson Mangioni** advised VivoPower. Cassel Salpeter & Co. provided financial advisory services to the SPAC's board of directors regarding the merger.

VivoPower, which has 128 employees, designs, builds, finances and manages solar projects. It also provides power support services under long-term contracts with the owners to maximize the performance and value of solar assets.

According to the deal prospectus, the company had $58.4 million in net assets in fiscal 2016 and projected revenue of $47.9 million for the coming year. An investor presentation showed that VivoPower had $691,000 in cash and liabilities of $8.1 million for the fiscal year ending last March.

We try to steer our clients away from related transactions," Ellenoff said. "There is no outright prohibition on them, of course, and if the SPAC is coming to the end of its life, that is when it would be more likely to look at that type of deal."

In financial filings dating back to July 2015, the SPAC said it anticipated spending $150,000 on expenses related to a search for a target business.

Investors in the SPAC include Canadian-based **Polar Asset Management Partners Inc., Castle Creek Arbitrage LLC, Davidson Kempner Capital Management LLC, BIP GP LLC, Bulldog Investors LLC,** Hudson Capital Management LP and Glazer Capital LLC. Hedge funds **Polar,** Davidson and Bulldog are regular investors in SPACs.

The investors will have the ability to vote on the VivoPower deal and hold or redeem their shares, or sell the shares back to the SPAC in a tender offer that Arowana Inc. has the option of offering.

Hedge funds tend to favor the SPAC sector because transactions are on a timeline, and if they don't like the merger candidate they can recover their capital with a little gain.

Phil Goldstein, who heads up Bulldog, which holds $4 million worth of Arowana Inc. stock, said he had not followed the VivoPower transaction and preferred not to comment on it.

The other hedge fund shareholders were also contacted, but did not return the calls.

SPAC CEO Chin seems bullish on the transaction judging by his stock transactions. Chin has increased his holdings from just shy of 1 million shares when the SPAC went public, to holding 1.4 million shares, according to **S&P Global Market Intelligence** on Aug. 17.

On the other hand, **Weiss Asset Management LP,** a hedge fund which held 5.27% of the SPAC, closed its position out. And the Octagon Foundation, a charitable organization whose board includes Chin, sold off 80% of its shares in Arowana Inc. since the SPAC went public.

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