

BLACK MOUNTAIN ACQUISITION CORP.

FORM S-1MEF

(Registration of Additional Securities (up to 20%))

Filed 10/13/21

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CIK	0001848020
Symbol	BMAC'U
SIC Code	6770 - Blank Checks
Fiscal Year	12/31

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Black Mountain Acquisition Corp.

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or other jurisdiction
of incorporation or organization)

6770
(Primary Standard Industrial
Classification Code Number)

86-2013849
(IRS Employer
Identification No.)

**425 Houston Street, Suite 400
Fort Worth, Texas 76102
(817) 698-9901**

(Address, including Zip Code, and Telephone Number, including Area Code, of registrant's principal executive offices)

Rhett Bennett
Chief Executive Officer
**425 Houston Street, Suite 400
Fort Worth, Texas 76102
(817) 698-9901**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

**E. Ramey Layne
Thomas G. Zentner III
Vinson & Elkins L.L.P.
1001 Fannin Street, Suite 2500
Houston, Texas 77002
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New York, New York 10174
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Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this registration statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. **333-259469**

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company or an

emerging growth company. See the definitions of “large accelerated filer,” “accelerated filer,” “smaller reporting company” and “emerging growth company” in Rule 12b-2 of the Exchange Act.

Large accelerated filer Accelerated filer
 Non-accelerated filer Smaller reporting company
 Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount being registered	Proposed Maximum Offering Price per Security ⁽¹⁾	Proposed Maximum Aggregate Offering Price ⁽¹⁾	Amount of Registration Fee
Units, each consisting of one share of Class A common stock, \$0.0001 par value, and three quarters of one warrant ⁽²⁾	4,600,000 Units	\$10.00	\$46,000,000	\$4,264.20
Shares of Class A common stock included as part of the units ⁽³⁾	4,600,000 Shares	—	—	— ⁽⁴⁾
Warrants included as part of the units ⁽³⁾	3,450,000 Warrants	—	—	— ⁽⁴⁾
Shares of Class A common stock underlying the warrants included as part of the units ⁽³⁾	3,450,000 Shares	\$ 11.50	\$39,675,000	\$3,677.87
Total			\$85,675,000	\$7,942.07⁽⁵⁾

(1) Estimated solely for the purpose of calculating the registration fee.

(2) Represents only the additional number of securities being registered and includes 600,000 units, consisting of 600,000 shares of Class A common stock and 450,000 warrants, which may be issued upon exercise of the 45-day option granted to the underwriters to cover over-allotments, if any. Does not include the securities that the Registrant previously registered on the Registration Statement on Form S-1 (File No. 333-259469).

(3) Pursuant to Rule 416(a), there are also being registered an indeterminable number of additional securities as may be issued to prevent dilution resulting from share subdivisions, share dividends or similar transactions.

(4) No fee pursuant to Rule 457(g).

(5) The Registrant previously registered securities having a proposed maximum aggregate offering price of \$428,375,000 on its Registration Statement on Form S-1, as amended (File No. 333-259469), which was declared effective by the Securities and Exchange Commission on October 13, 2021. In accordance with Rule 462(b) under the Securities Act of 1933, as amended, an additional number of securities having a proposed maximum offering price of \$85,675,000 is hereby registered.

The Registration Statement shall become effective upon filing with the Securities and Exchange Commission in accordance with Rule 462(b) under the Securities Act of 1933, as amended.

EXPLANATORY NOTE

This Registration Statement on Form S-1 is being filed with respect to the registration of 4,600,000 additional units of Black Mountain Acquisition Corp., a Delaware corporation (the “Registrant”), each consisting of one share of Class A common stock and three quarters of one redeemable warrant, pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and General Instruction V to Form S-1, including 600,000 units that may be purchased by the underwriters to cover over-allotments, if any. Each whole warrant entitles the holder thereof to purchase one share of Class A common stock at a price of \$11.50 per share, subject to adjustment, and only whole warrants are exercisable. No fractional warrants will be issued upon separation of the units and only whole warrants will trade. This Registration Statement relates to the Registrant’s Registration Statement on Form S-1, as amended (File No. 333-259469) (the “Prior Registration Statement”), initially filed by the Registrant on September 10, 2021 and declared effective by the Securities and Exchange Commission (the “Commission”) on October 13, 2021. The required opinions of counsels and related consents and accountant’s consent are attached hereto and filed herewith. Pursuant to Rule 462(b), the contents of the Prior Registration Statement, including the exhibits thereto, are incorporated by reference into this Registration Statement.

PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

Item 16. Exhibits and Financial Statement Schedules.

(a) Exhibits. All exhibits filed with or incorporated by reference in the Prior Registration Statement are incorporated by reference into, and shall be deemed a part of, this Registration Statement, and the following additional exhibits are filed herewith, as part of this Registration Statement:

<u>Exhibit Number</u>	<u>Description</u>
5.1	Opinion of Vinson & Elkins L.L.P.
23.1	Consent of Marcum LLP
23.2	Consent of Vinson & Elkins L.L.P. (included in Exhibit 5.1).

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Fort Worth, Texas, on the 13th day of October 2021.

Black Mountain Acquisition Corp.

By: /s/ Rhett Bennett

Rhett Bennett

Chief Executive Officer and Chairman of the Board

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed below by the following persons in the capacities indicated on October 13, 2021.

<u>Name</u>	<u>Position</u>
<u>/s/ Rhett Bennett</u> Rhett Bennett	Chief Executive Officer and Chairman of the Board (Principal Executive Officer)
<u>/s/ Jacob Smith</u> Jacob Smith	Chief Financial Officer, Chief Accounting Officer, Secretary and Director (Principal Financial and Accounting Officer)
<u>/s/ Mel G. Riggs</u> Mel G. Riggs	Director
<u>/s/ Charles W. Yates</u> Charles W. Yates	Director
<u>Stephen Straty</u>	Director

October 13, 2021

Black Mountain Acquisition Corp.

425 Houston Street, Suite 400

Fort Worth, TX 76102

Re: Registration Statement on Form S-1

Ladies and Gentlemen:

We have acted as special counsel to Black Mountain Acquisition Corp., a Delaware corporation (the "Company"), with respect to certain legal matters in connection with the preparation and filing of a registration statement pursuant to Rule 462(b) on Form S-1 (the "462(b) Registration Statement") by the Company under the Securities Act of 1933, as amended (the "Securities Act"), relating to the registration of the offer and sale by the Company of (a) 4,000,000 units (the "Firm Units") of the Company, each such unit consisting of one share of the Company's Class A common stock, par value \$0.0001 per share ("Common Stock"), and three quarters of one warrant of the Company (each warrant, a "Warrant"); each Warrant entitles the holder thereof to purchase one share of Common Stock as specified in the 462(b) Registration Statement, (b) up to an additional 600,000 units that the underwriters will have a right to purchase from the Company to cover over-allotments (the "Option Units" and, together with the Firm Units, the "Units") and (c) all shares of Common Stock and all Warrants issued as part of the Units as specified in the 462(b) Registration Statement. The Units are being offered and sold pursuant to a prospectus (the "Prospectus") forming a part of the Company's Registration Statement on Form S-1, as amended (File No. 333-259469) (the "Registration Statement"), initially filed with the U.S. Securities and Exchange Commission on September 10, 2021.

In connection with the opinion expressed herein, we have examined originals or copies, certified or otherwise identified to our satisfaction, of (i) the form of Amended and Restated Certificate of Incorporation of the Company that is filed as Exhibit 3.2 to the Registration Statement; (ii) the Bylaws of the Company that are filed as Exhibit 3.3 to the Registration Statement; (iii) the 462(b) Registration Statement and the Registration Statement; (iv) the form of the underwriting agreement proposed to be entered into between the Company and the underwriters named therein (the "Underwriting Agreement") that is filed as Exhibit 1.1 to the Registration Statement; (v) the Specimen Unit Certificate that is filed as Exhibit 4.1 to the Registration Statement; (vi) the Specimen Class A Common Stock Certificate that is filed as Exhibit 4.2 to the Registration Statement; (vii) the Specimen Warrant Certificate that is filed as Exhibit 4.3 to the Registration Statement; (viii) the form of warrant agreement proposed to be entered into by and between the Company and Continental Stock Transfer & Trust Company, as warrant agent (the "Warrant Agent"), that is filed as Exhibit 4.4 to the Registration Statement; and (ix) such other certificates, statutes and other instruments and documents as we considered appropriate for purposes of the opinion hereafter expressed. We have also reviewed such questions of law as we have deemed necessary or appropriate. As to matters of fact relevant to the opinion expressed herein, and as to factual matters arising in connection with our examination of corporate documents, records and other documents and writings, we relied upon certificates and other communications of corporate officers of the Company, without further investigation as to the facts set forth therein.

In connection with rendering the opinion set forth below, we have assumed that (i) all information contained in all documents reviewed by us is true and correct; (ii) all signatures on all documents examined by us are genuine; (iii) all documents submitted to us as originals are authentic and all documents submitted to us as copies conform to the originals of those documents; (iv) the 462(b) Registration Statement and the Registration Statement, and any amendments thereto (including post-effective amendments), will have become effective; and (v) all Units will be issued and sold in compliance with applicable federal and state securities laws and in the manner specified in the Registration Statement and the Prospectus relating thereto. We have further assumed that each of the documents identified in clauses (i) through (viii) of the preceding paragraph will be entered into, adopted or filed as appropriate.

Based upon the foregoing, and subject to the qualifications, assumptions and limitations stated herein, we are of the opinion that:

1. The Units, when delivered to and paid for by the underwriters in accordance with the terms of the Underwriting Agreement, and assuming the due authorization, execution and delivery thereof by Continental Stock Transfer & Trust Company, as transfer agent, will constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity).

2. The Common Stock included in the Units, when the Units are delivered to and paid for by the underwriters in accordance with the terms of the Underwriting Agreement, will be validly issued, fully paid and non-assessable.

3. The Warrants included in the Units, when the Units are delivered to and paid for by the underwriters in accordance with the terms of the Underwriting Agreement, and assuming the due authorization, execution and delivery of such Warrants by the Warrant Agent, will constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity).

The foregoing opinion is limited to the laws of the State of New York and the General Corporation Law of the State of Delaware (including the applicable provisions of the Delaware Constitution and the reported judicial decisions interpreting these laws). We do not express any opinion as to the effect of the laws of any other jurisdiction, domestic or foreign. We express no opinion as to any matter other than as set forth herein, and no opinion may be inferred or implied herefrom. Our opinion is given as of the date hereof, and we undertake no, and hereby disclaim any, obligation to advise you of any change in any matter set forth herein.

We hereby consent to the filing of this opinion as an exhibit to the 462(b) Registration Statement and to the use of our name in the Prospectus forming a part of the Registration Statement under the caption "Legal Matters." In giving this consent, we do not admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act.

Very truly yours,

/s/ Vinson & Elkins L.L.P.

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in this Registration Statement of Black Mountain Acquisition Corp. on Form S-1 pursuant to Rule 462(b) under the Securities Act of 1933, as amended, of our report dated March 29, 2021, which includes an explanatory paragraph as to the Company's ability to continue as a going concern, with respect to our audit of the financial statements of Black Mountain Acquisition Corp. as of February 11, 2021 and for the period from February 10, 2021 (inception) through February 11, 2021, appearing in the Registration Statement on Form S-1 as filed (File No. 333-259469) of Black Mountain Acquisition Corp.

/s/ Marcum LLP

Marcum LLP
Houston, Texas
October 13, 2021