

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): November 16, 2021 (November 13, 2021)

Athena Technology Acquisition Corp.
(Exact name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-40209
(Commission File Number)

85-4204953
(IRS Employer
Identification No.)

125 Townpark Drive, Suite 300
Kennesaw, GA 30144
(Address of Principal Executive Offices)

30144
(Zip Code)

(970) 924-0446
(Registrant's Telephone Number, Including Area Code)

Not Applicable
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instructions A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Units, each consisting of one share of Class A Common Stock, \$0.0001 par value, and one-third of one redeemable warrant	ATHN.U	The New York Stock Exchange
Class A common stock, \$0.0001 par value	ATHN	The New York Stock Exchange
Redeemable Warrants, each exercisable for one share of Class A Common Stock for \$11.50 per share	ATHN.WS	The New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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 13(a) of the Exchange Act.

Item 4.02 Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review.

On November 13, 2021, the audit committee (the “Audit Committee”) of Athena Technology Acquisition Corp., a Delaware corporation and special purpose acquisition company (the “Company”), based on the recommendation of, and after consultation with, the Company’s management, and as discussed with Marcum LLP (“Marcum”), the Company’s independent registered public accounting firm, concluded that the Company’s previously issued financial statements consisting of (a) the audited balance sheet of Athena Technology Acquisition Corp. as of March 19, 2021 and the related notes (the “IPO Financial Statement”) with respect to the Company’s initial public offering that was filed as an exhibit to the Company’s Current Report on Form 8-K filed with the U.S. Securities and Exchange Commission (the “SEC”) on March 25, 2021, as previously revised in the Company’s Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2021, filed with the SEC on May 24, 2021 (the “Q1 Form 10-Q”), and the audit report dated as of March 25, 2021 included in the IPO Financial Statement, (b) the Company’s unaudited condensed financial statements as of March 31, 2021 and the related notes included in the Q1 Form 10-Q (the “March 31 Financial Statements”), (c) the Company’s unaudited condensed financial statements as of June 30, 2021 and the related notes (the “June 30 Financial Statements”) included in the Company’s Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2021, filed with the SEC on August 13, 2021 (the “Q2 Form 10-Q”), and (d) and any communications describing relevant portions of the Company’s Previously Issued Financial Statements (as herein defined), should no longer be relied upon due to the classification of a portion of the Company’s shares of Class A common stock, par value \$0.0001 per share, included in its units sold issued during the Company’s initial public offering (such shares, the “Public Shares”). The Company’s IPO Financial Statement, the March 31 Financial Statements, and June 30 Financial Statements are collectively referred to herein as the “Previously Issued Financial Statements.”

In the Previously Issued Financial Statements, the Company classified a portion of the Public Shares as permanent equity to maintain stockholders’ equity greater than \$5,000,000 on the basis that the Company will consummate its initial business combination only if the Company has net tangible assets of at least \$5,000,001. The Company can only complete a merger and continue to exist as a public company if there are sufficient Public Shares that do not redeem at the merger and determined it was appropriate to classify the portion of its Public Shares required to keep its stockholders’ equity above the \$5,000,000 threshold as “shares not subject to redemption.”

Recently, the Staff of the Division of Corporation Finance of the SEC issued comment letters to several special purpose acquisition companies addressing certain accounting and reporting considerations related to redeemable equity instruments of a kind similar to those issued by the Company under ASC 480-10-99. In light of these recent comment letters, the Company’s management, re-evaluated the Company’s application of ASC 480-10-99 to its accounting classification of the Public Shares. Upon re-evaluation, the Company’s management determined that the Public Shares can be redeemed or become redeemable subject to the occurrence of future events considered outside the Company’s control under ASC 480-10-S99. Therefore, the Company’s management concluded that all of the Public Shares should be classified as temporary equity in their entirety. As a result, management has restated its previously issued financial statements and has a reclassification adjustment related to temporary equity and permanent equity in Note 2 its unaudited condensed financial statements as of September 30, 2021 filed on November 15, 2021. This resulted in an adjustment to the initial carrying value of the Public Shares with the offset recorded to additional paid-in capital (to the extent available), accumulated deficit and common stock.

In connection with the change in presentation for the Public Shares, the Company also restated its earnings per share calculation to allocate net income (loss) evenly to redeemable and nonredeemable common stock. This presentation contemplates a Business Combination as the most likely outcome, in which case, both classes of common stock pro rata in the income (loss) of the Company.

In accordance with SEC Staff Accounting Bulletin No. 99, "Materiality," and SEC Staff Accounting Bulletin No. 108, "Considering the Effects of Prior Year Misstatements when Quantifying Misstatements in Current Year Financial Statements;" the Company evaluated the changes and has determined that the related impacts were material to the Previously Issued Financial Statements. Therefore, the Company, in consultation with its Audit Committee, concluded that its Previously Issued Financial Statements impacted should be restated to report all public shares as temporary equity. The Company has restated those periods from its Previously Issued Financial Statements in its Quarterly Report on Form 10-Q for the period ended September 30, 2021, filed with the SEC on November 15, 2021 (the "Q3 Form 10-Q") in Note 2 to its financial statements.

The Company does not expect the above-described accounting for the Public Shares to have any effect on the Company's previously reported investments held in trust or cash.

The Company's management has concluded that in light of the classification error described above, a material weakness exists in the Company's internal control over financial reporting and that the Company's disclosure controls and procedures were not effective for all periods since the Company's initial public offering consummated on March 19, 2021. The Company's remediation plan with respect to such material weakness is described in more detail in the Q3 Form 10-Q.

The Audit Committee and management of the Company have discussed the matters disclosed pursuant to this Item 4.02 with Marcum.

Forward-Looking Statements

This Current Report on Form 8-K includes "forward-looking statements" within the meaning of the safe harbor provisions of the United States Private Securities Litigation Reform Act of 1995. Certain of these forward-looking statements can be identified by the use of words such as "believes," "expects," "intends," "plans," "estimates," "assumes," "may," "should," "will," "seeks," or other similar expressions. Such statements may include, but are not limited to, statements regarding the impact of the Company's restatement of certain historical financial statements, the Company's cash position and cash held in the Trust Account and any proposed remediation measures with respect to identified material weaknesses. These statements are based on current expectations on the date of this Current Report on Form 8-K and involve a number of risks and uncertainties that may cause actual results to differ significantly. The Company does not assume any obligation to update or revise any such forward-looking statements, whether as the result of new developments or otherwise. Readers are cautioned not to put undue reliance on forward-looking statements.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: November 16, 2021

Athena Technology Acquisition Corp.

By: /s/ Grace Vandecruze
Grace Vandecruze
Chief Financial Officer