Hong Kong New Listing Regime for Special Purpose Acquisition Companies (SPAC)

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The Stock Exchange of Hong Kong ("HKEx") published its conclusion to its consultation on creating a new listing regime for special purpose acquisition companies ("SPAC") in December 2021. The new addition to the Listing Rules, namely Chapter 18B which governs the listing of SPAC, shall become effective on 1 January 2022.

Hong Kong's SPAC Regime

A SPAC is essentially akin to a shell company, utilised to raises funds through its listing for the purpose of acquiring a business, i.e. a De-SPAC Target. SPACs have emerged, over the years, as listing applicants in other stock markets, predominantly the US, as well as in Singapore. The new Chapter 18B of the Listing Rules stipulate the listing requirements for SPAC, as well as the framework for conducting the acquisition of De-SPAC Target i.e. a De-SPAC Transaction. It is observed that Hong Kong's listing regime for SPAC is more stringent than that of other jurisdictions, where publication of listing documents is required for both the listing of SPAC and the completion of De-SPAC Transaction. It is further noted that, for ease of identification, the stock short names of (1) SPAC shares will end with the marker "**Z**" and (2) SPAC warrants will end with "**Z**YYMM" or "**Z**YY" (with YY representing the expiry year and MM representing the expiry month).

The key features of the Hong Kong SPAC regime are summarised as follows:

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SPAC Listing

Key criteria for SPAC listing	
Investor Suitability	The subscription for and trading of SPAC securities would be restricted to professional investors only (e.g. a bank or a pension fund)
Open Market Requirement	(1) Each of SPAC shares and SPAC warrants needs be distributed to a minimum of 75 Professional Investors (of which 20 must be Institutional Professional Investors) and that at least 75% of SPAC securities need be distributed to Institutional Professional Investors (2) 3 largest public shareholders hold ≤ 50% of securities in public hands (3) 25% public float for each of the SPAC's issued shares and issued warrants
Share Issue Price	The issue price of SPAC shares must be HK$10 or above
Fund Raising Size	The funds expected to be raised from the initial offering must be at least HK$1 billion
SPAC Promoters (i.e. professional managers who establish and manage a SPAC)	SPAC Promoters must meet certain suitability and eligibility requirements, and each SPAC must have at least one SPAC Promoter which (a) is a SFC licensed firm (with Type 6/9 SFC license(s)) or has overseas accreditation equivalent to a Type 6/9 SFC license or whose controlling shareholder (being a licensed corporation) holds Type 6/9 SFC license(s) and (b) holds at least 10% of the Promoter Shares
SPAC Directors	(1) Any director nominated by a SPAC Promoter as a director of the SPAC must be an officer (as defined under the SFO) of the SPAC Promoter (where a SPAC Promoter is an individual, that person must be a director of the SPAC) (2) The board of a SPAC must include at least 2 individuals licensed to carry out Type 6 and/or 9 regulated activities for a SFC-licensed corporation (at least 1 individual must be a licensed person of the aforementioned SPAC Promoter holding a Type 6/9 SFC license(s))
Fund Proceeds	100% of the IPO proceeds of the SPAC must be held in a ring-fenced escrow account domiciled in Hong Kong which is operated by a trustee or custodian

De-SPAC Transaction

The following summarises the key requirements of a De-SPAC Transaction, which shall be proposed within 24 months from the date of the SPAC listing and completed within 36 months from such listing, unless extension is granted by shareholders of SPAC and HKEx:-

<table>
<tr><th colspan="2">Key De-SPAC Transaction requirements</th></tr>
<tr><td>Application of New Listing Requirements</td><td>The De-SPAC Target must meet all new listing requirements (including minimum market capitalisation requirements and financial eligibility tests)</td></tr>
<tr><td>Size of De-SPAC Target</td><td>A De-SPAC Target must have a fair market value of at least 80% of funds raised by the SPAC from its initial offering (prior to any redemptions)</td></tr>
<tr><td>Concurrent Independent Third Party Investment</td><td>This would be mandatory for the purpose of completing a De-SPAC Transaction and the following staggered thresholds for the minimum investment size, validating the valuation of the De-SPAC Target must be satisfied:
<table>
<tr><th>Negotiated value of the De-SPAC Target (A)</th><th>Minimum independent third party investment as a percentage of (A)</th></tr>
<tr><td>Less than HK$2 billion</td><td>25%</td></tr>
<tr><td>HK$2 billion or more but less than HK$5 billion</td><td>15%</td></tr>
<tr><td>HK$5 billion or more but less than HK$7 billion</td><td>10%</td></tr>
<tr><td>HK$7 billion or more</td><td>7.5%</td></tr>
</table></td></tr>
<tr><td>Shareholder Vote</td><td>A De-SPAC Transaction must be approved by SPAC shareholders at a general meeting (which would exclude the SPAC Promoter and other shareholders with a material interest and their close associates)</td></tr>
<tr><td>Redemption Option</td><td>An option to redeem the SPAC shares must be given prior to: (a) a De-SPAC Transaction; (b) a material change in the key SPAC Promoter/the key SPAC directors; and (c) any extension to the deadline for finding a suitable De-SPAC Target</td></tr>
<tr><td>Open Market Requirement</td><td>(1) The shares of the company resulting from the De-SPAC Transaction (“Successor Company”) must be held by at least 100 Professional Investors
(2) The 3 largest public shareholders holding ≤ 50% of securities in public hands
(3) 25% public float has to be maintained at all times</td></tr>
<tr><td>Dilution Cap</td><td>Promoter Shares are proposed to be capped at a maximum of 20% of the total number of all shares in issue as at the date of listing, with option to further issue up to 10% of the total number of all shares in issue as at the date of listing subject to the Successor Company meeting pre-defined performance targets (i.e. earn-out rights)</td></tr>
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Takeovers Code implication	The Takeovers Code applies to a SPAC prior to the completion of a De-SPAC Transaction. The mandatory general offer obligation under Rule 26.1 of the Takeovers Code should normally be waived in relation to the De-SPAC Transaction. The SFC has published a new Practice Note 23 to provide further details and guidance on the application process for such waiver.
Lock-Up Periods	(1) A SPAC Promoter is subject to a lock-up period of 12 months from the completion of the De-SPAC Transaction (2) The controlling shareholder of the Successor Company (i.e. holding 30% or more shareholding) is subject to a lock-up period of 6 months from the completion of the De-SPAC Transaction, and a further 6-month lock-up period for disposing securities which would result in its cessation as controlling shareholder

If a SPAC is unable (a) to announce a De-SPAC Transaction within 24 months of listing, (b) complete a De-SPAC within 36 months of listing, or (c) obtain the requisite shareholder approval for a material change in key SPAC Promoters/key SPAC directors within 1 month of such change, the SPAC must return 100% of the funds it raised (plus accrued interest) to its shareholders.

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