SPACS: A SINGAPORE PERSPECTIVE

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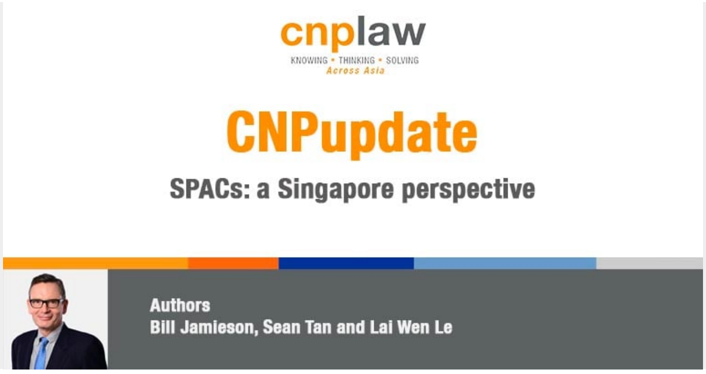

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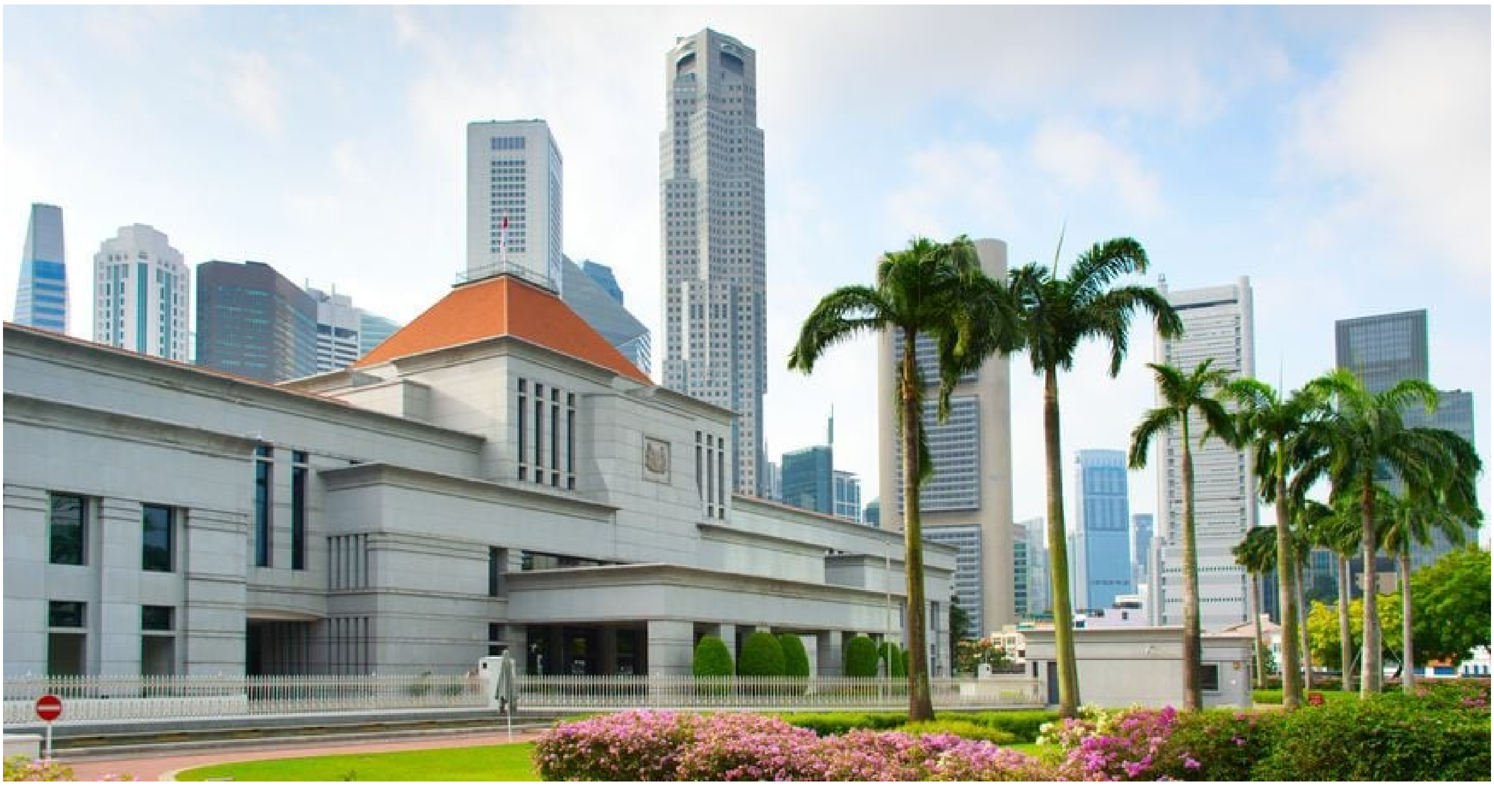

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A Special Purpose Acquisition Company ("**SPAC**") is a company incorporated for the purpose of raising capital through an initial public offering ("**IPO**"). It is a blank-cheque company where the proceeds of the IPO will be used for the purpose of acquiring private companies or assets that are only identified after the IPO. This allows retail investors to participate in investments typically only available to private equity funds. SPACs usually acquire privately held companies through a reverse merger, and the existing shareholders of the operating target company become the majority owners of the surviving entity. The end result is that the previously private company becomes a publicly-traded company (sometimes referred to as a "**de-SPAC transaction**").

A typical listing process from a US perspective

As compared to the IPO of a regular company ("**traditional IPO**"), the IPO of a SPAC ("**SPAC IPO**") can be relatively quick. We take a look at a comparison between a traditional IPO and a SPAC IPO from a US perspective, given that over US$83 billion was raised by SPAC IPOs in the US in 2020 alone.

- The preparation of financial statements for a SPAC IPO is usually a short process and can be conducted in a matter of weeks. This is because a SPAC will have no historical financial results to be disclosed or assets to be described and its business risk factors will be minimal. In contrast, the preparation of financial statements for a traditional IPO involves a lengthier process of up to a few months depending on the amount of historical financial results to be disclosed or assets to be described.

- A SPAC IPO can take as little as eight weeks to complete while a traditional IPO will typically take between four to six months, with more complex ones taking up to a year.

- A SPAC IPO has a typical underwriting discount structure of 2% of the gross proceeds to be paid at the closing of the SPAC IPO, with another 3.5% deposited into a trust account and payable to the underwriters on closing of the de-SPAC transaction. If no de-SPAC transaction occurs, the deferred 3.5% discount will not be paid to the underwriters and is used with the rest of the funds raised in the SPAC IPO to redeem the public shares. In contrast, a traditional IPO underwriter typically receives a discount of 5% to 7% of the gross IPO proceeds which they withhold from the proceeds that are delivered at closing.

- In a traditional IPO, only historical financial statements can be disclosed under securities laws rules. Companies typically do not include financial projections in a registration statement and related prospectus for an IPO because of the liability risks associated with such disclosures. In particular, the safe harbor for forward-looking statements under the Private Securities Litigation Reform Act ("**PSLRA**") that generally applies to statements made by SEC registrants expressly does not apply to statements "made in connection with initial public offering." The same constraints do not apply to de-SPAC transactions. In a de-SPAC transaction, the target company becomes a publicly-traded company by virtue of its merger with the SPAC, and the target company can include financial projections in the proxy statement and S-4 registration statement filed with the SEC in connection with the de-SPAC transaction. This ability of SPACs to market the business combination using forward-looking projections directly to the investors is a key feature of de-SPAC transactions. With such projections providing investors visibility into the target company's future financial growth, they may be especially attractive to companies that will not be profitable for a few years. Moreover, assuming projections provided in connection with de-SPAC transactions are identified as forward-looking and are accompanied by meaningful cautionary language, the projections will be protected under the PSLRA's safe harbor for forward-looking statements.

- A SPAC IPO has a typical lock-up period of up to one year from the closing of the de-SPAC transaction, but this is commonly subject to early termination if the common shares trade above a fixed price for 20 out of 30 trading days, starting 150 days after closing of the de-SPAC transaction. In contrast, a traditional IPO often sees the sponsor, directors, and officers of the operating company signing a lock-up agreement for 180 days from the pricing of the traditional IPO.

- However, a SPAC IPO, similar to a traditional IPO, is also required to have a majority of independent board members by the end of a 12-month phase-in period from the date of listing as per stock exchange listing requirements. The same phase-in exceptions that generally apply to newly listed foreign private issuers, controlled companies and limited partnerships could also apply to a SPAC IPO to exempt the SPAC from the majority independent board and most other corporate governance requirements.

SPACs and Singapore

In early 2021, Singapore Exchange Regulation ("**SGX RegCo**") announced that it is considering another public consultation on SPAC listing on the Singapore Exchange ("**SGX**") and is seeking to push for the approval of SPAC listing on the SGX in the same year. It should be noted that SPACs are not a new concept in Singapore, as the SGX has previously consulted the public on it over a decade ago.

In a consultation on SPAC listing in January 2010, the SGX defined a SPAC as "a company with no prior operating history that raises capital through an initial public offering to enter into future undetermined business combinations". It previously set the proposed criteria to allow a SPAC to list if it meets a minimum market capitalisation of S$150 million, based on the IPO issue price and post-invitation issued share capital. The SGX also proposed that a minimum of 95% of the IPO proceeds be placed in an escrow account to safeguard the cash, which is the only asset of the SPAC. This is similar to the trust account required by the Securities and Exchange Commission in the US. Furthermore, the SGX suggested that a cap be imposed on the proportion of equity interests to be given to a SPAC's founding shareholders without an equity contribution equivalent to that of public shareholders. Given that the equity interest given to the SPAC's founding shareholder is akin to payment before performance (regardless of how well the target company acquired by the SPAC performs), this requirement serves to protect the interests of retail investors.

While there has been no substantial progress on the matter following the previous public consultation on SPACs in 2010, the current proposed public consultation on SPAC listing on the SGX could potentially determine its viability here once and for all. In an announcement early this year, the SGX noted that how quickly SPACs can be deemed a viable listing vehicle in Singapore is highly dependent on the response from the relevant industries. The SGX also noted that allowing SPACs to be listed on the SGX could be a good tool to revive investor interest in the SGX, which has failed to attract big-ticket IPOs over the past few years, particularly in the hot sectors such as technology. A notable example would be multinational technology product company Razer Inc., which was founded by Singaporean Tan Min-Liang and opted to list on the Hong Kong Stock Exchange instead.

There are several SPACs based in Singapore which have proceeded to list on other exchanges. SPACs like SC Health Corporation, Aspirational Consumer Lifestyle Corp., and Tiga Acquisition Corp. have successfully listed on the NYSE. Furthermore, there appears to be an emerging trend of established private companies considering going public through mergers with listed SPACs. For example, companies like South-east Asian ride-hailing and delivery giant Grab Holdings and Indonesian tech unicorn Traveloka have already hired JPMorgan Chase & Co to explore the possibility of going public through mergers with NYSE-listed SPACs. These mergers between huge regional market players and the listed SPAC would only serve to benefit the market that the SPAC is listed in. As such, the introduction of SPAC listing on the SGX could be a big step forward for the Singapore market if it could help entice sponsors to list their Singapore-based

SPAC or company on the SGX

Ultimately, while much is left to be determined by the impending public consultation, appropriate frameworks and processes will be required for this development to be well received by investors.