



28 October 2021

Head of Market Development
Hong Kong Exchanges and Clearing Limited
8/F, Two Exchange Square,
8 Connaught Place, Central,
Hong Kong

Special Purpose Acquisition Companies (“SPACs”)

Dear Christina,

We appreciate the opportunity to respond to the Exchange’s request for comments about its proposal to create a listing framework for SPACs in Hong Kong. We have limited our comments to certain aspects of the Consultation; our comments and observations relate to the following areas:

- Promotor eligibility
- Warrant dilution Cap
- Independent third party investment
- Application of new listing requirements in full

Promotor Eligibility

Under the proposed regime, SPAC Promoters must meet suitability and eligibility requirements, including the requirement for each SPAC to have at least one SPAC Promoter to be a firm that holds a Type 6 (advising on corporate finance) and/or a Type 9 (asset management) license issued by the SFC.

We recognize that this requirement aims to make sure only professional promoters with strong financial expertise can raise a SPAC. In our opinion, it potentially closes the door on the prospect of having SPACs backed by highly qualified promoters not licensed by the SFC. While these potential promoters may not have been vetted by the SFC, that does not mean they do not possess sufficient capital market knowledge and experience to initial a SPAC. As evidenced by many precedent cases in overseas SPAC markets, a lot of successful SPACs were initiated by entities like family offices, non-financial enterprises or highly accomplished individuals. Hypothetically speaking, even if Huawei or Elon Musk would like to form a SPAC in Hong Kong on their own, the proposed regime would have turn them away regardless of their impressive track record. Obligating these potential promoters to partner with an SFC-licensed firm will add hurdles for them which may prove challenging to overcome. In fact, we believe that any concern over the lack of credentials will be satisfactorily addressed by the mandatory appointment of IPO Sponsor, who by default is an SFC-licensed entity, under the proposal framework. According to the proposed framework, the fact that only professional investors are allowed to participate in SPAC IPO already adds an extra layer of protection to general investors.

Warrant Dilution Cap

The proposed framework prohibits the issue of warrants that entitle the holder to purchase more than a third of a share upon their exercise.

In our view, the number of warrants attached to an offer share is a commercial decision which serves as another benchmark for investors to gauge the attractiveness of a particular SPAC investment. There exists a myriad of considerations when it comes to determining the quantum of warrants to be offered,



including market conditions, the industry the SPAC intends to enter upon de-SPAC and the background of the promotor. It is yet to be seen how putting a dilution cap helps safeguard investor interest. On the contrary, stripping promotors of their ability to set the price (in terms of free warrants attached to a share) in response to prevailing market sentiment means investors are given one less factor to weigh in on when making investment decision.

Independent Third Party Investment

The proposal calls for a mandatory independent PIPE investment between 15% and 25% of the expected market capitalisation of the successor company in which at least one asset management firm or fund with an AUM of at least HK\$1 billion owning 5% of more of the issued shares of the successor company.

While we agree on the importance of PIPE as a form of market validation, the size of the investment contributed by independent investors (at least 25% of successor company with market capitalisation of less than HK\$1.5 billion) may make it difficult for SPAC to conclude a business combination. In our experience as sponsor of a NYSE-traded SPAC, PIPE investors' willingness to participate can be influenced by many factors (market sentiment, demand for funds in the general equity/debt market, investors' own financial commitment etc.) other than the SPAC in question. An overly stringent requirement on PIPE may discourage promotors from forming a SPAC in Hong Kong and instead turn to another SPAC market abroad or other private merger and acquisition alternatives.

Unlike some financial professionals who express doubt over the necessity of PIPE investment, we welcome the proposal. We respectfully suggest the PIPE threshold be set in the range of 5% to 10% of the expected market capitalisation of the successor company and that there should be no requirement for the participation of asset management firm as long as all PIPE investors are professional investors. Further, we propose that SPAC Promotor of its affiliates be allowed to participate in PIPE investment. In fact, increasing the SPAC Promotor's skin in the game is often seen as a testimony of the Promotor's confidence in the de-SPAC target, which undeniably affords assurance to investors to a certain extent.

Application of New Listing Requirements in Full

The de-SPAC transaction proposal envisages that the successor company will need to meet all new listing requirements, including IPO sponsor engagement to conduct due diligence, minimum market capitalisation requirements and financial eligibility tests.

The idea of introducing a SPAC listing regime to Hong Kong is to broaden the product offerings of the Exchange. While not a standard practice, it is observed in other markets that SPACs usually target developing companies or companies in emerging sectors which may not fit the traditional listing requirements, notably in terms of financial eligibility. Reference can be made to the successful introduction of Chapter 18A of the Main Board Listing Rules which allows the listing of promising biotech companies which would otherwise not be eligible for a traditional IPO. We are of the view that if the de-SPAC targets are asked to satisfy the new listing requirements in full, the entire SPAC framework will lose its appeal as promotors would likely stick to the traditional IPO route in order to save the hassle of forming a SPAC and then go through the traditional listing process afterward.

Therefore, we propose that the approval authority be rest with investors. With the redemption feature in place, SPAC investors are given the option to withdraw from the SPAC if they determine that the merger target does not constitute a sound investment. This mechanism serves as an effectively tool to protect investor interest.



We recognize the complexity of implementing a new regime and appreciate HKEX's efforts to make the framework as fair to different stakeholders as possible. We look forward to more discussions surrounding the SPAC listing framework in the coming months. If you have any questions about our comments or wish to discuss any of the matters addressed herein, please contact me at [REDACTED] or [REDACTED].

[REDACTED]

President and CEO
Black Spade Capital Limited