



THE HKEX'S SPAC LISTING REGIME

WEBINAR





What is a SPAC?

Special Purpose Acquisition Company - a newly created company that raises funds in an IPO which it will use to fund the acquisition of a private operating company which becomes listed.

History

- Originated in the US as a type of alternative investment vehicle & were incredibly popular in 2020 & 2021.
- US-listed SPACs raised US\$83.4 billion in 2020 compared to US\$13.6 billion in 2019, but popularity waned from 2022.
- In HK, HKEX Listing Rules on shells and cash companies prevented SPAC listings.

HKEX's SPAC Listing Regime

- Took effect on 1 January 2022 under new Ch. 18B.
- Aimed to fend off competition for Mainland listings from US, London & Singaporean SPAC listing regimes.
- 5 SPAC listings on HKEX - all in 2022 - no target co listings yet, but ZG Group, target co. of Aquila Acquisition (1st HK SPAC) may be 1st SPAC target to list.

SPACs: Key Features

- SPACs: companies without business operations that raise IPO funds to acquire a target co. (De-SPAC Target) within set time limit & list the De-SPAC Target in a De-SPAC Transaction (a business combination between the SPAC and De-SPAC Target).
- Successor Company - the company resulting from the De-SPAC Transaction.
- SPAC Promoters - the SPAC's key personnel - usually professional managers with private equity, corporate finance and/or industry experience, who establish and manage the SPAC and identify a suitable De-SPAC Target.



SPAC LISTING REQUIREMENTS

Listing Rules not applicable to SPACs

- Listing Rule 8.05 - financial eligibility and track record requirements.
- Listing Rule 8.05C/14.82 - prohibition on listing cash companies.
- Listing Rule 6.01(3)/13.24 - requirement for sufficient operations and assets.
- Listings 14.89 - 14.90 - prohibition on a fundamental change in principal business activities for one year post-listing.
- Sponsor appointment - IPO Sponsor must be appointed at least one month (not 2 months) before listing application submission.



SPAC LISTING REQUIREMENTS

SPAC IPO fund raising size, share price and subscription amount



- Minimum fund raising size of HK\$1 billion.
- IPO funds must be held in escrow account operated by a trustee or custodian with qualifications equivalent Ch. 4 of the Code on Unit Trusts and Mutual Funds.
- Minimum SPAC share issue price - HK\$10 per share.
- HKEX's view that a minimum fund raising size of HK\$1 billion *"would help ensure that the SPAC is capable of generating sufficient interest among professional investors."*
- Minimum subscription amount - HK\$1 million.

SPAC LISTING REQUIREMENTS

Professional Investor restrictions & open market requirements

- Professional investor restrictions - trading of SPAC securities prior to the De-SPAC Transaction will be limited to professional investors only.
- Professional investors = institutional professional investors defined in Part 1 of Schedule 1 to the Securities and Futures Ordinance (SFO) & high net worth investors - i.e. individuals, corporates, trusts and partnerships meeting the investment thresholds in the Securities and Futures (Professional Investor) Rules.
- Retail Investors are allowed to invest in the shares of the Successor Company only.

Open Market Requirements

- SPACs must have ≥ 75 professional investors (of whom > 20 must be institutional professional investors holding 75% of the securities to be listed).
- SPACs are subject to 25% public float and restriction on 3 largest public shareholders owning a maximum of 50% of publicly held shares.

SPAC LISTING REQUIREMENTS

Trading Arrangements

- SPACs commonly offer SPAC Units to IPO investors comprising a SPAC Share and a SPAC Warrant or fraction of a SPAC Warrant.
- SPAC Shares and SPAC Warrants can be listed and traded separately from the date of the SPAC's initial listing until the De-SPAC Transaction.
- Listing Rules allow automatching of trading orders (subject to HKEX's Volatility Control Mechanism) and manual trading.



SPAC PROMOTERS AND DIRECTORS

Eligibility of SPAC Promoters



SPAC PROMOTERS

- HKEX must be satisfied as to character, experience and integrity of each SPAC Promoter & each SPAC Promoter must meet the standard of competence commensurate with its position.
- HKEX's "Guide for New Listing Applicants" sets out the information about SPAC Promoters that must be (a) disclosed in the listing document and (b) provided to HKEX.
- HKEX carries out suitability assessment of SPAC Promoters based on experience and expertise & takes holistic approach if there are multiple SPAC Promoters.

SPAC PROMOTERS' ELIGIBILITY

Eligibility of SPAC Promoters — SFC licensing requirement for one SPAC Promoter

At least one SPAC Promoter must be:

- licensed to carry on regulated activity Type 6 (advising on corporate finance) and/or Type 9 (asset management) under the SFO; and
- the beneficial owner of at least 10% of the SPAC's Promoter Shares.



SPAC PROMOTERS' ELIGIBILITY cont'd

Eligibility of SPAC Promoters - SFC licensing requirement

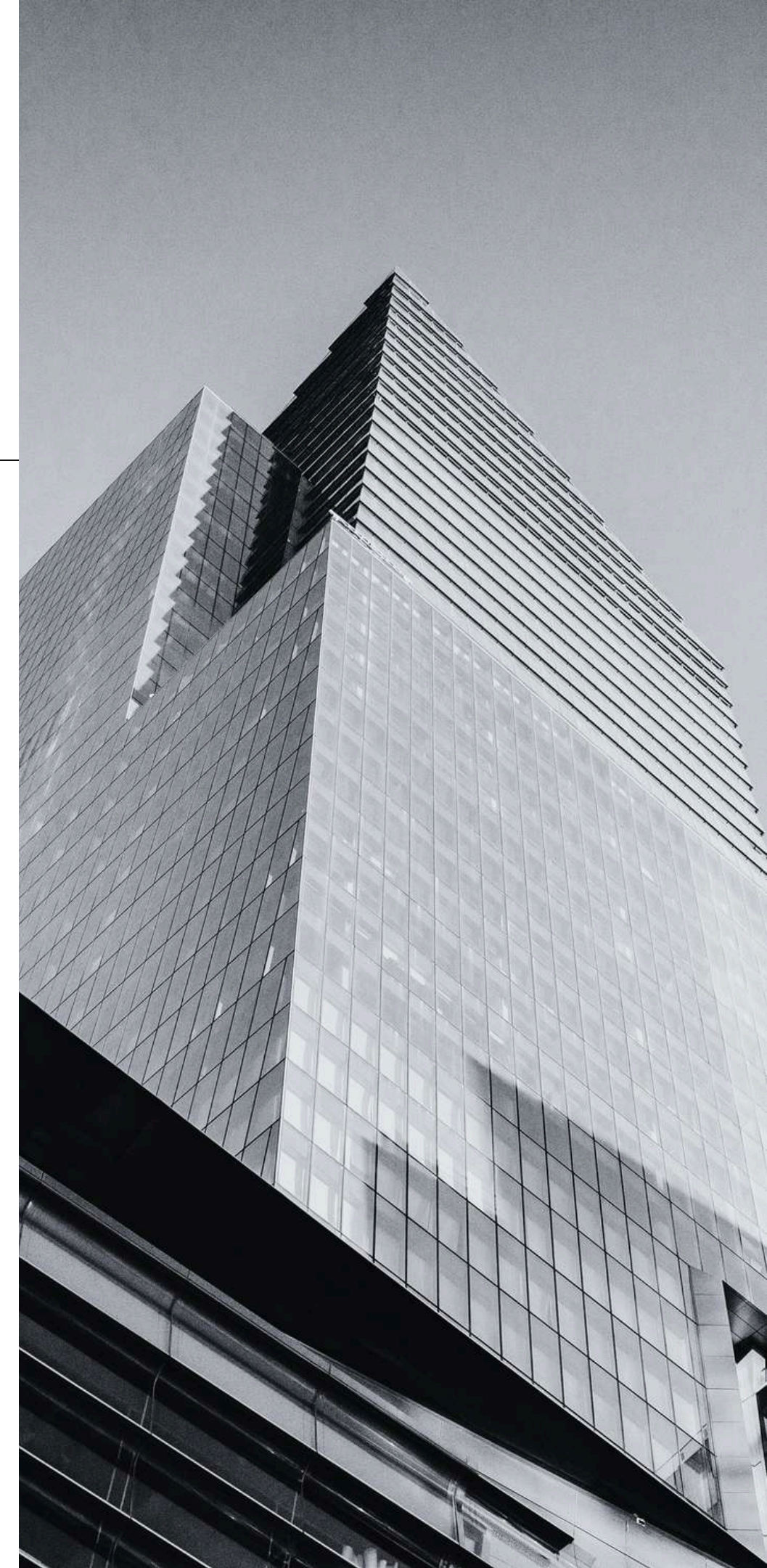
- A waiver from the SFC licensing requirement may be given if a SPAC Promoter has an overseas accreditation considered equivalent to an SFC Type 6 or Type 9 licence.
- The SFC licensing requirement will be met if the controlling shareholder is a licensed corporation and:
 - the SPAC can demonstrate it has sufficient safeguards and/or undertakings to ensure oversight by the controlling shareholder of the SPAC Promoter's responsibilities; and
 - the controlling shareholder gives the HKEX an undertaking that it will ensure that the SPAC Promoter complies with the applicable Listing Rules.

CHANGE IN SPAC PROMOTERS

Material change in SPAC Promoters

A material change in any of the following must be approved within one month by a special resolution of SPAC shareholders (LR 18B.32 to 18B.34):

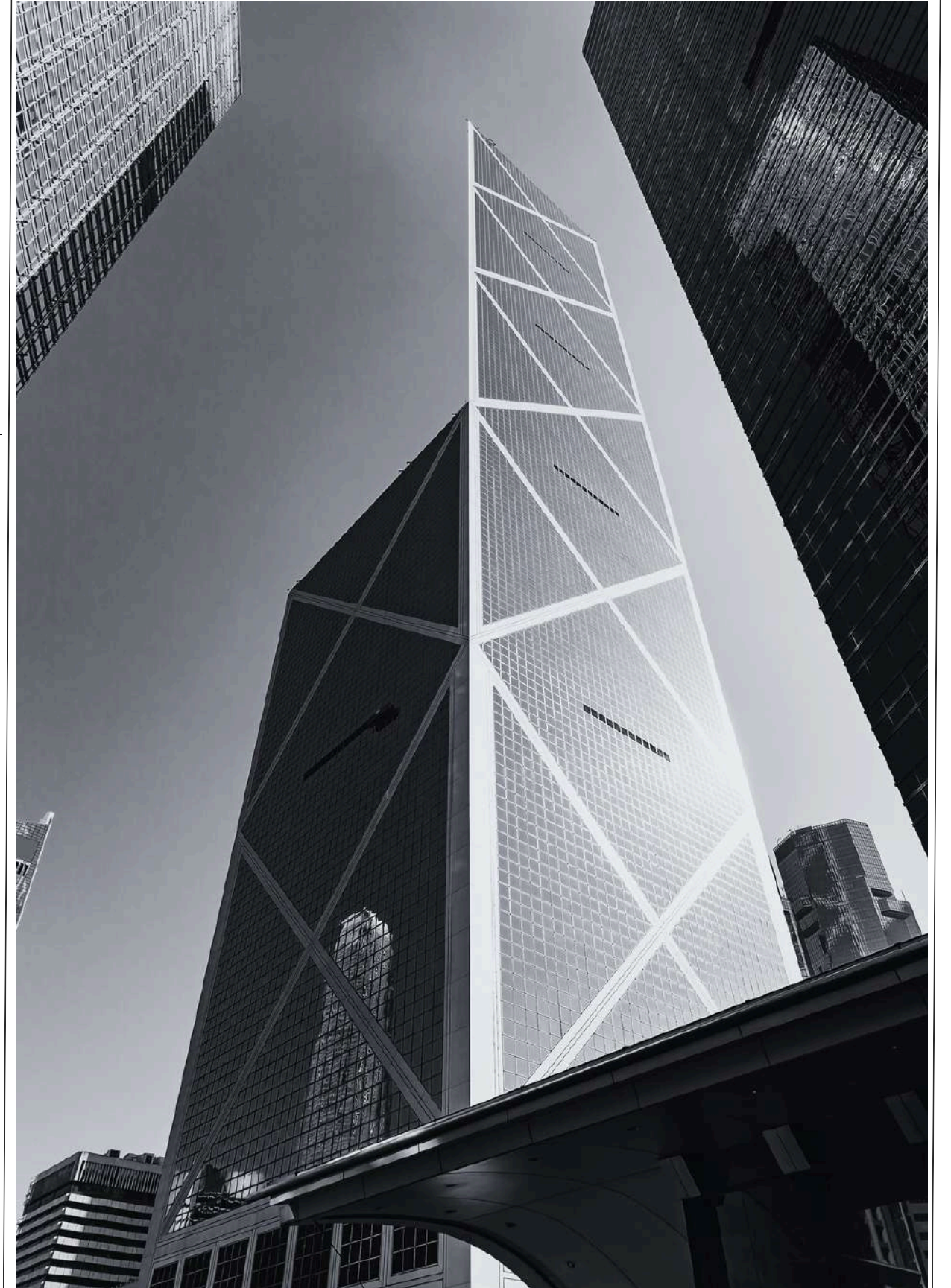
- a SPAC Promoter who, alone or with its close associates, controls \geq 50% of the issued Promoter Shares (or if none, the single largest SPAC Promoter);
- a SPAC Promoter holding the required SFC licence; or
- the suitability or eligibility of either of the above SPAC Promoters.



SPAC DIRECTORS' & ELIGIBILITY

SPAC Board Requirements

- A SPAC Board of Directors must have ≥ 2 Type 6 (advising on corporate finance) or Type 9 (asset management) licensed directors.
- One of the SPAC's licensed directors must be a licensed person of a SPAC Promoter.
- SPAC directors nominated by a SPAC Promoter must be "*officers*" of the SPAC Promoter.

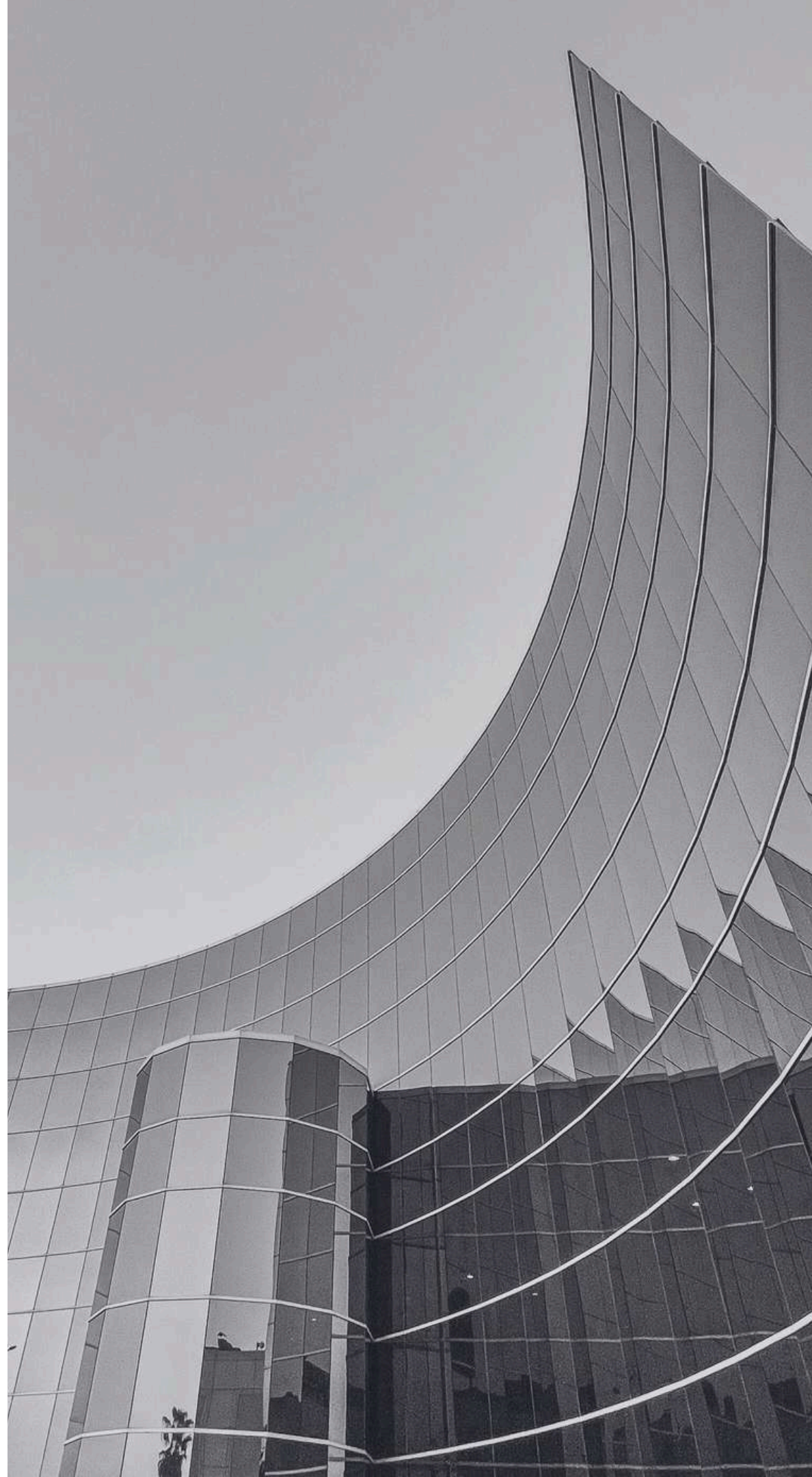


SPACs' CONTINUING OBLIGATIONS

Funds held in escrow

- 100% of the SPAC IPO funds (after deduction of proceeds raised from issue of Promoter shares and warrants) must be held in a ring-fenced escrow account in Hong Kong in cash or cash equivalents to meet shareholder redemptions.
- Account must be held with a trustee or custodian based in Hong Kong with responsibilities consistent with those under Ch. 4 of the Code on Unit Trusts.
- The trustee or custodian must be independent of the SPAC & its connected persons, including the SPAC Promoters, and have been accepted as a trustee for SFC authorised collective investment schemes.





SPACs' CONTINUING OBLIGATIONS

Funds held in escrow

Funds held in escrow can only be released:

- to meet redemption requests from SPAC shareholders (Listing Rule 18B.59); or
- to complete a De-SPAC Transaction.

SPACs' CONTINUING OBLIGATIONS

Promoter Shares and Promoter Warrants



Restrictions on transfer

- Promoter Shares and Promoter Warrants can only be beneficially owned by SPAC Promoters and cannot be listed.
- Promoter Warrants cannot be sold in the market

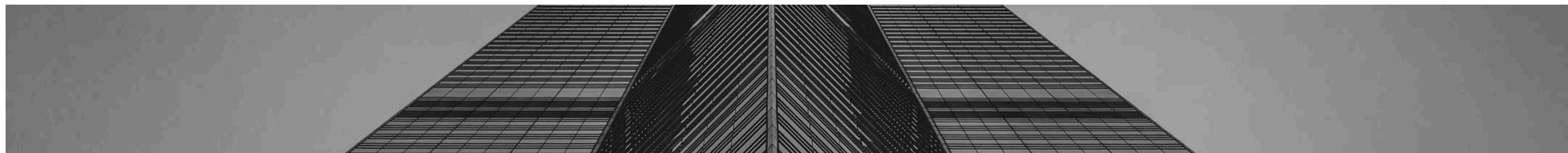
Exception to restriction on transfer

- In exceptional circumstances, HKEX can waive the transfer restriction to allow a transfer of SPAC Shares or SPAC Warrants between SPAC Shareholders of the same SPAC.
- The Transfer must be approved by a shareholders' resolution. SPAC Promoters & their close associates cannot vote.

SPACs' CONTINUING OBLIGATIONS

Promoter Shares & Warrants restrictions

- SPAC Shares issued to SPAC Promoters cannot exceed **20%** of number of SPAC shares at listing.
- A Promote Shares can only convert into one successor company ordinary share.
- Additional successor company shares can be issued to SPAC Promoters up to 30% on all successor company shares issued to Promoters as a % of the number of shares in issue at listing.
- Conditions:
 1. Promoters' rights must be convertible to successor company shares on satisfaction of objective performance targets
 2. If performance targets are set according to changes in successor company's share price, targets must be: (a) $\geq 20\%$ higher than issue price of SPAC shares at listing and (b) satisfied by reference to the volume weighted average price of successor company's shares calculated based on HKEX's daily quotations sheets for ≥ 20 trading days in a 30 consecutive trading day period starting ≥ 6 months after the successor company's listing.



SPACs' CONTINUING OBLIGATIONS

Promoter Warrants

- Promoter Warrants entitling the holder, upon exercise, to more than one Successor Company share are prohibited.
- Promoter Warrants must not be offered at a price that is $< 10\%$ of the issue price of SPAC Shares at listing.
- Warrants must have an exercise price representing $\geq 15\%$ premium to the issue price of SPAC Shares issued at listing & must only be exercisable after completion of the De-SPAC Transaction.
- SPAC Promoters, their directors and employees, SPAC employees & their close associates, cannot deal in the SPAC's listed securities before completion of a De-SPAC Transaction.

DE-SPAC TRANSACTION REQUIREMENTS



The Successor Company must meet all of the requirements for a new listing under the HKEX Listing Rules. These include:

- listing eligibility requirements under Ch. 8;
- Ch. 9 listing application procedures including the requirement to issue a listing document; and
- the appointment of an IPO Sponsor \geq 2 months before the Successor Company's listing application is submitted.

Re. management & continuity - SPACs are treated in the same way as RTOs.

DE-SPAC TRANSACTION REQUIREMENTS

Fair market value of the De-SPAC Target



- De-SPAC Target must have a fair value of \geq 80% of the funds raised by the SPAC on initial offering.
- Fair value to be determined by the board taking into account:
 - the negotiated De-SPAC target value;
 - the sponsor's opinion;
 - involvement and funds committed by independent 3rd party investors; and
 - valuation of comparable companies.

DE-SPAC TRANSACTION REQUIREMENTS

Independent third party investment

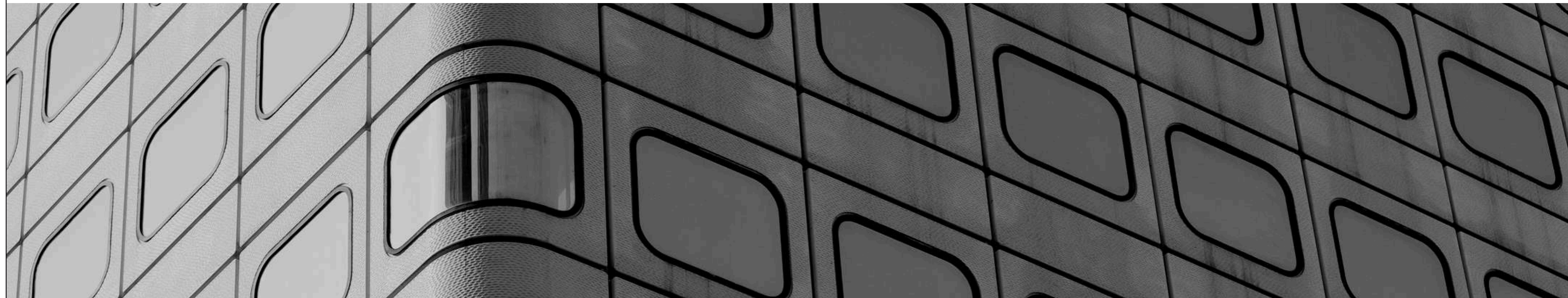
- A SPAC must obtain funds from independent 3rd party professional investors.
- Amount of funds required from the independent 3rd party professional investors varies according to the value of the De-SPAC Target.

<u>Negotiated value of the De-SPAC Target (A)</u>	Min. independent professional party investment as a % of (A)
Less than HK\$2 billion	25%
<u>≥</u> HK\$2 billion but <u>≤</u> HK\$7 billion	15%
<u>≥</u> HK\$5 billion but < HK\$ 7 billion	10%
<u>≥</u> HK\$7 billion	7.5%

DE-SPAC TRANSACTION REQUIREMENTS

Min. investment by significant professional investors

- Independent 3rd party investment must include investment from **independent sophisticated investors**.
- Guide for New Listing Applicants - HKEX will consider the Sophisticated Independent Investment requirement to be met where $\geq 50\%$ of the value of the required independent third party investment comes from at least 3 investors which are each:
 - an asset management firm with assets under management of \geq HK\$8 billion; or
 - a fund with a fund size of \geq HK\$8 billion.



DE-SPAC TRANSACTION REQUIREMENTS

Announcement of De-SPAC Transaction

De-SPAC Transaction Announcement

A SPAC must publish an announcement detailing the terms of the De-SPAC Transaction as soon as possible following finalisation of the terms of the De-SPAC Transaction and, in any event, no later than **24 months** after its listing date.

Completion deadline

De-SPAC Transaction to be completed within **36 months** of the SPAC's listing.

Extension of deadlines

6-month extension will be allowed for either the announcement deadline or the transaction deadline - extension must be approved by an ordinary resolution of SPAC shareholders.



DE-SPAC TRANSACTION REQUIREMENTS

Shareholder approval

- De-SPAC Transaction is conditional on SPAC shareholders' approval. SPAC Promoters & other shareholders with a material interest in the transaction, & their close associates, must abstain from voting.
- The same rules as apply to an RTO apply to outgoing controlling shareholder(s) - no voting restriction on the outgoing controlling shareholder.

DE-SPAC TRANSACTION REQUIREMENTS

Connected De-SPAC targets

Where a De-SPAC Transaction is a connected transaction, SPAC must comply with the requirements of Chapter 14A of the HKEX Listing Rules.

Additionally, the SPAC will need to:

- demonstrate that minimal conflicts of interest exist;
- support its claim that the transaction will be on an arm's length basis with adequate reasons; and
- include an independent valuation of the transaction in the SPAC's listing document.



DE-SPAC TRANSACTION REQUIREMENTS

Share redemptions

Ability to redeem shares is a key shareholder protection mechanism.

Shareholders must be allowed to redeem all or part of their shares at their issue price before a general meeting (irrespective of how they vote) to approve:

- a De-SPAC Transaction;
- a material change in a SPAC Promoter; or
- any extension to the deadlines for announcing or completing a De-SPAC Transaction.

DE-SPAC TRANSACTION REQUIREMENTS

Open market in Successor Company's shares and SPAC Promoter lock-up

Open market requirements

On listing, the Successor Company must have ≥ 100 shareholders.

SPAC Promoters' Lock-up

SPAC Promoters cannot dispose of their Successor Company shares for 12 months from the completion of the De-SPAC Transaction.



DE-SPAC TRANSACTION REQUIREMENTS

Controlling shareholder lock-up

A controlling shareholder of the Successor Company cannot dispose of Successor Company shares:

- for 6 months after the Successor Company's listing; and
- for a further 6 months, if the disposal will result in the controlling shareholder ceasing to be a controlling shareholder.





DE-SPAC TRANSACTION REQUIREMENTS

Forward Purchase Agreements

- Before IPO, SPACs can enter into a forward purchase agreement committing the purchaser to subscribe for, and the SPAC to issue, shares in connection with a De-SPAC transaction at a pre-determined amount.
- If the SPAC Promoter is the purchaser, the agreement will be a connected transaction, although a waiver may be granted by HKEX on a case-by-case basis.

DE-SPAC TRANSACTION REQUIREMENTS

Loan from a SPAC Promoter

A SPAC can seek funding from their SPAC Promoters under a loan or a promissory note.

Settlement is only allowed:

- by issue of SPAC securities not at the discretion of the SPAC or SPAC Promoter; and
- in compliance with Ch. 18B (e.g. the issue price of SPAC shares must be \geq HK\$10).

A loan that will be settled by issue of SPAC shares to the SPAC Promoter is a connected transaction subject to Ch. 14A of the Listing Rules.

A loan that will not be settled by the issue of SPAC securities is fully exempt from the connected transactions requirements if it:

- is on normal commercial terms or better; and
- is not secured by assets of the listed issuer's group



Singapore vs Hong Kong SPACs

Singapore

NO SPAC Promoter required

Deadline for completion of De-SPAC
24 months after IPO with possible
extension of up to 12 months

Hong Kong

Requires at least **ONE** SPAC Promoter

Deadline for completion of De-SPAC -
36 months after IPO with possible
extension of 6 months.



APPLICATION OF THE TAKEOVERS CODE



01 Takeovers Code to apply prior to the completion of the De-SPAC Transaction

02 The De-SPAC Transaction:

- waiver of the application of Rule 26.1 of the Takeovers Code (application of this rule would normally be waived)
- where a waiver is granted, no general offer is expected by the owner of the De-SPAC Target and no offer period will commence

03 The Successor Company:

- the Takeovers Code applies

DE-LISTING THE SPAC

The trading of a SPAC's securities will be immediately suspended if:

- either the announcement or the transaction deadline (extended or otherwise) is not met; or
- the SPAC fails to obtain shareholders' approval by special resolution at a general meeting (at which SPAC Promoters & their close associates must abstain from voting) for a material change in a SPAC Promoter within one month of the change.

Following suspension, the SPAC will have one month to return funds to the SPAC Shareholders and must publish an announcement of the upcoming cancellation of its listing.

