

# **THE ADVOCATES LEAGUE**

**RESEARCH PROJECT**

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**VIABILITY OF SPECIAL PURPOSE ACQUISITION COMPANIES  
(SPACs) IN INDIA: DEMYSTIFYING SPACs FOR INVESTORS AND  
INDIAN COMPANIES**

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## **PROBLEM STATEMENT**

*Special Purpose Acquisition Companies (SPACs) have received widespread attention owing to their explosive growth and the monumental capital raised by them in the volatile market amidst the global pandemic. The intermediaries in the investment chain i.e., the investors and the potential target companies have been actively deliberating on the opportunities that these investment vehicles possess and the vast potential they have in terms of rich valuations, easy access to capital, ease of listing, global exposure, etc. The growth of SPACs in the Indian market and the acquisition of Indian companies by foreign SPACs have remained constrained due to a multitude of reasons including the lack of a SPAC favorable regulatory framework in India. The situation becomes even more challenging owing to the possibility that the current ‘global frenzy’ surrounding SPACs could mark a significant change, with companies opting for the SPAC route rather than the traditional IPO process. In light of this, the Securities & Exchange Board of India (SEBI) reportedly entrusted a group of experts formed under the Primary Market Advisory Committee (PMAC) to examine whether introducing SPAC-like structures in the Indian market was workable. The finance minister Smt Nirmala Sitharaman has also promised to relax certain foreign investment rules to facilitate the SPACs to buy and list their companies. Further, the International Financial Services Centres Authority (IFSCA) has proposed a framework for issuance and listing of SPACs and the Gujarat International Finance Tec-City (GIFT City) might be the first to experiment in this space. Further, in June 2021, the market regulator SEBI announced its plans to build a framework for SPACs that will enable them to list on the domestic exchanges. One of the essential tasks that are required to be undertaken during this research is to highlight the various roadblocks and the considerations that will play a role in the companies’ deliberation on choosing SPACs instead of the traditional initial public offering (“IPO”). It would be a significant task to determine if the existing laws facilitate the introduction of such investment vehicles.*

## **OBJECTIVES OF THE RESEARCH**

The underlying aim of this research is to determine the viability of introducing SPACs in India under three heads, i.e., associated advantages for the concerned parties, associated risks for the concerned parties, and regulatory concerns. Thereafter, it seeks to conclusively answer on the viability of SPACs, mainly for the start-ups, and recommend changes, suggest checks & balances in the regulatory framework to enable the practical SPAC transactions. The ancillary analysis of the draft regulations proposed by IFSCA and the feasibility of a domestic SPAC proposal have been undertaken in furtherance of the basic aim of this study. We believe it is incumbent to spread awareness about investment proposed by SPACs along with the risks involved, to ensure that only the investors and the companies having the requisite risk management shall indulge in the SPAC transactions.

## **WHAT ARE SPACs?**

Special Purpose Acquisition Companies (SPACs) are companies with no active commercial operations, formed strictly to raise capital through an IPO, to gain an unidentified and existing target company. According to the United States (U.S.) Securities and Exchange Commission (SEC), “[a] SPAC is created specifically to pool funds to finance a merger or acquisition opportunity within a set timeframe.”<sup>1</sup>

They have been regarded as the descendants of the ‘blank check companies’. These were common instruments of fraud in the 1980s, leading to the enactment of the Securities Enforcement Remedies and Penny Stock Reform Act, 1990. During this period of prohibitions and changing regulatory dynamics, the first SPACs were created by David Nussbaum. In European countries, the success of private equity led to the introduction of SPACs. Coming to the Asian markets, while the private equity scenario is developed, only a few jurisdictions are a part of noteworthy SPAC transactions. These include China, Malaysia, and South Korea.

Overseas listing is not an unfamiliar concept in India, with companies like Yatra Online Inc. and Videocon d2h already being listed on the National Association of Securities Dealers Automated Quotation (NASDAQ). have presented themselves as an efficient route to seek such listings. However, because of the lack of a regulatory framework to guard these transactions, it remains a risky option for any Indian Company looking to go public via this route. The general corporate Laws governing the SPACs in India include the Companies Act, 2013; SEBI Act, 1992; the Rules and Regulations and listing of corporate entities, including the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. Along with the Foreign Exchange Rules and the Income Tax

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<sup>1</sup> U.S. Securities and Exchange Commission, Blank check company, <https://www.investor.gov/introduction-investing/investing-basics/glossary/blank-check-company> (last visited Jul 29, 2021).

legislation, these laws form the basic governing framework for SPACs. However, because of various inconsistencies in these legislations and rules, concerning the listing of SPACs in India and the acquisition of an Indian Company by a foreign SPAC, India remains steps behind other jurisdictions that have been taking advantage of the various benefits that it entails. Before addressing these concerns in the various sections of this research study, it is vital to develop a basic understanding of these SPACs.

SPACs are formed by a group of people called sponsors that include renowned investor groups, experienced fund executives, who will be involved in the management of the SPAC. These sponsors with significant business experience & project ideas receive interest (mix of shares and warrants) in exchange for sponsoring a SPAC in the pre-IPO stage. These SPACs are incorporated and listed on exchanges where such listing is legal. Post this a SPAC-IPO is conducted. The capital raised by this IPO will be held in an escrow account until the identification of the target company for acquisition. Here, the role of experienced promoters is significant, as their decision in identifying the right targets will influence the success of SPACs. Post the process of identification, shareholders' approval is required. The SPAC can only proceed with the proposed transaction if it secures a certain percentage of votes (differing in different jurisdictions) and in case the requisite majority is achieved, the dissenting shareholders have a right to get their investment returned. Once the target company for acquisition is identified, the SPAC also has the option of bringing in additional Private Investment in Public Equity (PIPE) in situations where the IPO proceeds fall short of the total amount required. After completion of this process, the target company is acquired by the SPAC and this transaction is termed as a De-SPACing transaction. From the perspective of an Indian Company, two alternatives have been recognized for this de-SPACing. The *first* is a cross-border merger between an Indian target company and the SPAC, and the *second* is a share swap agreement between the selling shareholders of the Indian company and the SPAC.

In the event the requisite majority is not achieved, then the SPAC can either identify another target company or liquidate depending on the time that has elapsed from its incorporation.

## ***I. FACTORS THAT SERVED AS AN IMPETUS TO THE RECENT EXPLOSIVE GROWTH OF SPACs***

As noted previously SPACs are not a new development in the global capital market as they have been around since they were introduced in 1993 by David Nussbaum, at a time when blank check companies were banned in the U.S. Since then, over 500 SPACs have been listed in the US<sup>2</sup> and they have been able to raise more than \$100 billion. Earlier the IPO raised by these SPACs was relatively small, usually less than \$100 million. However, they have become much more established today, raising an average of about \$380 million. In the last few years, while the Covid-19 Pandemic disrupted the markets, the popularity of SPACs grew and the capital raised through SPAC-IPOs was enormous. The factors that facilitated this recent explosive growth and what such growth indicates, require further consideration.

### **DATA INDICATING THE GROWTH OF SPAC LISTINGS:**

SPACs continued to play a very effective role in the US economy. They had a huge year in 2020 and are expected to grow in 2021. According to the data reported in this regard, for most of the last decade, the SPACs failed to produce more than 20 IPOs.<sup>3</sup> However, it has been reported that, in 2020, SPAC IPOs have been able to almost double the accumulated capital in the last ten years and have already surpassed the level of 2019 in March 2021. There were 248 SPAC IPOs in the US throughout 2020, whereas in 2019, there were only 59. In March 2021, there had already been 252 SPAC IPOs.<sup>4</sup> Further, by mid-June 2021, SPACs had raised almost 105 billion through

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<sup>2</sup> Dr. David Panton ,Brian Adams ,Excelsior Capital, SPACs: What is a SPAC and Why are They Suddenly so Popular?<https://www.excelsiorgp.com/resources/what-is-a-spac-and-why-are-they-suddenly-so-popular/> (last visited Jul 27,2021).

<sup>3</sup> Max H., Paresh Patel, SPACs: What You Need to Know, Harvard Business Review (2021), <https://hbr.org/2021/07/spacs-what-you-need-to-know> (last visited Jul 28,2021).

<sup>4</sup> Statistica , SPACs: SPAC Boom in the U.S.by Mar 12, 2021 <https://www.statista.com/chart/24008/growth-in-us-spac-ipos/> (last visited Jul 25, 2021).



IPOs in the US since the beginning of the year, showing an additional collection of about 22 billion more than it was in the year 2020.<sup>5</sup> This is an indicator of the growing popularity of SPACs in the world's largest economy.

***Some examples of SPAC in India*** – In the past, there have been several examples of SPAC-similar organizations centered in India, such as Constellation Alpha Capital, Trans-India acquisitions, Phoenix India acquisitions, although they had little success. In 2015, a SPAC called Silver Eagle Acquisition gained a 30% stake in Videocon D2H for about USD 200 million leading to the listing of the Videocon D2H on Nasdaq. In 2016, Yatra India's parent company Yatra Online Inc was listed on Nasdaq in reverse attachment through another US-based SPAC Terrapin 3 Acquisition. In February 2021, an Indian solar power developer company named ReNew Power announced a merger deal with RMG Acquisition Corporation, a SPAC that was able to raise 345 million dollars in 2020 through an IPO. The integration of the ReNew Power with this RMG acquisition will result in an earlier listing on Nasdaq and will bring in about \$ 1.2 billion in cash.<sup>6</sup> Similarly, India's online grocery platform Grofers is in the early stages of exploring a SPAC deal and will probably complete the company's SPAC listing very soon. In June 2021, consumer sector-focused SPAC called Global Consumer Acquisition Corp (GCAC) was listed on NASDAQ and raised \$170 million in an IPO in the US, marking the first fundraiser by an India-related SPAC.<sup>7</sup>

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<sup>5</sup> Ben Winck, SPACs :A new ETF will let investors participate in the stock market's \$22 billion SPAC craze, Business Insider (2020 )  
<https://www.businessinsider.in/stock-market/news/a-new-etf-will-let-investors-participate-in-the-stock-markets-22-billion-spac-craze/articleshow/77336876.cms> (last visited Jul 28,2021).

<sup>6</sup> Renew Power, RMG Acquisition Corporation,SPACs : ReNew Power, India's Leading Renewable Energy Company, to Publicly List through Business Combination with RMG Acquisition Corporation II in \$8 Billion Transaction,  
<https://renewpower.in/investor-relations/rmg-ii-renew-power-transaction-announcement-press-release-feb-2021/> (last visited Jul 28,2021).

<sup>7</sup> India-related SPAC RAISES \$170MN on Nasdaq, The Economic Times (2021),  
<https://economictimes.indiatimes.com/markets/ipos/fpos/india-related-spac-raises-170mn-on-nasdaq/articleshow/83530217.cms> (last visited Jul 29, 2021).

## **1.2. KEY FACTORS LEADING TO THE RECENT EXPLOSIVE GROWTH IN THE U.S.**

The key factors leading up to the recent explosive growth of SPACs are as follows:

- 1. Market Demand:** A concern that the U.S. stock exchange was grappling with was that there was a dramatic decline in the number of public companies over the past 2-3 decades. However, in this context, the flow of money in the public market has not decreased but increased. As observed, since stock exchanges bring in new companies to raise money, they have been striving harder to bring in more SPACs into the global market to boost the economy.
- 2. Less Time Consuming and Uncomplicated process:** When a company has to list in the market, it has to go through the IPO process, which is often costly and time-consuming. Thus, it becomes a problem for new start-up companies to grow their business. However, SPAC can save them from the extra expense of money and time which eases the traditional rigidity of the IPO process and further helps them in accessing capital very quickly.
- 3. SPAC's recent intimate relationship with Security and Exchange Commission (SEC):** Due to SPAC's deeper relationship with the SEC, they have decided to control voting and redemption rights by themselves for the benefit of all parties involved and have started thinking of fixing a fixed price for each IPO, which is the current popularity of SPAC. Enough to prove the increase.
- 4. Smart and trustable investment facility for new companies:** When a sponsor group makes a target company public through the SPAC route, it gives the starter company some units that include shares, warrants, and often some rights. On the one hand, if the

process is not completed for any reason, the full refund is easily available for the investors in the SPAC.

**5. When business owners lose some control over private equity, SPAC helps them maintain a significant stake.**

**6. Higher Valuation opportunities:** The trade by public companies is several times more than that of private companies. This plays a crucial role in the growth and development of a company. In addition, here SPAC helps these private companies, especially start-up companies, to grow their business by giving them higher valuation opportunities.

### **1.3. WHETHER THE RECENT SPAC POPULARITY IN THE GLOBAL CAPITAL INVESTMENT MARKET IS INDICATIVE OF THE POSSIBILITY FOR A SHIFT FROM THE TRADITIONAL IPO TO SPAC IPO IN THE NEAR FUTURE, OR WILL THE ‘SPAC BUBBLE’ BURST SOON?**

The aforementioned statistics depict the increasing popularity of SPACs in the US and the consequent deliberations among the Indian Companies and investors seeking to take advantage of the numerous listed benefits of the SPAC route, as compared to the traditional IPO process. Next, it is essential to determine if the promise of these unconventional investment vehicles may begin to wane which can cause a significant chance of a ‘SPAC bubble burst.’ It is a common market phenomenon that when more people adopt a practice, it begins to expand exponentially due to increasing awareness and legitimacy. However, in the case of controversial vehicles such as SPACs, as the practice becomes more widely used, concerns and suspicions increase.

As mentioned earlier, the recent information about this trajectory of SPAC acquisitions shows a strong run-up in the number and size of those contracts last year but then there is a one-month continuous drop-off in March. ‘Refinitiv’, a data firm in the financial markets, said the number

of contracts through SPAC fell by more than 50% between February and March, and the value of these contracts fell by more than 30%.<sup>8</sup> It was reported that, while the SPAC frenzy continued into 2021, however, the issuance came to a halt in April, with just 10 deals being announced, signifying a 90% drop from March. The overall market value of SPAC mergers in the US fell as the SEC intervention reduced some of the benefits to using SPACs as a way of accessing the capital markets.<sup>9</sup>

Further, negative media reporting and regulatory concerns are significant contributors to this concern. SEC chairman Mr. J. Clayton hinted at similar conservation, as he remarked that the SPAC shareholders are “experienced the same rigorous disclosure requirements that you get with bringing an IPO to market.” SPAC investors usually have a two-year deadline to secure a contract before their money is returned. Therefore, controllers of SPACs need to be more concerned about this. The wrong move is enough to ruin the global popularity and SPAC bubble burst.

To draw parallels from the cryptocurrencies, it is observed that similar to them, the SPACs are underpinned by uncertainty. Therefore, they first need to be regulated without stifling their development. In light of this discussion, it can be remarked that the traditional IPO is not likely to become obsolete soon and the SPAC IPO, due to regulatory concerns may lose its desirability. If the regulators wish to exploit the advantages of these investment vehicles, it is crucial to develop a regulatory framework. In the absence, it seems impossible that the traditional IPO, despite its disadvantages, will be replaced entirely by the SPAC IPO.

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<sup>8</sup> BIS Quarterly Review, International banking and financial market developments (March 2021), [BIS Quarterly Review, March 2021](#) (last visited Jul 29, 2021).

<sup>9</sup> Yun Li, SPACs : SPAC transactions come to a halt amid SEC crackdown, cooling retail investor interest, CNBC (2020)<https://www.cnbc.com/2021/04/21/spac-transactions-come-to-a-halt-amid-sec-crackdown-cooling-retail-investor-interest.html> (last visited Jul 24, 2021).

## **OBSERVATION & CONCLUSION**

By observing and thoroughly analyzing the aforementioned discussion, it can be concluded that at present SPAC is playing a very important role in the growth and development of the corporate business sector worldwide. In particular, start-up companies are more interested in turning from private to public companies through SPAC than using traditional IPO's costly and time-consuming process for growing their business. Since SPACs are linked up with the world's most well-known celebrities or big popular organizations or companies, trust or belief is created among the share buyers around them. Again, since there is no public listing within 2 years, the investor has a refund system, so the risk in SPAC is relatively low.

Although the SPAC framework has not been started directly in India at present, some Indian companies have been able to grow their business indirectly through foreign investment by using SPAC listing. Accordingly, the Indian Government, specifically the market regulator SEBI has responded to the call for the development of a regulatory framework and assessing the viability of SPACs in India. If the SPAC can be used properly by following the rules and regulations under Government supervision, it can play an important role in the business development of the start-up company as well as the rest of the companies. However, the question remains, since SPAC does not have any commercial operations of its own, or what is being invested in a company remains unknown to investors until the acquisition, so some problems may arise. It is very important to be aware of that.

## ***II. DEMYSTIFYING SPACs FOR INVESTORS, INDIAN COMPANIES, AND FOUNDERS OR SHAREHOLDERS OF THE INDIAN TARGET COMPANIES***

The recent explosive growth of SPAC listings in the U.S. and the monumental capital raised by them has attracted intermediaries across various jurisdictions, including India. As observed in the preceding section, the market volatility due to the global pandemic led to companies postponing IPOs in fear of failed operations while SPACs emerged as viable solutions. The Indian companies seeking to tap into the global pool for raising capital, or liquidating currency through stock markets to provide the shareholders an exit option may contemplate on the SPAC route. This increases the paramount of undertaking a three-pronged analysis of the ***associated advantages, risks, and regulatory concerns*** that the investors and the Indian companies must consider before descending the SPAC route.

### **2.1. ADVANTAGES ASSOCIATED WITH LISTING THROUGH THE SPAC ROUTE:**

Indian Companies seeking overseas listing through the SPAC route must consider the following listed advantages while also remaining circumspect of the risks and the regulatory hurdles:

1. The ease of listings through the SPAC route is against the traditional IPO route.
  - Traditional IPO process in India: Traditionally, firstly, the companies have to nominate a merchant banker/consortium of investment bankers to aid the company through the process, with one of them being known as the book running lead manager (BRLM). Secondly, the BRLM prepares draft prospects and submits them to SEBI, in a process known as IPO filing. After SEBI clearance and approval of the IPO, the application forms are distributed for investors to participate in the IPO. Anyone who wants to participate

can fill up this form after which the issue becomes open to the public. The IPO is closed and if it is a book-building process, the issue price is determined by the BRLM. Once the prices are determined and the demands from the investors have been taken into consideration the registrar distributes the shares as and when requested by the investors. Policy to distribute is a fair distribution policy where any investor gets the number of shares in proportion to how many he had bid. Finally, the IPO is deposited into the Demat accounts of the investors and the date is set, on which the IPO or share will get listed on the stock exchange. The particular company starts trading in the stock market now.

→ Process of overseas listing through the SPAC route: For a company in India to go from private to public, it has to go through a very expensive IPO process, time-consuming and it has to follow strict requirements. While SEBI has been assessing allowing the direct listing of value portions of Indian companies in other jurisdictions, it is yet to proclaim guidelines to work with this. SPACs may work with the backdoor listing of the portions of a Target company in outside India. Overseas listing through SPAC's can happen in different ways. Those are:

a) ***Merger or reverse merger*** of the Indian entity with foreign SPAC (De-SPAC transaction) resulting in the merged entity being listed on the overseas exchange.

b) ***Share swap agreement*** between the SPAC and the shareholders of the Indian target company resulting in the said target company becoming a wholly-owned subsidiary of the SPAC

→ Traditional IPO v. SPAC (w.r.t. ease of listing): The IPO process generally is rigorous. It depends on several internal and external factors, and a comparatively shorter duration, with the time frame being fixed between 18-24 months. Further, in the case of IPOs, the

direct and the indirect expenses are offset against the gross IPO proceeds, whereas in the case of SPACs such direct and indirect costs are limited due to the absence of need for roadshows, etc. The benefit is much easier as well as faster access to capital.

2. Instead of raising funds through an IPO as a private company, the SPAC can be an alternative if such a company has a relatively significant amount of debt as a percentage of its total financing.
3. SPACs are suitable for unlisted companies that are not clear IPO candidates.
4. Founders and shareholders of any company can avoid the lock-up periods associated with an IPO and sell their shares at any moment.
5. An added advantage comes in the form of retaining the company's control while also leaving enough room for negotiations which can range from the early share pricing to the eventual exit routes. There is comparatively higher flexibility in structuring the terms of the deal in the case of SPACs.
6. Executing a conventional IPO is heavy on the bank and SPACs have a pool of money specifically to be used for executing mergers with the target company, allowing them to list on the exchange, while also saving a significant amount for the company.
7. The SPAC route to seek overseas listing allows Indian companies to tap into the huge pond of global capital and gain global exposure. It can be said that the SPAC route is where money looks for a company, not the one where the company looks for the money.
8. Due to a lack of clarity on all aspects of direct overseas listing of Indian Companies, the companies looking to go public and get listed on the overseas exchanges may change



their mind and swap the method which they think is more beneficial and popular. In addition, if we see the recent trend the SPACs are becoming more popular day by day.

## **2.2. RISKS ASSOCIATED WITH SPACS**

The Indian target companies and the investors must consider the following risks associated with SPACs:

1. SPACs can be considered fraud to investors through window-dressing of accounts that mean falsely representing the company by showing a better financial cognition or position than what they have. Avoiding or concealing internal loopholes.
2. There can be a conflict of interest between the sponsors, directors, etc due to some contractual obligations or relationship with third parties which need to be disclosed to the investors otherwise can create adverse effects. Relationships among the members working in a particular company should be balanced to avoid any further loss to the members as well as the company.
3. Lack of targets or difficulty in finding targets also creates a risk in the market. Because the rules and regulations are very strict regarding finding target companies. The criteria for the target companies did not match with the rules and regulations of the prevailing laws.
4. From an Indian perspective, regulations to facilitate offshore SPAC transactions are still not certain. As the regulatory framework does not support the offshore transaction and there are necessary changes to be made in the regulatory framework for the accommodation of de-SPAC transactions from the Indian perspective.

5. The current regulatory framework of India does not support the SPAC structure as there are regulatory challenges for SPACs in India like SEBI does not grant any relaxation in law to SPACs, the Companies Act, 2013 does not include any route related to SPAC for raising capital, etc laws are there which act as an obstacle for SPACs in India.
6. The share value of certain SPACs that have gone public has evidently hovered close to the initial offering price post-acquisition of the target. It has been observed that SPACs perform poor post mergers given the dilution inherent in SPACs. While they make up for it by issuing shares through private investment in public equity (PIPE), this dilutes the shareholders of the target. Thus, as per reports, the average return that is obtained from a SPAC merger is much lower than what would have been obtained as post-market returns in an IPO.
7. The success of SPACs depends largely on the identification & acquisition of the appropriate target companies. The target companies are the most important factor for the success of the SPACs but if there is a lack of the main factor, that is target companies only then how come one expects it to be a successful way or method.
8. SPAC is seen as a vehicle for the rich and famous to sidestep regulatory scrutiny and make unfair gains at the expense of ordinary shareholders who sold shares at par or full value.
9. According to the study of Goldman Sachs, the companies that were acquired by SPACs have tended to underperform the S&P 500 within three, six, and twelve months after the

merger and listing<sup>10</sup>

10. There is no clear regulatory framework for SPACs in India because they are shell companies and they do not really have a business upfront and also faces issues from a company's law perspective where there is an object identifier that cannot be met and also the registrar of a company can remove a company name in the event of failure to commence the business operations within 1 year of operation.
11. One of the most important issues is the catastrophic flow of capital to the shell companies and the fact that the primary investors are not aware of which firm SPACs are targeting or the terms of the contract which raises concerns about speck bubbles.

### **2.3. REGULATORY CONCERNS**

Several SPACs from countries across the globe have been approaching various businesses in India to invest in them. Accordingly, the founders of Indian target companies need to deliberate upon certain factors such as their business planning, governance, regulatory framework, reporting requirements, etc. That will be detrimental to ascertain if the company is 'SPAC ready'. The following comprehensive list must be considered:

#### **A. INDIAN TAXATION LAWS**

It is imperative to evaluate the Indian tax considerations and implications that emerge for the intermediaries at different stages of the SPAC route.

**TAX IMPLICATIONS DURING SPAC IPO:** While the listing of SPACs is not practicable in the existing regulatory framework, in the future if SPACs were allowed to get listed on the Indian

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<sup>10</sup> Goldman Sachs Research Letter , SPACs : The IPO SPAC-tacle (2021)  
<https://www.goldmansachs.com/insights/pages/the-ipo-spac-tacle.html> (last visited July 27,2021).

exchanges, they could raise money through SPAC IPO, and in this case, there would not be tax implications in India, because as previously discussed SPAC is a blank-cheque company without operational business or underlying Indian assets.

**TAX IMPLICATIONS ARISING FROM DE-SPAC TRANSACTIONS:** As described earlier, the acquisition of the target company by the SPAC constitutes a De-SPAC transaction. This could either take place through a share swap, i.e. swapping of shares between the SPAC and the shareholders of the Indian target entity, or by merging of the Indian target operating company (or its overseas holding company) with a SPAC. In both these situations, there is a ‘transfer’ of shares and therefore it would have the following consequences under the Indian Income Tax Act, 1961(ITA):

- Tax implications for Shareholders of the Indian target company: In the case of the transfer of shares, the consideration received by the Indian entity is in the form of the SPAC shares. This transaction is not tax neutral in India, in light of it not being explicitly exempted from the capital gains tax under s.47 of the ITA. This section provides certain Indian amalgamating companies an exemption from capital gains tax. In the described scenario, the capital gains tax may emerge on the sale or swap of the shares of the Indian target against the SPAC shares. The rate of tax will depend upon factors such as the mode of transfer (share swap or merger), the residence of the shareholder, the existing treaty benefits, period of holding of the shares,
- Tax implications for the Indian target company: The Indian target company having unabsorbed tax losses and a change in the shareholder voting rights of more than 49%, will not be eligible to carry forward its past tax losses as unabsorbed tax losses would lapse.
- Tax implications for SPAC & SPAC sponsor: SPAC is required to comply with the withholding tax obligation that applies to it at the time of discharge of consideration to non-residents in case of merger or swap of shares.

## **B. Cross Borders Mergers: Foreign Exchange Implications & Disclosure requirements**

Indian Companies seeking an indirect listing on the foreign exchanges through the SPAC route have various business combination options that they can exercise to achieve this. These include inbound mergers wherein the foreign company gets absorbed into the Indian company, or the outbound mergers wherein the Indian company is absorbed into the foreign company, or share acquisition.

*In the case of a merger/reverse merger* of an Indian entity with SPAC (De-SPAC transaction), the SPAC gets merged with an Indian Target resulting in the SPAC becoming the combined entity. This combined entity becomes the operating entity. There is an execution of outbound mergers by the Foreign Exchange Management (Cross Border Merger) Regulations, 2018 (FEMR), s. 234 of the Companies Act, 2013, and in consonance with the National Company Law Tribunal (NCLT) sanctioned scheme of merger. Such mergers necessitate procuring NCLT approvals in addition to the applicable sector-specific approvals. Upon completion of the De-SPAC transaction, the shareholders of the targeted Indian company will in turn get shareholding in the Merged Entity as a merger consideration and the Indian Target will be treated as a branch office or a foreign company of the Merged entity. Therefore, it is essential to determine the commercial as well as legal feasibility of carrying on the business operations through the branch office before approaching this route. Further, such direct mergers are deemed to receive prior RBI approval if companies involved in the transaction comply with the conditions prescribed under the FEMR, including compliance with the FEMA overseas direct investment (ODI) regulations for the non-resident investors; the requirement for the fair market value of securities of the combined entity held by the resident to be within the prescribed limits of the Liberalized Remittance Scheme (LRS); repayment of the guarantees or any outstanding borrowings of the Indian target which has become the liability of the combined entity as per the NCLT sanctioned scheme. A point of concern herein is that, while several of the aforementioned requirements could be fulfilled, given the existing LRS limit of USD 250,000 per financial year, specific RBI approval will be required for the individual Indian shareholders are individuals.

This is because the fair market value of the shares that will be acquired by the resident individuals through the cross-border merger might be above the prescribed LRS limit. In this case, apart from the RBI approval, a key consideration is the NCLT approval. It can thus be observed that these requirements including the time involved in such a process make this option an unfavorable one.

*A substitute to the above De-SPACing transaction that may be explored is the share swap agreement* between the Indian company shareholders (selling shareholders) and the foreign SPACs. In this case, the selling shareholders transfer their shareholding in the Indian company to a foreign SPAC, in consideration of which they receive the shares of the SPAC. Accordingly, post this swapping of shares, the Indian shareholders would have an investment in the SPAC, and the target Indian company would become a subsidiary of the foreign SPAC. There are certain advantages to this route such as liquidity to the Indian shareholders without the Indian Target getting listed; absence of a lengthy NCLT process. However, it must be noted that similar to the traditional De-SPAC transaction, certain compliances would need to be adhered to. The transaction will be required to be carried out in compliance with the FEMA rules and regulations governing Foreign Direct Investment, including sectoral caps, pricing guidelines, and other conditions prescribed therein. Further, considering the inbound as well as outbound limbs of such transaction compliance with the ODI will be required. The residential status of the shareholders will be relevant as the RBI approval would be required in case they are residents. Further, swapping shareholders, SPAC shareholders, and PIPE investors will have to obtain the RBI approval in case they fall under the categories mentioned in the Press Note 3 (2020 Series) issued by the Department for Promotion of Industry and Internal Trade. According to the Press Note, investments obtained from those countries that share land borders with India would be permitted through the Government route only.

### **C. COMPANIES ACT, 2013**

*Section 248 (1) (a) of the Companies Act, 2013* authorizes the Registrar to remove the name of a company that has not started operating within a year of its incorporation. Therefore, SPAC generally takes about 2-3 years to identify and acquire a target let alone start operations

*Section 4(1) (c) of the Companies Act, 2013* requires that the MOA should state the objects of the company that are being incorporated. However, in the case of SPACs, there is no particular business objective formed on their own, they just wanted to achieve or acquire the target by selecting a company based on the criteria. And removing the ‘other object’ clause in the Companies Act makes it more difficult in defining the purpose and object of the company as they do not know which company will be selected as a target company.

Company law permits foreign mergers subject to RBI approval. There are certain requirements concerning the jurisdictional requirements and depend upon the type of company as well.

#### **D. SEBI REGULATIONS & LISTING REQUIREMENTS**

The SEBI Act, 1992 does not recognize SPACs. As per Entry Norm I (“Profitability Route”)<sup>11</sup> and minimum requirements given under Regulation 6(1) of the SEBI’s ICDR Regulations 2018 to issue an IPO, the following conditions are mandatory for a company seeking listing:

- In each of the preceding three years, there should be a net tangible asset of at least INR 3 crore.
- During any three of the last five years, there should be a minimum average consolidated pre-tax operating profit of INR 15 crore.
- In each of the last three years, there should be a net worth of at least INR 1 crore.

While going through the above provision it is visible that SPCAs do not fulfill the above-mentioned criteria and they are a shell company till it targets a company. They don’t have

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<sup>11</sup> [https://www.sebi.gov.in/sebi\\_data/commondocs/subsection1\\_p.pdf?fm=pdf](https://www.sebi.gov.in/sebi_data/commondocs/subsection1_p.pdf?fm=pdf)

net tangible assets and operational profits are absent, and thus it becomes impossible for them to make an IPO within the existing regulatory framework. It also becomes unattractive for investors as the waiting period is of three years to get listed on the stock exchange.

Further, to establish SPAC in the market in India, it is mandatory to follow the rules or listing requirements of the National Stock Exchange with ICDR regulation. For listing it in NSE, a SPAC body or the sponsors of that SPAC must have at least a 3-year track record and they have to comply with this condition.

#### **E. STAMP DUTY**

The biggest regulatory concern or challenge to a SPAC listing especially in India is the levy of stamp duties on a scheme of mergers which is again a big hurdle for SPAC listing in India. It was held in the case of *Hindustan Lever Ltd. V. State of Maharashtra*<sup>12</sup> by the Supreme Court that the merger effected through a scheme is a tool that is the same as a burden to stamp duty. It was also further stated and clarified that stamp duty is not leviable on the transaction of purchase and sale but the instrument. Further, in the case of *Li Taka Pharmaceuticals Ltd. V. State of Maharashtra*,<sup>13</sup> the Bombay High Court moved ahead and stated that the confirmed position set up in the case of Hindustan Lever was further held that along with the other consideration and based on the price of the shares allotted to the transferor the valuation of the stamp duty is to be determined by the authority.

It can be said from the above decision that any scheme related to merger or amalgamation will be subjected to stamp duty as per the order of the Court /Tribunal sanctioning it. It is thus suggested that a Stamp Duty makes merger the less favourable route for SPAC listing, while the acquisition of shares of the SPAC entity is deemed preferable.

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<sup>12</sup> (2004) 9 SCC 438.

<sup>13</sup> (2003) 53 CLA 328.



## **F. FINANCIAL REPORTING**

Financial Reporting is a crucial requisite for the listed companies, and it is for the benefit of the stakeholders around the globe. The financial reporting helps the stakeholders gauge the actual accounting and financial position of the company. It plays a massive role as the said stakeholders see and analyze the received information and based on that they provide the further course of action. The financial reporting requirements in a de-Spacing transaction are considerably similar to those of the traditional IPO. The Indian target companies must be prepared for the accounting & reporting requirements that are applicable in the jurisdiction of the SPAC.

## **OBSERVATION & CONCLUSION**

Post comparing the advantages against all the risks, and regulatory concerns the terminal step is to conclude regarding its sustainability in India. The Indian companies ought to keep in mind the concerns raised while considering transactions involving overseas SPACs. A cost-benefit analysis, comparing the indirect overseas listing through SPACs with the direct listing in India through an IPO is suggested. Here it has to be kept in mind that while the latter is supported by an existing and well-defined regulatory structure, it is at the cost of a risky valuation. Despite the ascertained advantages, SPACs cannot be termed as a viable option for the concerned parties in India till there is leverage given or changes take place in the rules and regulations regarding the SPACs.

### ***III. REQUIRED CHANGES IN THE REGULATORY FRAMEWORK TO ACCOMMODATE SPACs IN INDIA***

It is evident from the circumstances described in the previous sections that to enable the functioning of SPACs in India, certain essential changes will have to be made in the existing regulatory framework. The following changes are recommended to facilitate the listing of SPACs in India and the reverse merger of the Indian private company with the SPAC.

**SEBI RULES:** Recently, it was reported that SEBI will be releasing a framework to accommodate the listing of SPACs on domestic exchanges. It is suggested that this new framework may uplift the opening of new start-ups by having a wider scope of avenues for capital inflow as well. We recommend the following changes after considering the above discussion:

- ***It is recommended that the existing IPO listing eligibility criteria, i.e. minimum net worth, profitability, and tangible assets be relaxed to accommodate the listing of SPACs on the domestic exchanges.*** For this SEBI may amend the existing rules or may put in place a separate set of regulations, detailing the rules to allow the listing of ‘non-operating or ‘investment’ companies such as SPACs or similar structures that do not fit the existing criterion for listing.
  
- ***It is recommended that such separate sets of regulations must be accompanied by checks & balance mechanisms to prevent SPACs from becoming instruments of fraud and creating hostile conditions in the Indian market.*** These include the requirement of due diligence, audits, framework on financial reporting for pre-clearance with the SEBI before the merger is taken up for approval from the SPAC shareholders. In this regard, the reference may be made to the U.S. Securities and Exchange Commission (SEC) that has mandated exhaustive SEC

filing, reporting, and disclosure requirements for giving effect to transactions involving SPACs.

- ***SEBI may consider certain broad parameters/key provisions that may be included in the framework.*** These include: Setting a minimum threshold size for an IPO; Providing well defined qualifying criteria for sponsors to determine if they can be allowed to raise SPAC IPO; Requiring a certain predetermined percentage of approval before proceeding with the acquisition; Allowing the dissenting shareholders of the SPAC to retain the investment in case such investors disapprove of the target identified for the De-SPAC transaction,
  
- As noted earlier the SEBI (Issue of Capital and Disclosure Requirements) Rules and the thresholds provided therein prevents the listing of SPACs. In this context, it is suggested that entities not satisfying the main criteria may, under the alternate eligibility norms. A SPAC body can be listed if it obeys ICDR regulation 32(2) read with regulation 6 (2) of SEBI under the alternative eligibility policy and with it, a SPAC body must also ensure that no more than 10% and 15% respectively allocated for retail investors and private investors.

**TAXATION:** India does not recognize the determination of offshore shares as a tax-free transaction. As a result, an Indian resident has to accept the shares received from SPAC with a fair market value and treat it as a treatable transfer and pay a capital gains fee without getting any cash in the transaction. Under the rules of tax, the sale of shares between two foreign companies is taxable even in India if the shares belong to a significant business in the country. Thus, SPAC's transactions attract up to 44% of capital gains in the hands of investors. Certain alternatives that have been explored include the setting up of blockchain corporations to act as the holding entity of the Indian entity. Therefore, headquarters outside India have become a means for the Indian companies to

evade the limits of Indian regulators and tax rules. To prevent backchannel modes of transactions the Indian regulators must consider the following:

- ***It is recommended that the business combination of Indian entities with SPACs must be treated as tax neutral.*** While in the case of an Indian SPAC and Indian Target merger the question of tax would be immaterial, but in the case of outbound mergers, the tables shall turn. In such cases, if the share of the combined entity is acquired, the shareholders will have to pay heavy capital gains tax in adherence to the pricing guidelines. Thus, to prevent such taxation issues, a new tax exemption provision would be required. If SPACs are made functional in India, the amalgamation would be of two Indian entities, and the merger under a scheme of amalgamation, as such, would be tax neutral.
- **It is recommended that the protection of ability to carry forward and set-off of business losses for Indian companies notwithstanding the change in shareholding of the Indian company by 51% or more be provided, as the same will be helpful for the start-ups.**
- GIFT City's proposal (discussed in section IV) would relax some regulatory issues related to compliance with Indian reporting and disclosure issues. In this case, the Indian government has to believe that the companies that want to make lists and raise money can do very well in India. Then they will not have any need for foreign market access at this moment.

**COMPANIES ACT:** The SEBI framework will have to be supported by amendments to the other existing corporate laws, including the Companies Act 2013. Such amendments must permit a non-operational company to exist without any business until the acquisition of a target, easy exit for the company in case of unsuccessful SPAC, and simplification of

the merger process with accelerated timelines. The following changes in the current regulatory framework under the Companies Act are recommended:

- *It is recommended that an enabling provision must be inserted within the legislation to facilitate the listing of SPACs considering that they do not have their independent operations and have been given a longer timeline to acquire a target company than a year.* This is necessary as Section 248 (1) (a) of the Companies Act, 2013 authorizes the Registrar to remove the name of a company that has not started operating within a year of its incorporation. SPACs must be given 24-36 months to complete the acquisition.

**FOREX RULES:** In India, foreign investment is managed by non-debt investment rule 2019 [NDI rule] and FDI policy. In the case of shareholders of the acquiring company, if they are a resident, they must have a fair market value of the foreign securities under the prescribed threshold of the Liberated Remittance Scheme. In addition, for the acquisition of securities for non-Indian nationals, FDI norms set a key price in the case of acquisition of authorized equity instruments (either through purchase or subscription by foreign shareholders). The transfer of shares of a listed company will therefore be following the SEBI guidelines and in the case of an unlisted company, it will be at an appropriate price in an internationally accepted pricing methodology based on arm length. As per the Foreign Exchange Management Rules, 2018, the company may acquire or transfer any immovable property in India. However, if the company is not able to hold or acquire assets or protections then within two years it will sell such assets.

*Since foreign exchange management is an important issue, the government should think more about how Indian companies can do their SPAC listing simply and of course by following the rules and regulations.*

## **OBSERVATION & CONCLUSION**

The Indian start-ups and unicorn privately-owned companies are thriving in several key sectors. These new-age companies have limited listing opportunities in India. It is therefore believed that a SPAC regulatory framework is important for the Government to ensure that the SPAC process is conducted smoothly and transparently with the help of rules and regulations. Since SPAC is simpler, time-consuming, and less costly than the IPO method, companies are attracted to this method for their business growth and development therefore, it is normal to increase its popularity. However, it is important to think about how to simplify the taxation, apply the rules and regulations and, if necessary, modify and implement properly so that the process can run at a good speed and it will be more reliable for the Companies.

## ***IV. THE DOMESTIC SPAC PROPOSAL & THE IMPLICATIONS FOR THE CONCERNED INDIAN INTERMEDIARIES***

### **4.1. SPAC LISTING IN IFSC**

The International Financial Services Centres Authority (IFSCA), on March 10, 2021, released a '*Consultation Paper on IFSCA (Issuance and listing of securities) Regulations, 2021*',<sup>14</sup> to propose regulations for issuance and listing of various entities in IFSC in India, including SPACs. The proposed framework will facilitate the listing of SPACs in the recognized IFSCA exchanges only.

### **4.2. SALIENT FEATURES OF THE DOMESTIC SPAC PROPOSAL**

- 1.** The draft provides a general eligibility criterion for the listing of securities on the recognized stock exchanges in IFSC. The following companies would be eligible: First, the companies that are incorporated in an IFSC; second the companies incorporated in India, and third incorporated in a foreign jurisdiction.
  
- 2.** Further, it envisages certain underlying principles for an issuer to list its securities in IFSC, including:
  - The material information disclosed is required to be true and correct to ensure that the investor has the available facts to make an informed decision.

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<sup>14</sup> <https://ifsca.gov.in/Viewer/ReportandPublication/9>

- A complete, accurate, and timely disclosure of financial results, risk, and other non-financial information might be crucial.
- A standard of quality operations, expertise is required to be maintained by the issuer
- Directors are required to act keeping in mind the interests of the shareholders as well as stakeholders

**3.** SPACs shall be able to raise capital through IPO on the recognized stock exchanges in IFSC, provided that the primary objective of the issuer is to effect a merger/amalgamation/ acquisition of shares or assets of an operating company. It is also essential that in such cases the issuer does not have an operating business. This essentially means that the SPACs, having no operational business, are eligible to raise capital through SPAC IPO subject to the condition that the capital raised is to acquire a target company.

**4.** The offer document is required to provide various disclosures like the objects of the issue, the anticipated allocation of funds for the administrative capital, the basis of the issue price, the SPAC's target business sector, limitations on the rights of the shareholders who vote against a business acquisition.

**5.** The offer size for the issue must not be less than USD 50 million/ any other amount as may be specified by the Authority.

**6.** The sponsor of the SPAC must hold at least 20% of the post-issue paid-up capital.



- 7.** The minimum application size in the SPAC IPO has been determined USD 250,000, while the minimum subscription must at least be 75% of the offered size.
  
- 8.** The protective measures for the investors include ensuring deposit of 90% of the IPO proceeds in the escrow account controlled by an independent custodian, the mandatory requirement for the proposed acquisition to be approved by a majority of the shareholders and the businesses acquisition shall have an aggregate FMV that is minimum 80% of the aggregate amount deposited in the escrow account.

It is argued that this requirement of the target company's minimal fair accounting value to be 80% ought to be rethought, considering that it significantly restricts the ambit of prospective target companies for the SPAC. The European system of enabling SPACs to acquire multiple target companies is a proposed measure that widens the ambit of target companies SPACs can opt from. Additionally, by allowing SPACs to have multiple investment cycles the government shall also eliminate the exhaustive process of incorporating a separate company for the acquisition of a second target.

- 9.** Further, SPAC is required to complete an acquisition within 3 years. This period may be extended by one year, subject to the approval of 75% of total shareholders except for the sponsors.
  
- 10.** It is noteworthy that the proposed regulatory framework in addition to the tax neutrality on the transfer of SPAC shares listed on IFSC stock exchanges by a non-resident is a significant incentive that will potentially attract those SPACs that are domiciled in foreign jurisdictions, with underlying Indian businesses to consider listing on IFSC stock exchanges.

#### **4.3. WHETHER A DOMESTIC SPAC PROPOSAL BY INDIA IS FEASIBLE, CONSIDERING THAT IT POTENTIALLY HINDERS MANY COMPANIES FROM BECOMING TARGETS FOR GLOBAL INVESTORS?**

Post highlighting the features of the IFSC SPAC proposal that allows listing on the recognized IFSCA exchanges only, and the awaited SEBI framework that would enable listing on the domestic exchanges, it is crucial to analyse another aspect. The significant question that arises is whether a domestic SPAC proposal by India hinders the potential of the Indian companies to become targets for the global investors. If only the domestic SPACs are allowed to acquire the Indian companies, without the appropriate framework for de-SPACing transactions with the foreign SPACs, then the restrictive nature of the proposal would potentially limit the chances for most of the companies. An astute observation that has been made in this regard is that there is a substantial difference in the quantum of capital that can be raised through a foreign SPAC, as compared to an Indian IPO. Further, the valuations that can be achieved through a foreign SPAC are not comparable to what public markets in India may offer.

It is therefore believed that a regulatory framework that also facilitates the issuing of securities in permissible foreign jurisdictions entails various benefits, especially for the start-ups. Statistically speaking, the Indian market with approximately 50,000 start-ups and over 45 unicorns is bound to benefit if SPACs are open to Indian companies.<sup>15</sup> Apart from better valuations, the promise of a diversified investor base that increases the demand pool for the company's shares, and the global exposure are noteworthy advantages. In light of this, it can be concluded that in its current form, the proposal lacks a concrete framework for SPAC transactions to be undertaken in a meaningful way, and it falls short of enabling the Indian companies from taking advantage of the global market.

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<sup>15</sup> India's Buoyant startup culture shut out of global SPAC hunt, Business Line, <https://www.thehindubusinessline.com/news/indias-buoyant-startup-culture-shut-out-of-global-spac-hunt/article34399398.ece> (last visited 29 Jul, 2021)

## **OBSERVATIONS & CONCLUSION**

Post-analysis, it is our observation that the proposal put forth by IFSCA for listing of shares by SPAC in the IFCS, is a commendable step, albeit with certain issues. First, it is a fact that at present there exists only one IFSC in India (GIFT City), which itself is in developmental stages. The access of capital that it provides fades in comparison to that provided by the BSE and the NSE. Second, its feasibility in allowing the target companies to be acquired by only the Indian SPACs is another case of concern that needs to be addressed to determine if it will be attractive enough for SPACs to list in the IFSC in India rather than abroad. Therefore, a well-thought-out regulatory framework accommodating the possibility of various SPAC transactions is required.

***V. IF SPACs ARE NOT HERE TO STAY IN INDIA, THEN WHAT ARE THE ALTERNATIVE VEHICLES THAT EXIST?***

As noted previously, SPACs are essentially shell corporations designed to allow companies to go public. While the step taken by SEBI to study the viability of introducing ‘SPAC-like’ structures and build a dedicated framework to allow them to list locally may seem prudent, it is also necessary to explore the various alternative vehicles available in place of SPAC in India.

*The Alternatives are as follows:*

**Traditional IPO Process:** Initial Public Offering is done when the promoters of the company want to raise capital or additional funds for expanding the business, need more working capital or repay the debts or loans, etc, the moment they want money from a different category of investors at that time the company comes up with an IPO. That means when a company offers shares to the public for raising funds and capital. It is a kind of secure and safe method for executing an investment for retail investors.

**Direct Listings or DPO:** It can be used as an alternative to SPACs. DPO is a way for companies to be listed on a public market by directly selling shares outside of a traditional offering to the investors. Usually, the issuing company registers with a designated exchange and puts up the securities for sale to accredited and non-accredited investors after advertising the DPO to the market.

Why Direct Listings?

- The issuance is much cheaper as the company directly sells the shares to the public and does not use an underwriter, promoters, banks, or financial institution for the sake of direct listing.

- There is no lock-up period limiting the sale of shares by insiders. And
- There is no limit to the secondary offering of existing shares. Traditionally no new shares are issued thus eliminating any shareholder dilution.
- The company does not have to go on an expensive roadshow; it controls the sale of its shares.

Now Indian companies have the permission of direct listing in foreign, this matter has already been discussed but no formal announcement by the Government has been done yet, but whenever there is an announcement related to that being done this will prove to be beneficial. In May 2020, the Government came out with the change in the regulations that Indian private companies could directly list overseas. Accordingly, s. 23 of the Companies Act, 2013, has been amended<sup>16</sup> to insert enabling provision for such listing in the permitted jurisdictions. Overseas listing presents not only a market with a deep investor base but also provides an opportunity for improved valuations in every sector.

**Venture Capital (VC):** Venture capitalists are companies that can be private or Government. VC includes the funds that are made available for start-up firms and small businesses having exceptional growth potential.

This concept has two main parties involved that is an investor and the other is a start-up. The investor gives start-up companies the money, funding, and shares capital in all the support to start up a company, and in return start-up companies give them a belief that in future our growth and potential for strong plans to execute. A start-up company submits its plans to the investors who investigate that business model based on potential, strength, and future profit earning.

Requirements for selecting the company are as follows:

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<sup>16</sup> The Companies (Amendment) Act, 2020, No. 29 of 2020 dated 28 September 2020

- Well management in terms of plans submitted.
- Should have a developed business plan.
- Is substantial growth possible with the company in the future?
- Familiar with all rules and regulations of business.

As compared to SPACs it is a long-term investment, involves equity participation, is wider in scope, they are rewarded by business success and capital gain, has a wide network of contacts, provides additional funds, and also provides a large sum of equity finance.

This can be treated as a development strategy to help a new class of entrepreneurs to convert their business ideas into reality.

**Reverse Merger:** It is an alternative method also known as reverse takeovers for small and medium-size private companies to become public, wherein the said private company acquires a public entity by owning the majority of shares of the public entity. It is an inexpensive route for backdoor listing on exchanges. The process is more simplified as compared to SPACs, the risk is minimized and there is less dependency on the market as well.

**Process:**

The first step is to find out the shell which can be either a public traded reporting company or a non-trading public reporting company also known as a blank cheque company. The investors of a private company buy a majority of the shell companies' shares for a nominal amount and shell companies shareholders vote to authorize the issuance of a new large and highly diluted block of shares. At the close of the merger, the private company takes on the corporate structure of the public entity with its company name, assets, officers, directors, management team and becomes public.

**Acquisition**: A big company purchases a small company. It refers to an act of acquiring control over another entity. Both the companies exist and no new company is formed like a merger. When one company takes over another and establishes itself as the new owner, the purchase is called an acquisition. The purpose is for instant growth. The size of the acquiring company will be more than the size of the acquired company. There are fewer legal formalities as compared to SPACs. There is an exchange of cash or shares of stock with complete control among the acquired and acquiring companies.

## **CONCLUSION & OBSERVATIONS**

There are many other alternatives available in place of SPACs, however, given the existing regulatory framework and given the comparative certainty in their success over SPACs, the alternatives suggested can be useful. The suggested alternatives are the perfect replacement of the SPACs for sustainability and they also fit the investment strategy of investors, which differs from SPACs. Having alternatives means having a positive look and impact on the business because it provides the investors a better number of options for doing the same thing with different methods and approaches to achieve the same goal in a shorter period with lesser restrictions. In addition, these alternatives are consistent with our regulatory framework compared to that of SPACs, which makes the process easy and convenient with no obstacles regarding laws. So having alternatives to a method of approach is a far better option for a company to go public by raising the investment capital through IPO to gain an existing operating company.

## **SUMMARY**

SPACs are becoming more popular these days because of their special qualities, which make them different from traditional IPOs. It is commonly known as the blank cheque company. They are one of the shorter ways to global listings. The popularity of SPACs is increasing day by day, which makes the people of India accept it and try it as an alternative to that of the traditional IPO for raising their capital with the help of the target companies. It is also said to be the best method for start-up companies as it is less costly than that of traditional IPOs and contributes much to the global economy of the country. But the drawback is the rules regarding the SPACs listing in India, which acts as a hurdle for people to follow the SPACs route in place of traditional IPO. Along with the lack of regulatory framework, there is also the risk associated which makes it a little difficult to practice. But if there are changes made in the regulatory concerns regarding SPACs then it may help in the development of the economy of the country as with disadvantages there come advantages too. After analyzing and observing the above issues and points we can conclude that despite having more advantages of SPACs we cannot consider it as a viable option till the time there are some leverages given to the Indian shareholders regarding the working of SPACs. But if we have a SPACs like structure in India, then it will help the people and boost the economy as well but for that, it is important to make some changes in the regulatory framework for the smooth and better functioning of the same while having transparency throughout. There is a requirement for a regulatory framework accommodating the possibility of various transactions for better understanding.