



**Guidelines for Special Purpose Acquisition
Company (SPAC)**



1. What is a SPAC?

“SPAC” stands for *special purpose acquisition company*—a company formed by specifically qualified professionals to raise funds from the general public for execution of acquisition/merger transaction within a permitted time frame. In simple words, SPAC is a company without any revenue or operating history and uses the investor’s funds to acquire or merge with an operating company.

The term SPAC has been defined under regulation 2(1) of Public Offering Regulations, 2017 as “a company formed and registered under the Companies Act, 2017, having sole principal line of business to raise money through public offering for entering into merger or acquisition transactions.”

2. How to form a SPAC?

Modes of formation:

To form a SPAC, one needs to incorporate a Public Limited Company with SECP under the Companies Act, 2017 having paid-up capital of at least Rs. 10 million. Public limited company can be incorporated through both electronic and physical mode. For physical mode, one needs to visit:

- i. Any Company Registration Office (CRO) of SECP located at Karachi, Lahore, Islamabad, Quetta, Peshawar, Hyderabad, Sukkur, Multan, Faisalabad and Gilgit Baltistan; or
- ii. The Business Center located at SECP Head Office Islamabad (NIC Building 63 Jinnah Avenue Islamabad)

For electronic submission, one needs to access the e-services system of SECP. (<https://eservices.secp.gov.pk/eServices>)

Requirements for incorporation of Public Limited Company:

Number of members and directors: To form a public limited company, share capital of company must be subscribed by at least three or more members and there must be at least three directors on the board.

Procedure for incorporation of Public Limited Company:

Procedure for incorporation of Public Limited Company can be accessed through link: <https://www.secp.gov.pk/document/stepwise-procedure-for-company-incorporation/>

3. What is the object clause in the Memorandum of Association for SPAC?

The object clause of SPAC should be:

- i. The principal line of business of the company is to raise funds from public offering and utilize those funds for merger and acquisition of company/ companies within the permitted time frame, as per the Public offering Regulations, 2017.
- ii. Except for the businesses mentioned in sub-clause (iii) hereunder, the company may engage in all the lawful businesses (related to merger / acquisition) and shall be authorized to take all necessary steps and actions in connection therewith and ancillary thereto.



- iii. Notwithstanding anything contained in the foregoing sub-clauses of this clause nothing contained herein shall be construed as empowering the Company to undertake or indulge, directly or indirectly in the business of a Banking Company, Non-banking Finance Company (Mutual Fund, Leasing, Investment Company, Investment Advisor, Real Estate Investment Trust management company, Housing Finance Company, Venture Capital Company, Discounting Services, Microfinance or Microcredit business), Insurance Business, *Modaraba* management company, Stock Brokerage business, forex, managing agency, business of providing the services of security guards or any other business licensed or restricted under any law for the time being in force or as may be specified by the Commission.

4. What is minimum paid up capital requirement for SPAC?

A SPAC must have minimum paid up capital of Rs. 10 million.

5. Is there any fit & proper criteria for the directors/sponsors of SPAC?

Yes, promoters/sponsors, directors and CEO of SPAC must meet the fit and proper criteria as specified in Ninth Schedule of the Public Offering Regulations, 2017. As per the said criteria the sponsors/promoters/directors/CEO must meet the requirements relating to Integrity, Track Record, Competency and Capability.

Sponsors shall justify in the Prospectus demonstrating their qualification, capability and competence to undertake the business of SPAC.

Public Offering Regulations, 2017 can be accessed through: [Public Offering Regulations, 2017](#)

6. What is the process for raising funds from general public through Public Offering?

- i. Formation of public limited company (minimum paid up capital of Rs. 10 million) to carry out the business of SPAC.
- ii. Appointment of Consultant to the Issue (CTI), Book runner (if required), Underwriter (if required) and share registrar and other by the SPAC as per Public Offering Regulations, 2017.
 - a) List of licensed Consultant to the Issues, Underwriters and Share Registrars is available at SECP's website and can be accessed through:
<https://www.secp.gov.pk/data-and-statistics/capital-markets/>.
 - b) For Book runner, please note that any scheduled bank or securities broker registered with Commission as underwriter can act as Book runner.
 - c) **Role of Consultant to the Issue** is to (i) draft listing application, prospectus and related documents; (ii) seek approval of PSX and SECP on the behalf of the SPAC; (iii) ensure publication of prospectus in accordance with relevant law; (iv) conduct roadshows to sell the issue; (v) guide SPAC throughout the public offering process etc. (The appointment of Consultant to the Issue is not mandatory, SPAC itself can prepare the prospectus and listing application and file the same to regulators.)
 - d) **Role of Bookrunner:** Book runner is required in case of Book Building method. Book runner runs the Book Building process for determination of Price. In book building,



bids are collected from the bidders and a book is built which depicts the demand for shares at different price levels.

- e) **Role of Underwriter:** Underwriter is mainly required in case of fixed price method. Underwriters help the SPAC to get desired amount of the funds, which would not be possible in case of undersubscription. Moreover, underwriting provides confidence to the investors that an independent third party has conducted proper due-diligence of the issue including the price before underwriting the issue.
- iii. Preparation of Prospectus and listing documents by the CTI. (Content of Prospectus is prescribed in Schedule Eleven of the Public Offering Regulations, 2017)
- iv. Appointment of Custodian and opening of escrow account with scheduled bank having investment grade rating. The Role of custodian is to secure the money of investors in escrow account. For details regarding escrow account and custodian, please refer para 13, 14 and 15 below.
- v. Submission of listing documents along with the prospectus to the PSX for approval. (Listing documents are specified at Appendix-I of Chapter 5 of the PSX rule book).
PSX rule book can be accessed through:
https://www.psx.com.pk/psx/themes/psx/uploads/PSX_Rulebook_%28updated_on_September_15%2C_2021%29.pdf
- vi. Placement of Prospectus by PSX on its website for seeking public comments. (seven working days).
- vii. Pursuant to PSX approval, submission of prospectus to the Commission for approval under section 87 (2) read with section 88(1) of the Securities Act, 2015.
- viii. Subsequent to Commission approval, SPAC shall seek dates from PSX for publication of Prospectus in newspaper.
- ix. Prospectus has to be published in at least one English and one Urdu newspaper.
- x. Prospectus has to be published not less than seven days and not more than thirty days before the commencement of the subscription period.
- xi. Placement of SPAC shares to the general public through Book Building or Fixed price method.
- xii. Listing of SPAC at Pakistan Stock Exchange as per Chapter 5 of the PSX Rule book (Listing requirements are specified in Chapter 5).2

7. Is there any minimum amount to be raised through public offering?

Yes, a SPAC should raise at least Rs. 200 million through public offering.

8. What happens after funds are raised through public offering?

- i. **Placement of funds in Escrow Account:** 90% of the funds raised through IPO must be kept in escrow account and the same can be invested either by custodian or SPAC itself, in permitted securities i.e. Government securities, mutual funds (except equity based), money market instruments, debt securities and sukuks with investment grade ratings. SPAC sponsors shall at all times ensure that investor's interest is protected and the decision of investments out of the escrow account are made in the best interest of investors, after thoroughly analyzing investment options. Remaining funds i.e. 10% can be used by the SPAC to defray expenses



relating to IPO, operating cost, fund the search for a target business and complete the qualifying acquisition.

ii. Identification_of target Company:

- a) Within three years (36-months) from the date of listing, SPAC is required to identify the target company and complete merger/acquisition transaction.
- b) Timeline can further be extended upto 6 months upon receipt of application by SPAC, subject to approval of the Commission.
- c) If SPAC is unable to find the target company and complete merger transaction within permitted 36 months or such extended time period, the shareholders will be refunded from the escrow account on pro-rata basis including profit, if any, earned thereon through permitted investments (net of taxes) and SPAC shall be delisted and undergo voluntary winding-up as per Companies Act, 2017.

iii. Shareholder's Approval: Post identification - approval of shareholders through special resolution is required for acquisition of target company.

a) How to seek shareholder's approval for merger/acquisition transaction?

The approval of shareholders must be obtained through a special resolution. For special resolution, implementation of e-voting is mandatory and shareholders must be given a notice of not less than 21 days.

b) Minimum information to be provided to the shareholders for seeking approval of the merger/acquisition transaction?

The SAPC must share with its shareholders an information circular containing disclosures about the target company, its business, financial position and other information as specified in Schedule Twelve of the Public Offering Regulations, 2017.

c) How many shareholders must vote in favour for approval of the transaction?

The proposed transaction must be approved in majority by three-fourth (75%) members of the company through e-voting.

d) What if some shareholders do not approve the merger transaction?

If the shareholders do not approve the transaction through special resolution then SPAC will again search for potential target company to complete the merger transaction within permitted timeframe.

e) When will the dissenting shareholders get their money back?

Dissenting shareholders will get 90% of their initial investment, immediately after completion of SPAC transaction.

iv. What if the shareholders grants approval?

- a) **Execution of Acquisition/Merger transaction:** After identification of target company and approval from shareholders, SAPC is required to complete the acquisition transaction and merge the target company. The acquisition/merger transaction has to be complete in



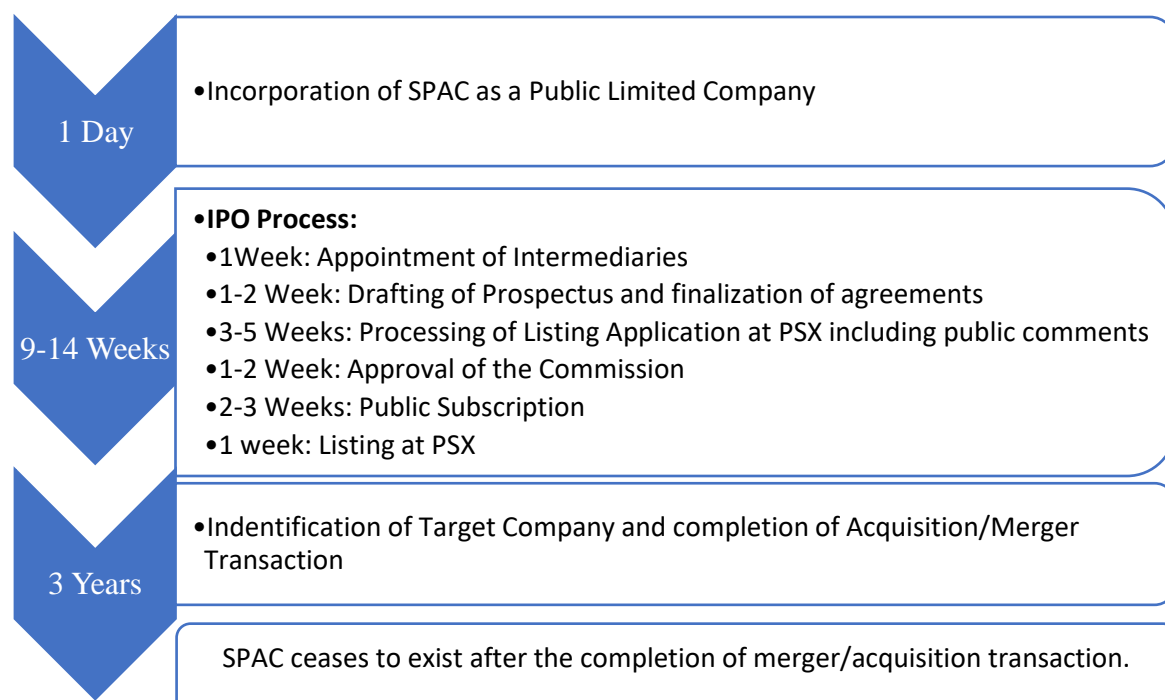
respect of the requirements specified in Section 279 till 283 and 285 of the Companies Act, 2017.

b) **Issuance of Shares:** SPAC shareholders will get shares of Merged Entity.

v. **Post-merger events, what happens after merger transaction?**

After the completion of acquisition/merger transaction(s); SPAC ceases to exist and the merged entity shall stand listed at PSX. SPAC shall be delisted and undergo voluntary winding-up as per Companies Act, 2017

9. **Time lines involved in SPAC Transactions:**



10. **Are there any restrictions on SPAC founders/sponsors?**

Yes, sponsors' cumulative shareholding in target company (pre-merger/acquisition) must be less than 30% of total shareholding of the target company.

Further, there is a lock in period requirement on sponsors, whereby at least 15% shareholding merged entity (post-merger) must be held by the sponsors for a period of at least one year from the date of merger.

11. **How can SPAC's sponsors increase their shareholding after the completion of merger transaction?**

Sponsors of SPAC can further increase their shareholding in merged entity upon achievement of certain performance targets. However, this information needs to be disclosed on first page of the Prospectus at the time of public offering.



12. How to determine the fair market value of target company?

The fair market value of the target company/ies must equal to at least eighty percent (80%) of the aggregate amount in the escrow account. The fair market value should be supported by a valuer's report recognized under the Companies Act, 2017.

13. With whom Escrow Account can be opened?

Escrow account must be opened, with a scheduled bank (having an investment grade rating). List of scheduled banks is available on website of State Bank of Pakistan.

14. Who can be Custodian?

The custodian, not being an associate of SPAC, could either be an investment agent/debt securities trustee or a Bank or Investment Finance Service license holder or Central Depository Company. The SPAC must enter into an agreement with the custodian and the agreement should contain at least all the information as specified under Schedule Ten of the Public Offering Regulations, 2017.

15. Circumstances under which funds can be released by the Custodian?

Funds placed in escrow account can only be released by the Custodian under following circumstances and in accordance with provisions of custodian agreement:

- i. for merger/acquisition;
- ii. for redemption to dissenting shareholders; and
- iii. failure to complete transaction.

16. Can additional funds be raised for SPAC to complete transaction?

SPAC can raise additional funds by way of rights issue or other than right issue or through secondary public offering to complete its merger or acquisition transaction.

17. Conditions for utilizing the debt financing for transaction?

SPAC can utilize debt financing for acquisition/merger transaction, subject to fulfilment of following conditions:

- i. any credit facility obtained prior to the completion of the merger or acquisition transaction, may only be drawn after the approval of the merger or acquisition through special resolution;
- ii. the funds from the credit facility obtained must be applied towards the financing of the merger or acquisition, defraying related costs or enhancing the business(es) acquired under the merger or acquisition; and
- iii. the monies in the escrow account must not be used as collateral for the debt financing.

18. Can a SPAC acquire more than one company through its merger/acquisition transaction?

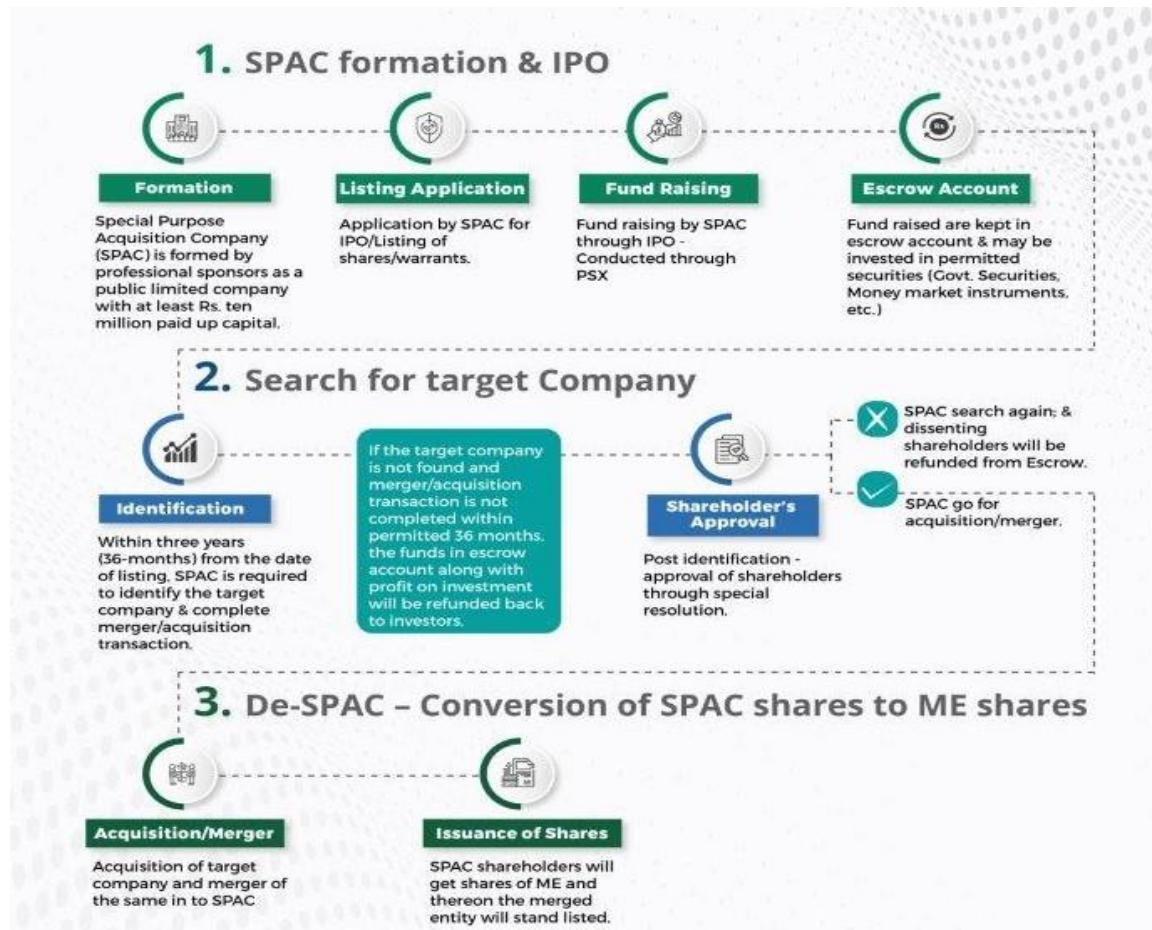
Yes, a SPAC can acquire more than one companies through its merger/acquisition transaction subject to approval of the shareholders.



19. What if the SPAC, before expiry of prescribed time, feels that it cannot complete the SPAC purpose.

In case, a SPAC, before expiry of prescribed time, feels that it cannot complete the purpose due to unforeseen circumstances, the same shall be notified to the concerned Securities Exchange and Commission. SPAC, for the purpose of delisting

20. Flow chart explaining SPAC Structure and transaction in Pakistan.



21. Real life case studies on SPAC.

SPAC is a popular model that is being used globally by professionals for conducting acquisition and merger transactions. SPACs are recognized by many securities regulators across the Globe including USA, Canada, Malaysia, Hong Kong etc.

As per internet data, in USA, as of date 419 SPACs have raised funds through IPO during 2021. Following, three real life case studies on SPAC are shared for information and understanding:

- i. InterPrivate II Acquisition Corp (SPAC) ([Prospectus/InterPrivate II Acquisition Corp.](#))
- ii. Forum Merger II Corporation (SPAC) (<https://forummerger.com/prospectus.pdf>)
- iii. Novus Capital Corporation (SPAC) ([Prospectus/ Novus Capital Corporation](#))