



# **SPECIAL PURPOSE ACQUISITION COMPANY RULES**

2021

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Securities and Exchange (Zimbabwe Stock Exchange Special Purpose Acquisition Company) Rules, 2021

IT is hereby notified that the Securities and Exchange Commission has, in terms of section 65(3) of the Securities and Exchange Act [*Chapter 24:25*], approved the following regulations:-

**1. Title**

These rules may be cited as the Securities and Exchange (Zimbabwe Stock Exchange Special Purpose Acquisition Company) Rules, 2021

**2. Preamble and Introduction**

- 2.1. These Rules provide a practical guide to listing of a Special Purpose Acquisition Company (SPAC) on the Zimbabwe Stock Exchange (“ZSE”). The Rules provide Issuers and their advisers with important information about listing and disclosure requirements.
- 2.2. No approval granted by The ZSE for the listing of securities issued by a SPAC shall be taken as an expression of The ZSE’s opinion or endorsement of that SPAC’s viability or standing in relation to others.
- 2.3. The SPAC’s sponsors and directors shall be fully accountable for the veracity and completeness of any information provided to The ZSE and the public, as well as the authenticity of any supporting documents.
- 2.4. Only qualified Investors shall invest in SPACs.

**3. Definitions**

In these Rules the following expressions shall, unless the context requires otherwise, have the meanings herein specified below:

- 3.1. **“Escrow Agent”** refers to an independent third party or entity that holds funds or property in trust for parties while a transaction is finalized or a disagreement is resolved.
- 3.2. **“Qualified Investors”** means Qualified Institutional Investors and High Net Worth Investors;
- 3.3. **“SECZ”** means the Securities and Exchange Commission of Zimbabwe;
- 3.4. **“SPAC”** means a special purpose acquisition company, being a special purpose vehicle established for the purpose of facilitating the primary capital raising process to enable the acquisition of Viable Assets in pursuit of a listing on the Main Board.
- 3.5. **“Sponsor”** refers to an individual, management team, entity, or the founding shareholders that form the SPAC.
- 3.6. **“Subscription shares”** means shares that investors can convert into new ordinary shares in the company at a specific time in the future at a fixed price.
- 3.7. **“Transaction”** means the negotiation of a merger or purchase agreement and/or the acquisition of a business or assets.

- 3.8. “**Viable Assets**” means the acquisition of assets by the applicant that will on its own enable the special purpose vehicle to qualify for a listing pursuant to the listing criteria of the Main Board.
- 3.9. “**ZSE** means the Zimbabwe Stock Exchange Limited;

#### **4. SPAC admission criteria**

An applicant seeking a listing as a SPAC must satisfy the following criteria:

- 4.1. It must not carry on any commercial and/or business operations at the time of application to the ZSE. An applicant may consider an acquisition of Viable Assets provided that the applicant has not entered into any formal and binding acquisition agreement/s. A statement to this effect must be included in the prospectus/pre-listing statement of the applicant;
- 4.2. It must disclose the acquisition criteria for Viable Assets to allow the board of the applicant to consider and assess the potential acquisition of Viable Assets. The acquisition criteria may not be changed unless a resolution is passed at a meeting of security holders by achieving a 75% majority of the votes cast to that effect;
- 4.3. It must disclose the estimated operating expenses in the prospectus/prelisting statement of the applicant in respect of the operational costs which will be incurred by the applicant during the initial period. The applicant may not exceed the estimated operating expenses as disclosed in the prospectus/pre-listing statement unless a resolution is passed at a meeting of security holders by achieving a 75% majority of the votes cast to that effect;
- 4.4. The board of directors may receive remuneration prior to the acquisition of Viable Assets. Details of such remuneration must be disclosed in the prospectus/pre-listing statement of the applicant;
- 4.5. The board of directors must have subscribed for shares or units in the applicant representing at least a 5% interest, on a collective basis, on the date of listing. The subscription shares or units of the board of directors must be held in trust by the applicant’s attorneys or other party providing custodial services and must not be sold for a period of at least six months from the date the acquisition of Viable Assets have been completed by the applicant. The terms of the subscription by the board of directors and the terms of the custodial arrangements must be disclosed in the prospectus/pre-listing statement of the applicant;
- 4.6. The applicant must satisfy the ZSE that its board of directors has sufficient and satisfactory experience in the management of the type of Viable Assets in which acquisitions are proposed to be made and to that effect, the sponsoring broker must be satisfied that the directors of the issuer have completed and submitted the directors’ declaration as set out in Twenty-first Schedule of the Securities and Exchange (Zimbabwe Stock Exchange Listings Requirements) Rules, 2019;
- 4.7. It must have raised a minimum of ZWL 10 million through the issue of shares and/or units for listing on the Main Board;
- 4.8. All capital raised must be paid directly into an account managed by an escrow agent. A statement to this effect and details of the escrow arrangements must be included in the prospectus/prelisting statement of the applicant;

- 4.9. Each SPAC shall be duly incorporated as a **public limited liability** company. The SPAC shall comply with all applicable Rules and Regulations of the SECZ and The ZSE;
- 4.10. The objective of the SPAC as stated in its Memorandum and Articles of Association or Constitution shall be limited to matters relating to the Transaction and it shall only carry out activities related or ancillary thereto.
- 4.11. The prospectus for listing must disclose the acquisition criteria for Viable Assets;

## **5. Documents to be submitted**

The following documents shall be submitted to the Exchange in support of an application for listing of a SPAC:

- 5.1. Completed listing application form of The Exchange;
- 5.2. Evidence of payment of full listing application fee;
- 5.3. The preliminary prospectus;
- 5.4. A draft escrow agreement governing the IPO proceeds;
- 5.5. Certified copies of all incorporation documents, including Memorandum and Articles of Association and other related documents;
- 5.6. A completed personal information form (as provided in Appendix 1 to these Rules), for each sponsor, director, or holder of at least 5 (five) percent of the SPAC's share capital;
- 5.7. Profile of sponsor, all directors, and management team;
- 5.8. And such other documents as may be required by The Exchange.

## **6. Acquisition of Viable Assets**

- 6.1. The SPAC must have completed an acquisition of Viable Assets within 24 months from the date of listing as a SPAC (the "initial period"). The ZSE may extend this date on an application from the SPAC only on the basis that the SPAC can illustrate to the ZSE that an acquisition of Viable Assets is imminent.
- 6.2. The acquisition of Viable Assets must be approved by a majority of directors with no direct interests in the transaction and the majority of security holders of the SPAC at a general meeting.
- 6.3. The notice of meeting must include a resolution on the proposed use of the residual capital not allocated for the proposed acquisition of Viable Assets for which the approval is being sought. Should security holders not approve a proposed resolution dealing with the further use and retention of the balance of the capital after the acquisition has been approved, then such residual capital must be returned to security holders within 60 calendar days after the date of the general meeting.
- 6.4. In the event that a SPAC has not completed an acquisition of Viable Assets within the initial period, the ZSE will suspend the SPAC's listing on the first business day following the expiry of the initial period and proceed to delist the SPAC once the capital raised has been distributed to security holders.

## **7. Capital**

- 7.1. Capital raised by the SPAC must be held in escrow with an escrow agent.
- 7.2. The escrow agent must invest the capital in escrow in (i) investment grade or (ii) bank deposits with a recognised bank. The interest earned on the capital under escrow shall accrue in favour of the SPAC and accumulate in escrow.
- 7.3. The escrow agreement governing the capital in escrow must provide for the following and the agreement must be submitted to the ZSE for prior approval:
  - 7.3.1. release of such amount that will be used to cover the operating expenses at the request of the board of directors;
  - 7.3.2. release of the balance or portion of the capital to the SPAC once it receives approval for the acquisition of Viable Assets;
  - 7.3.3. the termination of the escrow agreement and the distribution of the capital in escrow to security holders.
- 7.4. Prior to an acquisition of Viable Assets being completed within the initial period, the ZSE may permit a SPAC to raise additional capital for the acquisition of further assets by issuing further shares or units provided that:
  - 7.4.1. it is part of a rights offer; and/or
  - 7.4.2. security holders have granted approval of the further issue in accordance with the ZSE Listings Requirements.
- 7.5. The free float shall be equal to a minimum of ten percent (10%) of the total shares outstanding after the IPO. The Sponsor's shares shall be equal to a minimum of ten percent (10%) of the total shares outstanding after the IPO.
- 7.6. Shareholders who voted against a proposed acquisition may utilize their redemption right to elect that each security held by the shareholders be redeemed by the SPAC into their pro-rated share of cash held in escrow.
- 7.7. Where the acquisition is not completed within the permitted time frame, the shareholders shall be entitled to their pro-rated share of cash held in escrow in line with a Liquidation Distribution arrangement.

## **8. Failure to acquire Viable Assets**

In the event that a SPAC has not completed an acquisition of Viable Assets within the initial period, it must:

- 8.1. complete a distribution within 60 calendar days after the expiry of the initial period to all security holders pro rata to their holdings. The distribution must be the maximum amount while still complying with the solvency and liquidity test as required pursuant to the Act. All interest earned in escrow will form part of the distribution, excluding any taxes and expenses relating to the distribution and anticipated voluntary liquidation; and
- 8.2. propose a special resolution to security holders for the voluntary liquidation of the SPAC.

## **9. Memorandum of Incorporation**

A SPAC must have the following provisions included in its Memorandum of Incorporation:

- 9.1. it must require security holders to vote on any proposed acquisition; and
- 9.2. a distribution requirement, pursuant to which security holders must, if an acquisition of Viable Assets is not completed within the initial period, be entitled to receive an amount equal to the aggregate amount then in escrow (net of any applicable taxes and expenses related to the distribution and voluntary liquidation), plus the interest earned, divided by the aggregate number of securities.

## **10. Operational Requirements**

- 10.1. At least seventy-five percent (75%) of the SPAC's shareholders shall vote in support of the acquisition of each Viable Asset.
- 10.2. All acquisitions must be approved by a majority of:
  - 10.2.1. directors who have no interest in, and have no connection to the acquisition, and
  - 10.2.2. votes cast by shareholders of the SPAC at a meeting duly called for that purpose, provided that in the case of the acquisition of a Viable Asset, at least 75% of the shareholders shall vote in support.
- 10.3. The SPAC shall not exceed the estimated operating expenses as disclosed in the prospectus unless a resolution is passed in support of the increase by least seventy-five percent (75%) of the SPAC's shareholders at a duly convened general meeting.
- 10.4. A SPAC shall only obtain debt financing in the following instances:
  - 10.4.1. in the ordinary course of short term trade or accounts payables; or
  - 10.4.2. unsecured loans for a maximum aggregate principal amount equal to ten percent (10%) of the funds in escrow; or
  - 10.4.3. Debt financing concurrent with, or after the completion of its acquisition.
- 10.5. Where The ZSE permits a credit facility to be entered into prior to an acquisition, it shall only be drawn down upon concurrently with the acquisition.
- 10.6. The IPO prospectus shall include a statement certifying that the SPAC will only obtain debt financing in accordance with these Rules and other applicable Rules of The ZSE.
- 10.7. No SPAC shall adopt a security based compensation arrangement prior to the completion of an acquisition. Following the acquisition, The ZSE's Rules shall apply.

## **11. Use of Proceeds and Escrow Requirements**

- 11.1. A SPAC shall place at least ninety percent (90%) of the gross proceeds raised during its IPO, and the underwriter's deferred commissions described below, in escrow with an Escrow Agent who has no interest in, and has no connection to the Transaction, and is acceptable to The ZSE.
- 11.2. Proceeds from the IPO of the SPAC shall be held in a Bank in good standing with and regulated by the Reserve Bank of Zimbabwe (RBZ); or a SECZ licensed professional trustee firm that is in good standing, and shall be responsible for holding the funds.

- 11.3. The Escrow Agent shall only invest the capital raised from the IPO in the following instruments:
  - 11.3.1. short dated government treasuries (near cash assets) or short term investments .
  - 11.3.2. cash deposits with a Zimbabwean bank in good standing with and regulated by the Reserve Bank of Zimbabwe (RBZ). The interest earned in respect of the SPAC will accrue and accumulate in escrow.
- 11.4. The underwriters shall agree to defer and deposit a minimum of fifty percent (50%) of their commissions from the IPO as part of the escrowed funds.
- 11.5. The deferred underwriters' commissions shall only be released to the underwriters upon completion of an acquisition within the permitted time of not later than twenty-four (24) months from the date of closing of its IPO.
- 11.6. If the SPAC fails to complete an acquisition within twenty-four (24) months from the date of closing of its IPO, the deferred underwriters' commissions placed in escrow shall be distributed pro rata by the SPAC to the holders of the securities as part of the Liquidation Distribution.
- 11.7. Shareholders exercising their redemption rights shall be entitled to their pro rata portion of the escrowed funds including any deferred commissions. Any proceeds from the IPO that are not placed in escrow and interest earned on the escrowed funds from permitted investments may be applied as payment for administrative expenses incurred by the SPAC in connection with the IPO, for general working capital expenses and for the identification and completion of an acquisition. The contemplated use of such monies shall be disclosed in the SPAC prospectus.

## **12. Subscription by Sponsors (Founding Shareholders)**

- 12.1. The founding shareholders shall hold an aggregate equity interest of a minimum of ten percent (10%) of the SPAC's shares acquired at nominal value.
- 12.2. The Subscription Shares of the sponsors shall be held in trust by a SECZ licensed custodian that is in good standing. The terms of the subscription by the sponsors and the terms of the custodial arrangements shall be disclosed in the prospectus.
- 12.3. The terms of the Subscription Shares shall be disclosed in the IPO prospectus. The founding shareholders shall:
  - 12.3.1. retain and not transfer any of their founding shares prior to the completion of an acquisition; and
  - 12.3.2. retain ownership of their shares for a minimum period of twelve (12) months after the date of acquisition of Viable Asset.
- 12.4. In the event of the failure of the SPAC to acquire Viable Assets leading to liquidation and delisting, the founding shareholders shall agree that their Subscription Shares (founding shares) shall not participate in a Liquidation Distribution.

## **13. Permitted Time for Completion of an Acquisition**

- 13.1. A SPAC shall complete acquisitions within twenty-four (24) months from the date of closing of its IPO. Where the acquisition is comprised of more than one Viable Asset, the SPAC shall complete all acquisitions within the stipulated time.



- 13.2. A SPAC is permitted to adopt a termination date that is earlier than twenty-four (24) months following the closing of its IPO, provided that such earlier date is indicated clearly in its prospectus.

#### **14. Shareholder and Other Approvals**

- 14.1. Where the acquisition is comprised of more than one Viable Asset, each acquisition must be approved by the SPAC's shareholders in general meeting as required in these Rules.
- 14.2. The SPAC's shareholders may impose additional conditions on the approval of an acquisition, provided that the conditions are set out in the prospectus describing the acquisition.
- 14.3. Prior to convening a shareholders' meeting at which a decision will be taken on an acquisition, the SPAC shall prepare an information circular containing prospectus level disclosure of the resulting entity or asset assuming completion of the acquisition. This prospectus and the notice convening the meeting must be pre-approved by The ZSE prior to distribution to shareholders.

#### **15. Prospectus Requirement for Acquisition**

- 15.1. The SPAC shall prepare and file with the ZSE a prospectus containing relevant disclosure regarding the SPAC and its proposed acquisition.
- 15.2. The IPO prospectus shall make specific disclosures including:
- 15.2.1. The terms of the founding shareholders' (Sponsors) initial investment in the SPAC, which shall include an agreement not to transfer any of their securities prior to completion of the acquisition, and an agreement that, in the event of a liquidation and delisting prior to completion of the acquisition, the founding securities will not participate in a liquidation distribution.
- 15.2.2. A statement that, as of the date of filing, the SPAC has not entered into any written or oral binding acquisition agreement with respect to a potential acquisition, notwithstanding the fact that the SPAC may be in the process of reviewing an acquisition.
- 15.2.3. The SPAC's target business sector or geographic area for its acquisition, if applicable.
- 15.2.4. The valuation method(s) for ascertaining the value of the acquisitions, if known.
- 15.2.5. A statement that the SPAC shall only obtain debt financing in the following instances:
- 15.2.5.1. in the ordinary course of short term trade or accounts payables; or
- 15.2.5.2. unsecured loans for a maximum aggregate principal amount equal to ten percent (10%) of the funds in escrow; or
- 15.2.5.3. debt financing concurrent with, or after, the completion of its acquisition.
- 15.2.6. The proposed nature of permitted investments for the SPAC's escrowed funds and any intended use of interest earned on the escrowed funds from the permitted investments.
- 15.2.7. The anticipated allocation of funds for administrative and working capital expenses.

- 15.2.8. The limitation, if any, on the exercise of redemption rights for shareholders who vote against a proposed acquisition.
- 15.3. The SPAC shall obtain ZSE's approval for its prospectus prior to issuing the prospectus to the shareholders. If the ZSE's approval is not obtained, completion of the acquisition will result in the delisting of the SPAC.
- 15.4. If shareholders' approval is not obtained for the acquisition, a notice of redemption shall be posted and published at least twenty-one (21) days prior to the redemption deadline and the prospectus shall be delivered at least two (2) business days prior to the redemption deadline.

## **16. Post-acquisition of Viable Assets**

- 16.1. Once a SPAC has completed an acquisition of Viable Assets it must meet the criteria for listing as set out in the ZSE Rules, failure to meet these requirements once the acquisition of Viable Assets has been completed will result in the delisting of the SPAC by the ZSE.
- 16.2. Once an acquisition of Viable Assets has been completed, the SPAC will be admitted to the List and will be subject to the ZSE Listings Requirements as an issuer in all respects.
- 16.3. The Sponsor shall submit to The ZSE, an application for listing of the Viable Asset on The ZSE, within **thirty six (36)** months from the date of acquisition or such other period as may be determined by The ZSE.

## **17. Continuing Obligations**

- 17.1. The SPAC shall comply with all applicable laws, rules and regulations in Zimbabwe as well as relevant laws of its place of incorporation.
- 17.2. The SPAC shall comply with The ZSE's continuing listing obligations as specified under the class of assets for which its securities are listed. These include but are not limited to the provision of the following to The ZSE via ZSE and Issuers' Portal:
- 17.2.1. regular updates on all acquisitions, and
- 17.2.2. Quarterly statements of affairs of the SPAC.
- 17.2.3. No changes to the Memorandum and Articles of Association of the SPAC, its shareholding structure, registered address and place of business, or change of name, shall be effected without prior written notification to The ZSE. Such notification shall be delivered to The ZSE not later than twenty-one (21) calendar days prior to the proposed change.
- 17.3. It shall not be permitted to obtain any form of debt financing (excluding those of short term trade or accounts payable used in the ordinary course of business to settle any operating expenses except to facilitate the acquisition of Viable Assets. A statement to this effect must be included in the prospectus/pre-listing statement of the applicant.

## 18. APPENDIX 1

### Sponsors' and Directors' Personal Information Form

1. Name:
2. Address:
3. Gender and Nationality:
4. Occupation:
5. Name of Employer / Company/ Business Name and Registered Address or Head Office:
6. Designation in Company/Firm:
7. Duration in Company / Years of Experience in Business:
8. Qualifications:
9. Professional Affiliations/Memberships:
10. Corporate Board Membership(s) including in listed entities within and outside Zimbabwe:
11. Are you a majority shareholder of a listed entity (YES/NO) If yes, please provide the name of the listed entity and the percentage of shareholding:
12. Current Shareholding in the SPAC: