



**Toronto Stock  
Exchange**

# Special Purpose Acquisition Corporations

A Listing Opportunity for Toronto Stock Exchange



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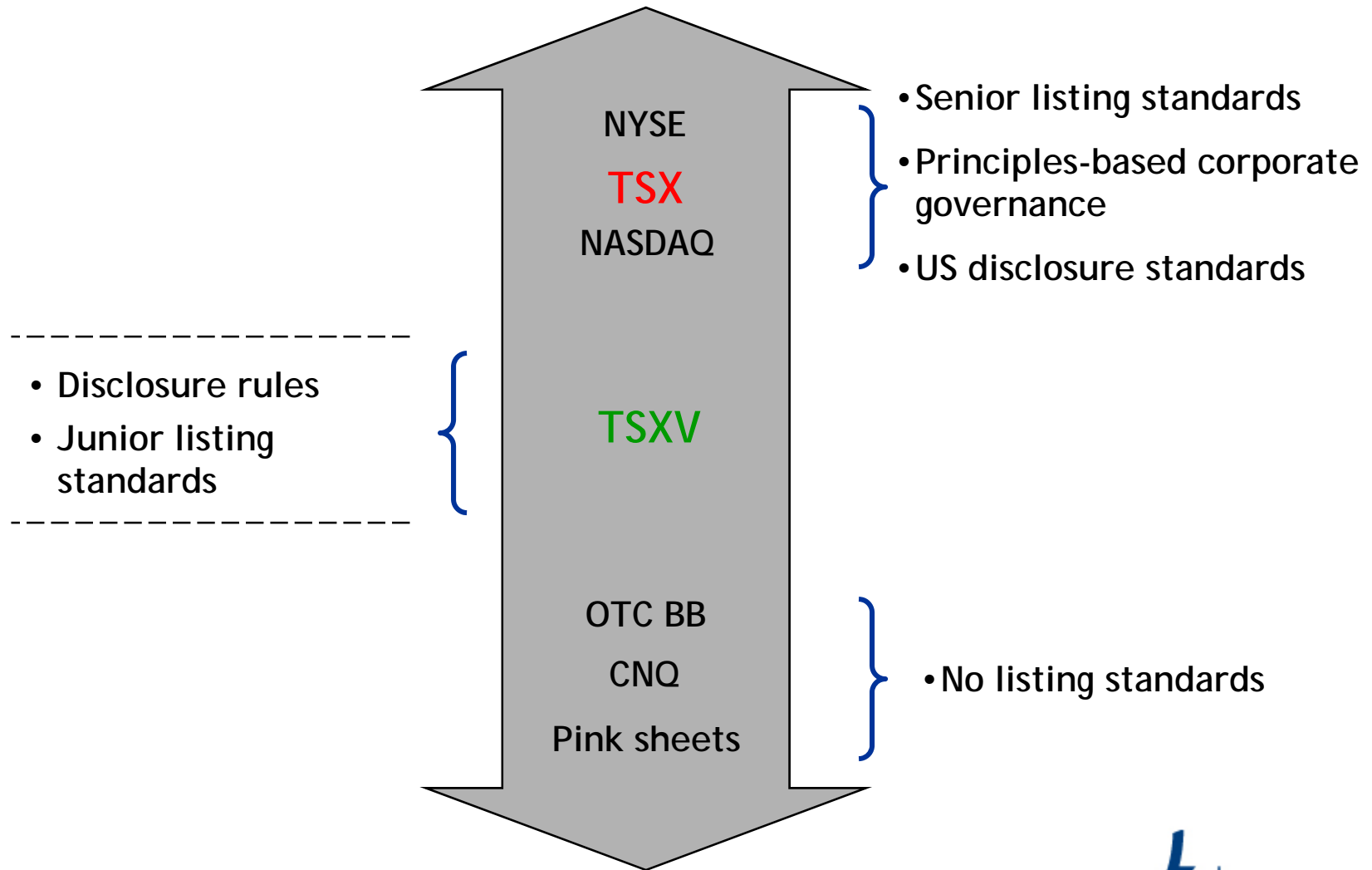
# Discussion Outline

1. SPAC Overview

2. Initial Structure

3. Qualifying Acquisition

# North American Stock Markets Continuum



# What is a SPAC?

- An investment vehicle allowing public investors to invest in areas/businesses or assets usually sought by private equity firms
- Initially are shell/blank-cheque/blind-pool companies with no previous operational history
- Go public via an IPO with intention of using proceeds raised to merge with or acquire a company/group of companies or assets

# Market Appetite for SPACs

There has been significant market interest in the US and Europe, and increasing Canadian interest, in SPACs

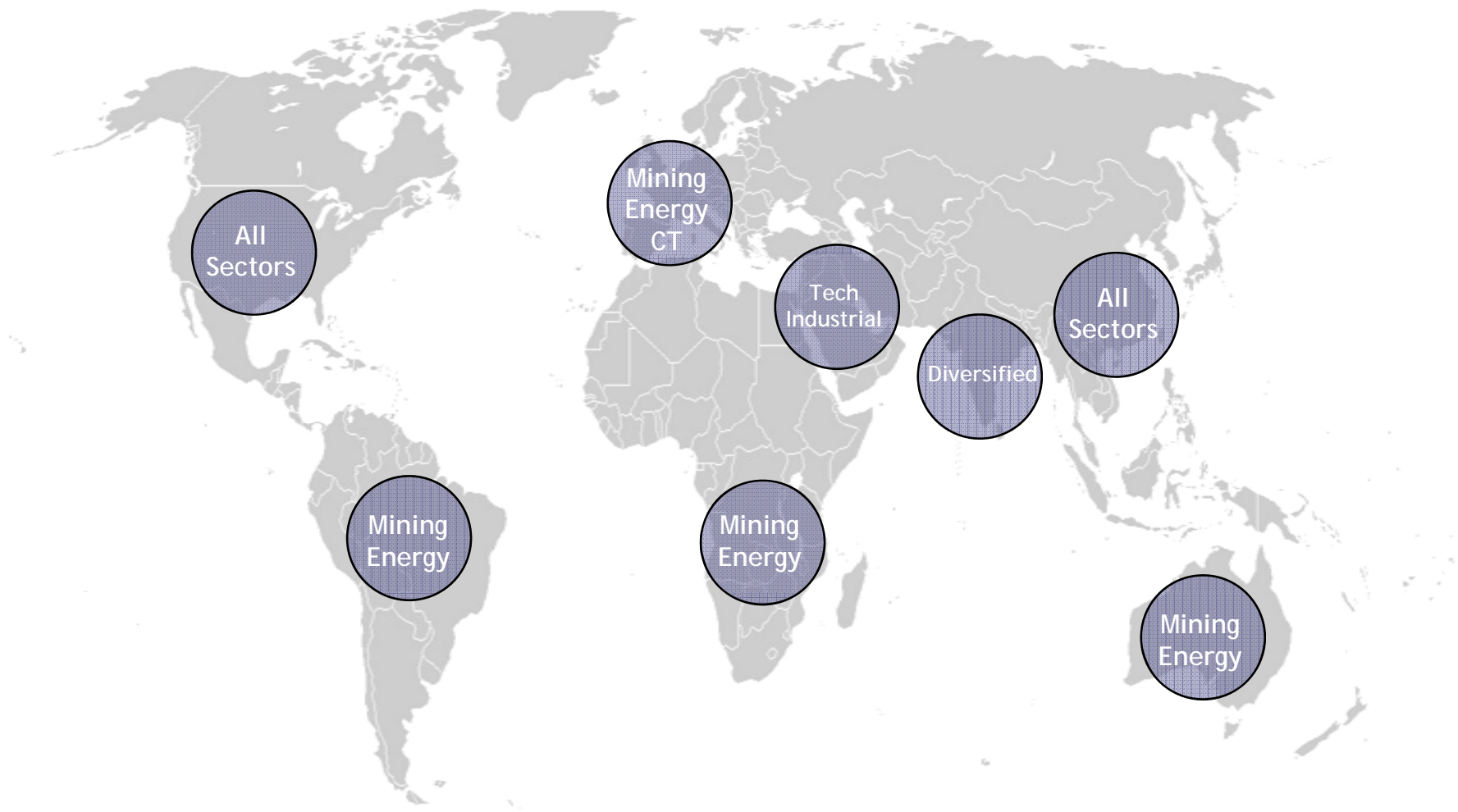
- SPACs have gained a general acceptance by US market participants since 2003
- US\$21 billion in gross proceeds raised since 2003
- In 2007, 66 IPOs completed by US SPACs raised approximately US\$12 billion, representing 23% of IPOs in US and 18% of capital raised
- In Q1 2008, over 50% of capital raised in US IPOs was raised by SPACs
- Most major U.S. investment banks have been involved in taking SPACs to market
- NYSE and NASDAQ have both recently adopted SPAC rules

# TSX Rationale for SPACs

SPACs are an integral component of TSX's international business development strategy for new listings

- Historically, some SPACs have targeted business acquisitions by geography (e.g. China, India, Europe) which are TSX target regions
- SPACs have also targeted acquisitions in key sectors that are defined as TSX strengths (e.g. mining, oil & gas, SMEs, etc)
- Chinese businesses have demonstrated a preference for using SPACs and reverse mergers to address Chinese government requirements regarding listing on non-Chinese foreign exchanges.
- US businesses vended into a Canadian SPAC may be able to obtain Foreign Private Issuer status in the US.

# A Globally Focused Listings Business Development Practice



# Issuer Rationale for Listing SPACs on TSX

Reasons SPACs may be interested in listing on TSX:

- Significantly reduced time for regulatory review compared to the US, without compromising investor protections
- SPAC proceeds, and subsequent acquisition targets, in the US and Europe have been increasing in size, leaving a gap for SME SPACs
- TSX recognized as global exchange for SME companies, with demonstrated market support for companies in the US\$100 million to US\$600 million market capitalization range
- SPAC model is a good fit with the resource sector, a recognized TSX strength
- Complements TSX Venture Exchange's 20+ year old Capital Pool Company program, which has accustomed Canadian investors to such products

# Relationship to US SPAC program

TSX SPAC proposal is based significantly on the SPAC business practices and rules that have evolved in the United States:

- TSX has incorporated best of the investor protection practices based on commercial terms developed in US
- However, have adopted more stringent investor protection features in certain areas e.g. requirement for a non-offering prospectus on Qualifying Acquisition, underwriter commission deferral, etc
- TSX guidelines for SPAC listings are in line with guidelines that SEC has approved for SPAC listings on NYSE and NASDAQ
- TSX has adjusted certain requirements to better reflect realities of Canadian market

# Advantages of SPACs

- As a clean public shell, SPACs will not have any operating business risks (e.g. environmental, labour, tax exposures, etc) as compared to a traditional RTO
- SPACs allow private companies to access public capital markets without the uncertainty, expense and time associated with a typical IPO process
- SPACs can provide an efficient vehicle for acquiring undervalued or distressed companies

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# Formation of SPAC

Each SPAC founded by a small group of sophisticated business-persons with credibility and expertise to raise funds

- Typically experienced industry executives and sophisticated investors with deep knowledge of a particular sector or geographic investment opportunity
- Will comprise management team of SPAC post-IPO
- Directly responsible for identifying potential acquisition target/targets to complete a Qualifying Acquisition
- Pre-IPO, SPAC founders will hold 100% ownership of SPAC

SPAC recommended to be incorporated under Canadian federal or provincial corporate laws

- If incorporated outside of Canada, should obtain a preliminary opinion as to whether international jurisdiction of incorporation is acceptable to TSX

# Initial Structure

SPAC files prospectus with applicable securities commissions, and applies for TSX listing, raising a minimum of CDN \$30 million through an IPO of securities or units

- If units issued, each unit may consist of one common share and no more than two share purchase warrants
- Each share or unit must be offered at no less than CDN \$2.00 per share or unit
- Founding shareholders must disclose terms and amount of initial investment in IPO prospectus
  - Must agree not to transfer any of their founding securities prior to completion of a Qualifying Acquisition
  - Cannot vote for a Qualifying Acquisition or participate in conversion rights
  - In event of a liquidation distribution and delisting, must agree not to participate in a liquidation distribution
- Total founder ownership position post IPO generally expected to be an aggregate equity interest of:
  - Not less than 10% of the SPAC immediately following closing of the IPO; and
  - Not more than 20% of the SPAC immediate following closing of the IPO, taking into account the price at which the founding shares are purchased and the resulting economic dilution

# Use of IPO Proceeds

Minimum 90% of gross IPO proceeds must be placed in an escrow account until the earlier of:

- Consummation of Qualifying Acquisition approved by security holders; or
- Liquidation of SPAC if no acquisition completed with 36 months

Remaining 10% of IPO proceeds may be used for administrative expenses such as:

- Legal and accounting expenses related to ongoing reporting issuer obligations; and
- Due diligence on prospective target businesses (including all costs associated with negotiations and shareholder approvals)

To align interests of underwriters with public security holders, underwriters must also agree to deposit minimum of 50% of their IPO commissions into escrow account

- Will only be released to the underwriters upon the successful completion of a Qualifying Acquisition

# Capital Structure

Securities issued by the SPAC in the IPO must include a conversion right and a liquidation distribution feature:

- *Conversion right* allows non-founding security holders voting *against* a proposed Qualifying Acquisition to convert their securities into a pro-rata portion of proceeds held in escrow (including deferred commissions) if Qualifying Acquisition is completed.
- *Liquidation distribution* feature allows for the distribution of a pro-rata portion of proceeds held in escrow to non-founding security holders if Qualifying Acquisition is not completed within 36 months

If units are issued in IPO, then:

- Share purchase warrants must not be exercisable prior to completion of Qualifying Acquisition
- Share purchase warrants must expire on earlier of:
  - Fixed date specified in IPO prospectus, and
  - Date on which SPAC fails to complete a Qualifying Acquisition within the permitted time frame
- Share purchase warrants can not have entitlement to escrowed funds upon liquidation of SPAC

# Operating Business of SPAC

SPAC cannot carry on an operating business when initially listed on TSX

- May be in the process of reviewing one or more potential qualifying acquisitions
  - However, cannot have entered into a written or oral binding acquisition agreement with respect to potential acquisition
  - Must include statement to that effect as of date of filing of SPAC IPO prospectus
- SPAC may have identified a target business sector or geographic area in which it intends to focus its efforts to identify a Qualifying Acquisition
  - Must disclose intentions in IPO prospectus

# Public Distribution of SPAC

SPAC seeking listing on TSX must satisfy all standard distribution requirements, including:

- At least 1 million freely tradable securities are to be held by public holders;
- Aggregate market value of securities held by public holders is at least CDN \$30 million; and
- At least 300 public holders of securities, holding at least one board lot each

# Issuance of Additional Securities

SPAC may only raise additional funds prior to completion of a Qualifying Acquisition provided:

- Issuance is by way of rights offering, to existing shareholders, in accordance with TSX policy; and
- At least 90% of funds raised are placed in escrow

Additional funds may only be raised to fund a Qualifying Acquisition and/or administrative expenses

SPAC not permitted to raise any form of debt financing unless concurrent with or subsequent to its Qualifying Acquisition

- Statement attesting to this restriction must be included in SPAC IPO prospectus
- May enter into a credit facility arrangement prior to completion of Qualifying Acquisition
  - Can only be drawn down concurrent with completion of, or subsequent to, Qualifying Acquisition

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# Timeframe and Listing Requirements

Post-IPO, SPAC has 36 months to close a Qualifying Acquisition

- No restriction on target sector, other than as disclosed in prospectus
- Targeted company is not limited to being a Canadian-based company

SPAC founders cannot have formalized a potential acquisition target prior to completion of IPO

Acquisition transaction may include two or more targeted companies, but must be concluded simultaneously if required in order to meet 80% of IPO proceeds in escrow

Post-acquisition issuer must meet TSX original listing requirements, as set out in TSX Company Manual

- TSX approval for listing of resulting issuer must be obtained prior to completion of Qualifying Acquisition, or SPAC will be delisted

# Acquisition Criteria

SPAC Qualifying Acquisition must have minimum target value equal to at least **80%** of net IPO proceeds held in escrow

- Amount excludes deferred underwriting commissions held in escrow, interest and any taxes payable on income earned on escrowed funds

Acquisition transaction must be approved by a **majority of directors** unrelated to Qualifying Acquisition

Must also be approved by **majority of public security holders** at a special shareholders meeting

- Security shareholders who vote against a Qualifying Acquisition that is approved and completed can convert their shares into cash in an amount equal to their *pro rata* portion of the proceeds in escrow
  - Shall be paid within 30 calendar days of completion of Qualifying Acquisition
  - Founding security holders may not vote on the Qualifying Acquisition and have no conversion rights
- If security holders exceeding an amount pre-determined and disclosed in IPO prospectus exercise their conversion rights, Qualifying Acquisition cannot proceed
  - SPAC may pursue other Qualifying Acquisition opportunities if time remains, otherwise the escrowed funds will be distributed via the terms of the liquidation distribution agreement, to which founding security holders are not entitled to participate

# Prospectus Requirement for Qualifying Acquisition

SPAC must prepare and file non-offering prospectus containing disclosure regarding SPAC assuming completion of proposed Qualifying Acquisition

- Must be filed with Canadian securities authorities in each provincial jurisdiction in which resulting issuer post-acquisition is to be reporting issuer
- SPAC must obtain receipt for final prospectus from applicable securities authorities prior to mailing of information circular

SPAC must convene a special shareholders meeting at which a vote on the Qualifying Acquisition must be held

- Information circular containing prospectus level disclosure of resulting issuer post-acquisition must be prepared by SPAC and submitted to shareholders prior to meeting
  - Information circular must be submitted to TSX for pre-clearance prior to distribution
  - Prospectus is expected to form part of the information circular to provide consistent information

# Escrow Requirements for Qualifying Acquisitions

TSX Escrow Policy shall apply, and has been amended to apply to founding security holders of issuers listed on TSX by way of a SPAC Qualifying Acquisition, where the resulting issuer does not meet escrow exemptions as granted under CSA's National Escrow Policy 46-201

Founding securities will be released as follows:

On date non-founders securities are listed on TSX as result of Qualifying Acquisition	1/10 of the founding securities
6 months after listing date	1/3 of the remaining founding securities
12 months after listing date	½ of the remaining founding securities
18 months after listing date	Remaining founding securities

# Liquidation and Delisting of SPAC

Failure of SPAC to complete a Qualifying Acquisition within 36 month period will result in delisting of SPAC from TSX

- SPAC must complete liquidation distribution of escrowed funds to public security holders on a pro-rata basis within 30 days of end of 36 month deadline
  - Escrowed funds for liquidation distribution will also include 50% deferred underwriters fees and any interest earned on permitted investments within the escrow
  - However, amount distributed on liquidation distribution will be net of any applicable taxes and direct expenses related to liquidation distribution
- Founding shareholders MAY NOT participate in any liquidation distribution with respect to any of their founding securities

TSX will delist SPAC on or about date on which liquidation distribution is completed



Contact our Business Development Team to learn more about Your Capital Opportunity

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