
AN ANALYSIS OF THE YATRA-TERRAPIN REVERSE MERGER AND CROSS-BORDER SPAC TRANSACTIONS

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Introduction

The reverse merger of Yatra Online, an online travel firm, and Terrapin 3 Acquisition Corporation, an American Special Purpose Acquisition Company (SPAC)¹, is a leading case for cross-border mergers that depicts private Indian companies using externalization strategies to access global capital markets². The essay below addresses the legal and regulatory aspects of such complex mergers and how SPACs serve as a ‘shortcut’³ and a ‘back door’⁴ to the traditional initial public offering (IPO) process. This essay analyzes the merger and provides recommendations for India and SPACs.

Transaction and Merger Structure

The Yatra-Terrapin transaction had a planned two-step merger process. First, Terrapin Merger Sub was merged with TRTL, where TRTL continued as a partially owned subsidiary of Terrapin Parent.⁵ Then, Terrapin Parent was merged into Yatra, so Yatra became the surviving entity, and TRTL as a partially owned subsidiary.⁶ Yatra achieved a public listing on the NASDAQ bound to address the regulatory requirements of both India and the US.

The transaction was valued at \$218 million on Yatra along with a \$20 million Private Investment in Public Equity (PIPE) financing (initially intended to be \$40 million⁷), secured through a

¹ Terrapin 3 Acquisition Corp., *Terrapin 3 Acquisition Corporation Announces Business Combination with Yatra Online, Inc.* (Press Release 2016), <https://www.yatra.com/online/terrapin-yatra>.

² Yatra Online, Inc., *Form F-4 Registration Statement, Amendment No. 4* (filed with the U.S. Sec. & Exch. Comm’n Nov. 21, 2016), <https://content.edgar-online.com/ExternalLink/EDGAR/0001144204-16-135552.html>.

³ Joseph W. Bartlett & Paul E. Kunz, *Reverse Mergers and Shells: A Preliminary Analysis*, 1 J. PRIV. EQUITY 45, 46 (1997).

⁴ Noah Klarish, *Planting Pearls in Shells: Evaluating the Possibilities in a Reverse Merger*, 12 BUS. L. TODAY 40, 41 (2003).

⁵ *Yatra Online, Inc.*, supra note 2.

⁶ *Id.*

⁷ Yatra Online, Inc., *Amendment No. 1 to Form F-1 Registration Statement* (filed with the U.S. Sec. & Exch. Comm’n Feb. 9, 2017), <https://content.edgar-online.com/ExternalLink/EDGAR/0001144204-17-006859.html>.

Forward Purchase Contract with Macquarie Sponsor (MIHI LLC).⁸ This value determines the ownership stake of existing Yatra and SPAC's stockholders. The PIPE investment played a critical role in meeting the minimum cash conditions and financial viability of the merger to be completed.

With respect to the business combination, Yatra implemented a reverse 5.4240926-for-1 split of its ordinary shares and converted all preference shares into ordinary shares on December 16, 2016,⁹ simplified capital structure to a single class of common stock and reduced the number of outstanding shares while increasing the price per share. According to the terms and valuations of the companies, the existing shareholders of Yatra retained approximately 58.4% ownership of the combined entity, while the stockholders of TRTL held around 41.6%, assuming no redemptions of TRTL shares occurred prior to the merger.¹⁰

Regulatory Arbitrage

This cross border reverse merger displays regulatory arbitrage as differences in legal systems are strategically used to target outcomes that might be more challenging or perhaps impossible under one legal system.¹¹ Yatra had to comply with the Indian Companies Act and the securities regulations of the United States through a process of externalization, where a holding company in the Cayman Islands was established.

Companies in India encounter considerable regulatory obstacles when attempting to establish SPAC-like structures within the country. Section 248 of the Companies Act, removal of non-operating companies within one year.¹² This provision prevents the misuse of dormant entities but hinders formation and existence of the SPAC model that begins as a non-operating

⁸ *Yatra Online, Inc.*, supra note 2.

⁹ *Yatra Online, Inc.*, supra note 2.

¹⁰ *Yatra Online, Inc.*, supra note 2.

¹¹ Karbon Card, Understanding Cross-Border Mergers in India: Regulations, Examples, and Key Insights (Sept. 20, 2023), <https://www.karboncard.com/blog/cross-border-mergers-in-india-regulations-examples>.

¹² ALMT Legal, Cross Border Mergers: The Reserve Bank of India Has Notified the Foreign Exchange Management (Cross Border Merger) Regulations, <https://almtlegal.com/articles-pdf/ALMT%20Cross%20Border%20Merger.pdf>.

entity with the sole purpose of acquiring an operating business. Furthermore, the stringent IPO eligibility requirements¹³ set by the SEBI require operational history and financial history disclosure impose a significant burden, an impossibility to list out profits and assets for SPACs with limited operating history.¹⁴

By externalizing¹⁵ its corporate structure to the Cayman Islands, Yatra effectively bypassed these challenges of regulations and taxation. Advantages included a less time-consuming process, a valuation that was negotiated rather than subject to the uncertainties of market pricing, and access to a global investor base with familiarity expertise in various sectors. The disadvantages include substantial tax concerns for capital gains tax for resident Indians investing in foreign companies and claims of double tax

avoidance for dividends paid to Indian shareholders.¹⁶ To claim exemption it is necessary to ensure the Permanent Establishment (PE) and place of effective management (POEM) is not in India.¹⁷

There is a necessity to check for "skeletons" of public shell companies. There is a significant dilution for existing shareholders as once public the company no longer has control over its shareholder base. The new shareholders (day-traders and retail investors) care for short-term profits rather than the company's long-term strategic goals.¹⁸ A potential difficulty lies in securing analyst coverage as "stock buzz" and trading activity must be generated through the company's own public relations efforts.¹⁹ Background check and a gut check on the shell's controlling shareholders, caution of promoters who seem to be more interested in how and when they can sell their shares disregarding creation of long-term value for shareholders.²⁰

¹³ Companies (Prospectus and Allotment of Securities) Rules, 2014, r. 4 (India); Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018, reg. 6 (India).

¹⁴Anant Roy & Aviral Deep, *Skipping the Rigmarole of Listing: Critical Analysis of Indian Regulations and Tax Provisions Related to SPACs*, 9 RMLNLU FIN. & MERCANTILE L. REV. 24, 29–31 (2022).

¹⁵ *Id.* at 34.

¹⁶ *Id.* at 37,40.

¹⁷ *Id.* At 38-39.

¹⁸ Amit Sinha et al., *Beyond M&A and IPOs: Exploring Alternative Liquidation/Financing Options for Venture Capital Firms and Their Portfolio Companies*, 8 J. PRIV. EQUITY 41, 47 (2005).

¹⁹ *Id.*

²⁰ Noah Klarish, *Planting Pearls in Shells: Evaluating the Possibilities in a Reverse Merger*, 12 BUS. L. TODAY 40, 44 (2003).

The challenge for a company pursuing a reverse merger is to identify which activities are relevant to its particular transaction, choose the appropriate support and ensure due diligence is followed throughout.²¹

Regulatory Landscape for Reverse Mergers

There is a lack of a cohesive framework that regulates cross border mergers in India. In India, it is majorly the Companies Act, 2013 (Sections 230-234). Section 232(h) explains mergers between listed and unlisted companies. The resulting entity remains unlisted until completing relisting procedures. Regulations²² that govern the foreign exchange parts of cross-border mergers differentiate between inbound mergers, where the resulting company is Indian, and outbound mergers, where the resulting company is foreign.²³ Yatra's merger is an outbound merger under these regulations.

Several SEBI regulations also monitor the required legal compliance.²⁴ There were amendments made to Rule 25A of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, that are crucial. It has implemented provisions for fast-track mergers between foreign holding companies and their Indian wholly owned subsidiaries which are subject to specific conditions and approvals limited to listed companies. There is a gradual shift to specific cross-border mergers, to perhaps to attract foreign investment.

Yatra's new US-based directors must ensure NASDAQ and SEC regulations compliance. In comparison Yatra follows less stringent Form 20-F and 6-K filing requirements, compared to Indian regulations. It balances regulatory flexibility but obfuscates transparency for Indian market participants.

²¹ *Id.*

²² Foreign Exchange Management Act, 1999 (India); Foreign Exchange Management (Cross Border Merger) Regulations, 2018 (India).

²³ Khaitan & Co., Cross-Border Mergers and Amalgamations: An Update on Rule 25A of the Companies Merger Rules, <https://www.khaitanco.com/thought-leadership/An-Update-on-Rule-25A-of-The-Companies-Merger-Rules>.

²⁴ SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (India); SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (India).

Current Performance and Developments

On April 22, 2025, Yatra's share price dropped from a 52-week high of \$1.75 to \$0.72, causing investors to worry about performance or future prospects.²⁵ On April 15, NASDAQ notified non-compliance with minimum bid price requirement and granted 180 days until October 13 to regain compliance.²⁶ Despite these developments, Q3 FY2025 showed revenue of INR 2,350.7 million, up 111.4% year-over-year, with profit of INR 39.8 million versus previous year's loss signifying brilliant growth and success. In September 2024 Yatra acquired GAISL for INR 1,280.0 million that expanded their customer base by approximately 40%, providing more stable revenue.²⁷ Overall, the company has survived the merger and business is successful.

Challenges and Complexities

Companies in India face several challenges for undertaking cross-border reverse mergers as mentioned above. This is due to multiple regulations from several bodies (like the Companies Act, FEMA, SEBI, and the Reserve Bank of India).²⁸ Subject to these rule making bodies there might be complex and potentially lengthy approval processes in the future. These regulations must refer to different legal systems, accounting standards, and corporate governance practice.²⁹ Recognizing these differences and building a model for complex mergers can be a huge task and increase compliance costs. The regulatory approval processes can be time-consuming, especially with the National Company Law Tribunal (NCLT).³⁰ Delays can also exist for necessary

²⁵ *Id.*

²⁶ Yatra Online, Inc., Yatra Online, Inc. Announces Results for the Three Months Ended December 31, 2024, <https://www.businesswire.com/news/home/20250211678929/en/Yatra-Online-Inc.-Announces-Results-for-the-Three-Months-Ended-December-31-2024>.

²⁷ K S & K, Understanding the Compliances for Cross-Border Mergers in India, <https://ksandk.com/mergers-acquisition/compliances-cross-border-mergers/>.

²⁸ Legal 500, Cross-Border Merger Framework in India: Limited Efficacy?, <https://www.legal500.com/developments/thought-leadership/cross-border-merger-framework-in-india-limited-efficacy/>.

²⁹ *Id.*

³⁰ NUALS Law Journal, Unpacking Reverse Mergers: Minority Shareholders' Appraisal Rights, <https://nualslawjournal.com/2023/06/15/unpacking-reverse-mergers-minority-shareholders-appraisal-rights/>.

approvals which can prolong the merger process and impact its anticipated benefits.

Valuation is another concern as there is a lack of publicly available financial information for shell companies.³¹ Protecting the rights and interests of minority shareholders is another aspect.³² Furthermore, there is ambiguity in the definition of "shell companies" within the Indian legal framework.³³ This lack of clarity can create uncertainty in the application of relevant regulations.

Policy Recommendations

The need of the hour is a developing comprehensive SPAC framework. Yatra's complex cross-border reverse merger depicts the regulatory hurdles Indian companies go through. The GIFT City initiatives³⁴ by IFSCA gives a solid starting point with provisions for SPAC IPOs requiring minimum \$50 million issues and 90% proceeds in escrow accounts.³⁵ However, these need work and refinement based on international experiences:

1. Extend acquisition timeframes beyond the current three-year limit to prevent failures like Malaysia's CLIQ Energy³⁶
2. Establish inter-agency coordination with SEBI via a single-window clearance system³⁷
3. Develop retail investor education programs about SPAC risks and opportunities³⁸
4. Amend Section 23 of Companies Act to permit both private and public companies to list

³¹ HNLU Student Bar Journal, Regulating Reverse Mergers in India, <https://hnlusbj.wordpress.com/wp-content/uploads/2016/11/regulating-reverse-mergers-in-india1.pdf>.

³² Nishith Desai Assocs., Fast Track Merger: Unlocking New Pathway for Inbound Cross-Border Merger, <https://www.nishithdesai.com/NewsDetails/15154>.

³³ Ctr. for Banking & Fin. Law, Nat'l L. Univ. Delhi, Navigating the Reverse Merger Landscape: A Case for a New Regulatory Framework in India, <https://www.cbflnludelhi.in/post/navigating-the-reverse-merger-landscape-a-case-for-a-new-regulatory-framework-in-india>.

³⁴ GIFT City – A World-Class Global Finance & IT Hub, <https://giftgujarat.in/>.

³⁵ International Financial Services Centres Authority (Issuance and Listing of Securities) Regulations, 2021, § 4 (India).

³⁶ CLIQ Energy to Be Delisted on March 4, SUNDAY DAILY (Feb. 27, 2019), <https://www.thesundaily.my/business/cliq-energy-to-be-delisted-on-march-4-XC602213>.

³⁷ Nishith Desai Assocs., Regulatory Hotline, <https://www.nishithdesai.com/generatePDF/15154/3>.

³⁸ Anant Roy & Aviral Deep, *supra* note 14, at 48.

overseas³⁹

5. Eliminate double taxation and simplify outbound merger compliances⁴⁰

These reforms would help Indian companies access global capital by building domestic SPAC infrastructure at GIFT City. It would create a sustainable ecosystem for growth-oriented businesses and enhance the efficiency and effectiveness of cross-border reverse mergers.

Conclusion:

Yatra's case study highlights that Indian companies require a comprehensive SPAC framework, as an alternative to IPOs, not resorting to complex cross-border reverse mergers. GIFT City's IFSCA initiatives are an initial step for developing such a framework. Existing regulations must include extended acquisition timeframes and simplified compliance procedures. This case of cross-border reverse merger will forever be a landmark case study for analyzing implications and the need to develop a robust, efficient and holistic framework entrusted to the regulatory authorities in India and reflecting on international policies and practices on the same.

³⁹ *Id.* at 50.

⁴⁰ *Id.*