FINANCIAL CONDUCT AUTHORITY

Investor protection measures for special purpose acquisition companies: Changes to the Listing Rules

Policy Statement
PS21/10

July 2021

This relates to

Consultation Paper 21/10
which is available on our website at
www.fca.org.uk/publications

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1 Summary

1.1 On 30 April 2021, we published consultation proposals (CP21/10) on changes to aspects of our Listing Rules that apply to special purpose acquisition companies (SPACs). A SPAC is a type of company formed to raise money from investors, which it then uses to acquire another operating business.

1.2 Our Listing Rules state that we may suspend the listing of any securities if the smooth operation of the market is, or may be, temporarily jeopardised or it is necessary to protect investors (LR 5.1.1R). For a shell company, including a SPAC, there is a general presumption that we will suspend listing when it announces a potential acquisition target, or if details of the proposed acquisition have leaked. This is to protect investors from disorderly markets as a result of insufficient information being publicly available at that stage, which could impair the process of proper price formation. The acquisition of a target company will be a reverse takeover for the purposes of our Listing Rules. When the reverse takeover is completed, the listing of the SPAC's shares will be cancelled, and the combined entity will be required to make a new listing application.

1.3 We proposed removing the presumption of suspension for SPACs that meet certain criteria which are intended to strengthen the protections for investors, while maintaining the smooth operation of the market. The proposed changes were designed to remove a barrier to listing by providing an alternative approach for SPACs that must otherwise provide detailed information about a proposed target to the market to avoid being suspended.

1.4 This Policy Statement (PS) summarises the feedback we received to our consultation and sets out our policy response. It also includes final rules and confirms amendments to our Technical Note on cash shell companies.

1.5 Our final rules aim to provide more flexibility to larger SPACs, provided they embed certain features that promote investor protection and the smooth operation of our markets. We are striking a balance by setting robust, credible standards that we consider are beneficial for investors and issuers alike, which may then encourage more SPAC listings in the UK in future. We are not, however, aiming to engage in a regulatory 'race to the bottom' on standards. Private companies listing in the UK via a SPAC will also still be subject to the full rigour of our listing rules and transparency and disclosure obligations, and require a new prospectus.

1.6 SPACs also remain a more complex investment, requiring investors to understand their capital structure and assess the potential value and return prospects of any proposed acquisition target. Evidence from the US market suggests SPACs have highly varied returns for investors and can often result in losses. Investors, particularly individual investors, should carefully consider all available information and risks before deciding whether to invest in a SPAC. Investors should also note that not all SPACs will choose to structure themselves to comply with our new investor protection measures, and for these the presumption of suspension will remain.

1.7 The main changes we have made to our original proposals in response to feedback received, where a SPAC wishes to avoid suspension, are to:

- Lower the minimum amount a SPAC would need to raise at initial listing from £200m to £100m.
- Introduce an option to extend the proposed 2-year time-limited operating period (or 3-year period if extended with shareholder approval) by 6 months, without the need to get shareholder approval. The additional 6 months will only be available in limited circumstances and is intended to provide more time for a SPAC to conclude a reverse takeover where a transaction is well-advanced.
- Modify our supervisory approach to provide more comfort prior to admission to listing that an issuer is within the guidance which disapplies the presumption of suspension, rather than only at the point of an announcement.

1.8 Otherwise, we are implementing our original proposals largely unchanged, with minor modifications to provide more clarity and regulatory certainty. We provide more detail on the feedback we received, our responses, and changes to the proposed rules in Chapters 2 and 3.

Who this affects

1.9 This PS will be of interest to:

- prospective investors in SPACs, including institutional and individual investors
- prospective issuers of SPACs considering a UK listing and prospective acquisition targets
- law firms, investment banks and other advisors and intermediaries who may assist in creating and advising on SPAC offers
- exchanges or venue operators who admit SPACs to their markets
- intermediaries who may facilitate investments into a SPAC, including providing execution and/or marketing services, whether at initial public offering (IPO) or in secondary markets
- trade associations representing the various market participants noted above
- wider financial market participants, such as research analysts

The wider context of this policy statement

1.10 In CP21/10, we outlined the context of our proposals including global market developments and growth of SPAC activity in 2020 and early 2021, representations made to us by UK market participants, and the recommendations in the UK Listing Review Report in March this year. While new offers of SPACs in the US have seen a slowdown in Q2 2021, the common US SPAC model does appear to be leading to greater interest in similar listings in the UK if the issue of the presumption of suspension was resolved.

1.11 In parallel, regulatory focus on SPACs has also increased. This has included a Public Statement from the US SEC on 'SPACs, IPOs and Liability Risk under the Securities Laws'. Other jurisdictions have also brought forward measures to amend their regulations during our consultation period, including proposals by the Belgian Financial

Services and Markets Authority. Most recently, the European Securities and Markets Authority (ESMA) has published disclosure and investor protection guidance on SPACs.

How it links to our objectives

1.12 As we set out in CP21/10, the proposals which we have now finalised are relevant to our objectives as follows:

- **Consumer Protection:** Our final rules address the current lack of flexibility for larger SPACs, by removing the presumption of suspension for large SPACs that provide certain protections and transparency for investors. This should provide for a wider range of UK-listed securities with high standards of investor protections. Our final rules should not discourage investment opportunities and routes to public markets for private companies where those vehicles have experienced management and are offered on reasonable terms. SPACs which are unable or choose not to meet our new conditions remain subject to the existing presumption of suspension.
- **Market integrity:** We recognise SPACs can pose market integrity risks if the issuers of these vehicles do not comply with continuing obligations and disclosure requirements. SPACs are a more speculative and complex investment and share prices can be volatile, particularly around the announcement of a prospective target for a reserve takeover. Our final rules seek to encourage larger SPACs with experienced management and robust governance. While this does not guarantee market cleanliness in the trading of SPAC shares, it is likely to reduce these risks by ensuring institutional investors are part of the investor base. We will continue to monitor price movements in SPAC shares, as with other issuers, and use our general suspension powers to take action if necessary and justified.
- **Competition in the interests of consumers:** while our changes are less directly relevant to competition, SPACs do provide an investment opportunity in UK markets. They also offer an alternative source of funding and route to market for private companies versus a 'traditional' IPO which may promote competition in this area. While we noted in CP21/10 that we consider SPACs are likely to remain a modest feature of UK markets overall, any increase in appropriate opportunities for investors and issuers to access UK capital markets is positive.

What we are changing

1.13 We are introducing changes to our Listing Rules to provide an alternative route to market for SPACs demonstrating higher levels of investor protection. This route only applies if the SPAC has structural features embedding important investor protections, and if it provides adequate disclosures to mitigate key risks for investors. We consider that, in such cases, the presumption that the SPAC's listing will be suspended at the point a potential acquisition target is announced should not apply.

1.14 In summary, this PS confirms that we are introducing changes to dis-apply the presumption of suspension if a SPAC has the following features:

- A minimum size threshold of £100m raised when a SPAC's shares are initially listed. We have reduced this from £200m, which we consulted on, in response to feedback.

- Monies raised are ring-fenced to either fund an acquisition, or be returned to shareholders (in the event of investors redeeming shares or if a SPAC winds-up), less any amounts specifically agreed to be used for a SPAC's running costs.
- Setting a time limit to find and acquire a target within 2 years of admission to listing, which may be extendable by 12 months subject to shareholder approval (ie maximum operating period of 3 years). We have also introduced an option to extend the time limit by 6 months, that does not require a shareholder vote, in certain limited circumstances.
- Board approval of any proposed acquisition, excluding from the Board discussion and vote any Board member that is, or has an associate that is, a director of the target or its subsidiaries, or has a conflict of interest in relation to the target or its subsidiaries.
- The Board publishes a 'fair and reasonable' statement if any of the SPAC's directors have a conflict of interest in relation to the target or any of its subsidiaries, which reflects advice from an appropriately qualified and independent adviser.
- Requires shareholder approval for any proposed acquisition, with SPAC founders, sponsors and directors prevented from voting.
- Provides a 'redemption' option allowing investors to exit their shareholding before any acquisition is completed.
- Investors being given sufficient disclosures on key terms and risks from the SPAC IPO through to the announcement and conclusion of any acquisition. This relies heavily on compliance with existing disclosure requirements (such as in the Prospectus Regulation and Market Abuse Regulation (MAR)), with additional clarity on specific disclosures when and after a target is announced.

1.15 In response to feedback that prospective SPAC issuers and investors want more comfort at the point of listing that the presumption of suspension is dis-applied, we have provided further clarification of our approach. It is our expectation that an issuer meeting the criteria when they announce the acquisition would not be subject to the presumption of suspension. We intend our approach to be appropriately transparent and predictable to market participants. As such, we will work with issuers and their advisers to ensure that such comfort is achieved as part of vetting the prospectus and assessing eligibility for listing. We will apply a key principle that where a SPAC meets the criteria it will generally be treated similarly to commercial companies in terms of the application of MAR and our general suspension powers.

1.16 We did not receive any material feedback on our cost benefit analysis (CBA) for our proposals as set out in Annex 2 of CP21/10. We do not consider the limited changes made in finalising our rules suggests any material change to our original CBA. The only impact is likely to be the lowering of the amount required to be raised at initial listing from £200m to £100m. This may make our alternative approach to the presumption of suspension slightly more accessible to prospective SPAC issuers as having to raise less capital may reduce execution costs and risks at initial listing.

Outcome we are seeking

1.17 Our changes aim to make markets function well and promote market integrity and consumer protection by providing a more flexible approach for SPACs of a certain size that embed features that strengthen protections for investors and maintain the smooth operation of markets.

1.18 For those SPACs that adopt the new approach, our new rules aim to create an environment where:

- there are increased investment opportunities for investors and for issuers to access capital on UK markets on appropriate terms
- public shareholders in such SPACs have appropriate control and protections over their investment
- fewer conflicts of interest issues arise in SPAC structure
- adequate disclosures are provided to support investment decisions and maintain market integrity, without relying on suspension

Measuring success

1.19 We will monitor developments. In particular we will look at a range of indicators, including:

- the number, quality and size of SPAC applications for listing
- the number and type of acquisitions SPACs undertake
- market trends and developments in the UK and other jurisdictions in relation to SPACs
- misconduct, either new misconduct emerging or existing misconduct increasing (eg SPACs not complying with continuing obligations and disclosure requirements, leading to false or misleading information about potential acquisition targets creating a false market and/or share price volatility)
- evidence that SPACs are being inappropriately marketed to, or accessed by, retail investors for whom they may not be a suitable investment (eg if SPACs listing in the UK seek to target mass-market retail investment, or retail investment in SPACs increases due to speculation based on media hype, celebrity endorsements or misleading statements regarding performance, leading to more investors accessing SPACs without understanding the features and risks involved).

1.20 However, various factors that influence issuers' listing decisions will remain, and the features we encourage SPACs to have under our new provisions may not determine whether investors view SPACs as an attractive investment. So our changes may not necessarily lead to higher numbers of SPAC issuers listing in the UK, or to increased investor demand.

1.21 We intend to keep the Handbook changes under review. If there is evidence to suggest that the changes are not having the intended effect, and some larger SPACs are not complying with our rules and guidance, we may also seek to urgently introduce more stringent requirements.

Summary of feedback and our response

1.22 We received 25 responses to CP21/10. There was general support for our proposals overall. However, some overarching points made included:

- The SPAC market continues to evolve. Therefore we should review any final measures in time to ensure they remain relevant and reflect evolving market practice.
- Redemption rights are the principal investor protection and may mean other conditions are not necessary, although others supported all of the measures.
- Our proposals could be considered as a basis for a specific listing 'segment' for SPACs at a later stage and become entry criteria for all SPACs seeking access to the Official List.

1.23 We have considered the specific feedback we received about our proposals and have decided to finalise most of the rules and guidance as consulted on. However, to balance our policy objectives and incorporate some of the feedback received, we have made some modifications to our proposals. In particular, we have:

- Lowered the minimum size threshold to £100m (from £200m) in line with feedback. We consider this will be sufficiently high to still attract institutional investors, which should ensure a higher degree of scrutiny of the company, while being more appropriate to the size of likely targets in a UK/European context.
- In addition to the 12 month extension, subject to shareholder approval, to a SPAC's operating period of 2-years, we have introduced an option to extend the time by a further 6 months without the need to get shareholder approval, subject to conditions (see detail in Chapter 2).
- Modified our supervisory approach to provide more comfort at the point of listing that the presumption of suspension at the point of an announcement is disapplied, as explained in paragraph 1.15.

Equality and diversity considerations

1.24 Our assessment of equality and diversity issues remains unchanged as a result of the final changes we have made. We do not consider that the proposals materially impact any of the groups with protected characteristics under the Equality Act 2010. We did not receive any feedback on our equality and diversity assessment.

Next steps

1.25 The new rules and guidance come into force on 10 August 2021.

2 Summary of feedback and our response

2.1 This chapter gives a summary of consultation feedback to CP21/10 and sets out our response, including areas where we have made changes from the consultation proposals in the final rules and guidance.

Key features and risks of SPACs

2.2 SPACs have several novel features and risks compared with a traditional commercial company. Different risks arise at different stages in the lifecycle of a SPAC. There are also certain risks inherent in the way a SPAC is structured and the incentives for the sponsors of the SPAC versus groups of public investors. We considered these risks as part of our proposals.

2.3 In the consultation, we outlined the key features and explained that investors should be aware of these features, carefully consider the risks and review disclosures provided by a SPAC both before investing and at the key decision points of shareholder votes. We then asked:

> **Q1:** ***Do you agree with our description of the key features and risks of SPACs for investors?***

> **Q2:** ***Are there other key features or risks that we should consider?***

Summary of feedback

2.4 The majority of respondents agreed with our description of the key features and risks of SPACs for investors. Some mentioned additional risks or considerations, including:

- That companies acquired by SPACs may come to public markets prematurely. This could raise risks to investors if these companies are not able to meet the required standards.
- The breadth and vagueness of some SPAC's investment strategies at IPO can lead to risk of changes at a later date or selection of high-risk targets.
- Market integrity and dilution risks potentially arising from the Private Investment in Public Equity (PIPE) market, where investment managers are approached by SPAC sponsors to buy shares in the period before a target is publicly announced.
- Asking whether a SPAC should be treated as an alternative investment fund (AIF) under the UK Alternative Investment Fund Managers regime (AIFM).

2.5 We also received one response asking how the common US SPAC structure will be treated under our Listing Rules, should a SPAC issuer seek to list this structure in the UK. In the US, a common model is for a SPAC issuer to initially list and offer a 'unit' representing the right to receive an ordinary share, which may be issued at the same time but held in treasury by the issuer, and a warrant (eg a right to subscribe for a share) in the SPAC. Typically, following a pre-defined stabilisation period (eg 30 days after admission) the units are automatically exchanged for the shares and warrants. In some case, units can be exchanged at any time after the stabilisation period, on request

by unitholders. The share and warrants can then be separately traded. We have been asked if similar arrangements are possible under our Listing Rules, including what listing category is appropriate for 'units' of this kind and how the underlying shares are treated if they are placed in treasury, such that there is no public free float during an initial period.

Our response

We acknowledge the points raised by respondents. Having considered this feedback, we have not made any changes to our proposed approach as a result.

On the risk that SPACs may encourage companies to become public before they are ready, we would note that SPACs taking advantage of our alternative approach will need to have a shareholder vote (informed by relevant disclosures) to approve an acquisition and provide an option to redeem shares before the reverse takeover completes. The SPAC will be subject to the information requirements set out in the new rules in relation to the acquisition target, as well as under MAR. The new combined company will also have to re-apply for listing, and the prospectus produced in conjunction with this must set out all the necessary information on the issuer and its securities, including all material risks.

We recognise that SPACs may provide varying degrees of specificity about their investment strategy (ie the nature of their intended target acquisition and how they will identify and value them) as part of their prospectus, which must contain all necessary information for investors. We encourage SPAC issuers to provide a reasonable level of disclosure about their intended strategy in the prospectus, and for investors to carefully consider this information before investing. Our new rules also require, as part of any announcement of a target by a SPAC, that information includes an indication of how the target has been, or will be, assessed and valued, with reference to any selection and evaluation process for prospective target companies set out in the prospectus. Investors in SPACs meeting our new conditions will also have the benefit of a shareholder vote and redemption option. This allows them to scrutinise a proposed transaction and choose not to participate if they feel a target represents poor value or is inconsistent with the SPAC's original strategy.

We note the comments made about market integrity and dilution risks potentially arising from the PIPE market. MAR obligations on issuers seek to address market integrity risks in relation to inside information. On dilution risks, this is information we would expect to be relevant to shareholders as part of a vote to approve a proposed acquisition or decision about whether to redeem their investment.

On the general question of whether SPACs should be treated as an AIF, it is not our intention that the package of changes we consulted on should bring a SPAC within the scope of the UK AIFM regime. Whether or not a SPAC is an AIF is a matter for each SPAC to consider, taking legal

advice where appropriate. SPACs may also want to refer to chapter 16 of The Perimeter Guidance Manual, in our FCA Handbook, which contains detailed FCA guidance on the scope of the UK AIFM regime.

We are giving further consideration to the proposed 'unit' structure suggested in one response and typical in many US SPACs, and how it may interact with UK Listing Rules. We will engage with prospective SPAC issuers considering this structure on a case-by-case basis. However, this does not directly relate to the measures we consulted on. We may consider further communication on our approach to 'unit' structures in due course.

Criteria for SPACs that wish to avoid suspension

Size threshold

2.6 We proposed applying a size threshold to SPACs that want to use the proposed alternative approach to suspension. We proposed a threshold based on the amount raised from public shareholders at the date of admission to listing, and that the aggregate gross cash proceeds raised should be set at £200m or more. This excludes any funds the sponsors have provided, whether in return for shares or through a general cash injection in the company.

2.7 We asked:

> **Q3:** ***Do you agree that SPACs should meet a size threshold as one of the criteria? If you do not think this is the right approach, please explain why.***
>
> **Q4:** ***Is our proposed threshold set at the right level and, if not, what threshold would you propose and what evidence can you provide to support this?***

Summary of feedback

2.8 About half of the respondents that commented on this proposal agreed a size threshold was needed, but most thought £200m was too high, with most suggesting £100m (or no more than that) as an alternative threshold. They viewed this as better reflecting the size of SPAC we are likely to see in UK/European markets, and the likely size of prospective target companies. This is based on the fact that proceeds raised during a SPAC's IPO typically account for only a proportion (eg one-fifth) of the amount used for the actual acquisition, so a SPAC raising £100m may look at a target valued at up to £500m. Some noted that £100m would still require a SPAC to attract institutional investors to raise this level of funds, so it still achieves our intended policy outcome of ensuring scrutiny by institutional investors of the terms of a SPAC, the credibility of its management and other aspects.

2.9 Those that disagreed with applying any size threshold gave varied reasons. These included that size was not relevant to the SPAC's quality of management or its ability to meet its ongoing regulatory obligations and did not add any additional investor protection over and above the other proposed conditions. A small number also commented that SPACs are designed to enable smaller private companies to access public equity markets.

Our response

We maintain that setting a minimum amount to be raised at initial listing should enhance investor protection for less sophisticated investors by ensuring more institutional investors are involved alongside them. All investors are responsible for undertaking their own due diligence. However, institutional investors perform due diligence on a SPAC's management and structure, and this potentially leads to greater scrutiny of the investment proposition, giving co-investing individual investors some assurance. We also maintain that requiring a minimum level of funds to be raised is also more likely to mean a SPAC has an experienced management team and supporting advisors.

We agree with feedback that a lower size threshold of £100m will be sufficiently high to achieve the intended benefit of this approach, while being more appropriate to the relative size of likely targets in a UK context. So we have changed our final rules to require a minimum amount to be raised at initial listing of £100m.

Where a SPAC does not meet the size threshold, they can still apply for listing. However, they will not be able to use our alternative approach and the presumption of suspension will remain, unless they can provide detailed information about the proposed target to the market (ie using the existing approach under our rules and guidance).

Ring-fenced cash for acquisition, redemption or repayment purposes

2.10 We proposed that to benefit from the alternative approach to suspension SPACs should adequately ring-fence, via an independent third party, proceeds raised from public shareholders. This is to ensure they can only be used to fund:

- an acquisition (approved by the Board and by public shareholders, as explained further below), or
- redemptions of shares from shareholders (due to investors exercising this option, as explained further below), or
- repayment of capital to public shareholders if the SPAC winds up or because it has failed to find a target or complete an acquisition within the time limit (as explained further below)

2.11 This is to protect investors from misappropriation or excessive running costs being incurred by the SPAC's management.

2.12 We avoided specifying that funds must be held eg in trust or an escrow account, although these methods appear to be commonly used in other markets and may be

appropriate. This was intended to allow a degree of flexibility for issuers, recognising for example that trust law is not consistent in all jurisdictions.

2.13 We asked:

> **Q5:** ***Do you agree with our proposed criterion that proceeds should be ring-fenced by a SPAC so that they can only be used to fund an acquisition, redemption or repayment event?***

Summary of feedback

2.14 There was general support for this proposal. Some respondents commented that it reflects market practice and would protect investors. Many respondents also supported our approach not to be overly prescriptive about the arrangements that should be put in place, as long as they are 'adequate binding arrangements in place with an independent third party'.

2.15 A small group of respondents asked for clarification on whether the independent third party should be an authorised entity in the relevant jurisdiction, and whether the need to be independent would exclude banks advising on the SPACs listing.

2.16 Other comments included requiring the ring-fenced funds to be invested in low risk liquid investments, and asking if this condition could mean SPACs are caught by the UK AIFM regime.

Our response

Having considered the feedback received we have not made any changes to our proposed approach.

We are not mandating that the independent third-party service provider must be an authorised entity, although they may be. This will depend on the arrangements that the SPAC has put in place. In some instances, ring-fencing arrangements may involve service providers that do not generally carry out regulated activities. However, the independent third party should be appropriate, eg they should be a separate legal entity not under the SPAC's control or influence and have relevant experience. This would not necessarily exclude banks or other companies with which the SPAC has an existing affiliation or service relationship.

We agree monies should be protected and so should be held in a way that does not put them at risk and so that funds can be accessed when needed. However, we do not propose to introduce more prescriptive requirements at this stage.

As ring-fencing is current market practice, the question of whether the UK AIFM regime applies will be an existing issue that SPAC's will need to consider. Our view is that our changes, which are intended to protect the cash raised and not to invest it, provide sufficient flexibility to allow SPACs to structure their arrangements in a way that means they do not need to be classified as AIFs. The FCA has provided detailed guidance on the scope of the UK AIFM regime in

chapter 16 of The Perimeter Guidance Manual, in our FCA Handbook, including guidance on the factors relevant to determining whether an undertaking is an AIF.

Time limit for making an acquisition

2.17 We proposed that, to benefit from the alternative approach to suspension, a SPAC should have a time limit on their operations in their articles of association or equivalent constitutional document. This should require the SPAC to find and acquire a target within 2 years of admission to listing. To provide some flexibility in this case, we also proposed that a SPAC may extend its operations by up to 12 months subject to approval by its public shareholders. At the end of the 2-year period, or the 3-year period if extended, if the SPAC has not managed to complete its acquisition, ring-fenced proceeds should be returned to shareholders.

2.18 We asked:

> **Q6:** ***As one of the criteria, do you agree that SPACs should set a time limit on their operations from the point of admission to listing? If not, please explain why.***
>
> **Q7:** ***Do you agree with the 2-year period we propose for the time-limit, and flexibility for an extension of up to 12 months?***

Summary of feedback

2.19 There was significant support for this proposal. Most viewed that it reflects current market practice. However, the main suggestions were to help address the risk of decisions being made quickly that may not be in the interests of public shareholders, in cases where the time limit on a SPAC's operations is about to expire.

2.20 A small number of respondents felt that the 12-month extension should be available on a rolling basis, subject to shareholder approval, rather than on a one-off basis. A few also asked for clarification on the voting mechanics of getting shareholder approval for an extension. A few respondents also suggested that we allow an extension of between 3-9 months, without the need to seek shareholder approval, in the scenario where a deal has been announced or is very near to being completed.

2.21 Feedback also noted that market forces may dictate that less than a 12-month extension period will be needed in practice.

Our response

We have considered the feedback and agree that there is merit in allowing a short period when an extension is allowed without the need to get shareholder approval where a transaction is well advanced. We consider up to 6 months to be a reasonable period in this scenario. However, we do not agree that this flexibility should be triggered solely at the point of announcing a target, since this could encourage very early or speculative announcements, purely to trigger an extension.

To maintain investor protection and the smooth operation of markets, we consider an extension without shareholder approval should only be permitted in limited circumstances. This may include where the SPAC is in the process of getting shareholder approval for an acquisition (eg a shareholder meeting has been convened) or has already gained approval and time is needed to complete the final stages of a transaction. Use of this additional 6-month extension must be notified to the market, before the end of the 2-year period (or 3-year period if extended).

We have included this change in our final rules. The option to extend by 6 months could be used at the end of the initial 2-year operating period, or 3-year period if shareholders have agreed to a 12-month extension. This means a maximum operating period of a UK-listed SPAC using the new alternative approach to suspension will be 42 months.

We do not agree that a rolling 12-month extension (subject to shareholder approval) is appropriate. This would not be aligned with the policy intent that SPACs should not persist on public markets and continue to hold investor cash if no target has been successfully pursued in this time.

We have not provided more details at this stage on the shareholder voting process, since we consider this will follow normal company procedures and consider this to be a matter for issuers and their advisors to address.

Board approval of a transaction

2.22 We proposed as part of the criteria that a SPAC should be required to get Board approval of any proposed transaction, and exclude from the Board discussion and vote any Board member that:

- **i.** is a director of the target or a subsidiary of the target, or who has an associate that is a director of the target or any of its subsidiaries, or
- **ii.** has a conflict of interest in relation to the target or its subsidiaries

2.23 We asked:

Q8: ***Do you agree that a Board approval should be required, and that this should exclude directors that are also a director of the target or a subsidiary of the target?***

Q9: ***Do you agree that the Board approval should exclude directors who have an associate that is a director of the target or any of its subsidiaries? Furthermore, are there other circumstances where we should consider conflicts of interest arising from associates of directors of a SPAC?***

Q10: ***Do you agree that the Board approval should also exclude any director who has a conflict of interest in relation to the target or its subsidiaries?***

Summary of feedback

2.24 Those that commented on this proposal generally agreed with it. However, some suggested that we could rely instead on existing requirements and regimes that seek to manage and address risks arising from conflict of interests, rather than creating specific provisions for SPACs. These responses noted as examples company law in the relevant jurisdiction, a company's articles of association, and the corporate governance provisions set out in our rules in DTR 7 on related party transactions.

2.25 A small number requested more clarity about what we mean by a conflict of interest or by the term 'associate'.

2.26 A small number thought excluding conflicted directors from the vote would risk introducing significant uncertainty into the process, on the grounds that most directors would have a relationship of some kind with the target.

2.27 Respondents also suggested additional conflicts we may want to consider that should exclude Board members from voting. This included directors that have an existing or previous relationship with the SPAC's sponsors, receive compensation under the 'promote' structure, or where the target is a related party of the SPAC's sponsor.

Our response

We have carefully considered these responses but have decided to finalise these provisions as consulted on. We do not consider it appropriate to rely on existing measures such as company law to manage conflict of interests, as some SPACs may be incorporated outside of the UK, and as such company law may differ and offer lower protections. In addition, SPACs list in the Standard segment, while most of our existing regulatory framework for corporate governance applies to companies in the Premium segment.

Given the complexity of SPACs, we feel it is appropriate to apply these additional governance provisions as part of our package of investor protections for those SPACs wishing to take the alternative approach to suspension. We maintain our view that it is important to exclude a director from the Board vote to approve a transaction where they have a conflict in relation to the proposed target or any of its subsidiaries, as part of the criteria to benefit from our alternative approach to suspension for SPACs. Our approach does not override any existing provisions where they apply.

We can clarify that, for the purposes of whether a director is excluded from Board approval of a transaction, the conflict of interest is specifically related to the *target or its subsidiaries*. For example, this criterion seeks to exclude directors that may have loaned the target money, hold an equity stake in the target or have other direct links with the target.

We do not intend to prevent a director from participating in Board approval due to having a general financial interest *in the SPAC*, including where they hold 'sponsor' shares. While we recognise this may vary their incentives versus other SPAC investors, they should still act in accordance with their duties as directors of the SPAC. We also note that

directors will often have financial interests in the SPAC, so treating this as a conflict of interest may preclude all or a majority of Board members from voting. Instead, the shareholder vote (see paragraphs 2.28 to 2.32) and redemption right for investors (see paragraphs 2.39 to 2.43) provides separate protections in relation to this inherent conflict.

We have not sought to clarify further what we mean by a conflict of interest or 'associate', as there did not appear to be significant confusion about the meaning of these terms. In particular, we have used the term 'associate' as it is defined in the Glossary in our Handbook.

Shareholder approval of a transaction

2.28 We proposed as part of the criteria that a SPAC should:

- Provide public shareholders with the right to vote on any acquisition, with a majority vote in favour being required to proceed with a deal. SPAC founders, sponsors and directors should be prevented from voting.
- Ensure shareholders are given sufficient disclosure on all terms and information on a proposed transaction necessary to allow an investor in the SPAC to make a properly informed decision.

2.29 We asked:

> **Q11:** ***Do you agree that approval from shareholders, excluding SPAC sponsors, should be required in order to proceed with a proposed acquisition?***

Summary of feedback

2.30 The majority of respondents (including a number representing investors) agreed with our proposals for shareholder approval, and to exclude founders, sponsors and directors from the vote. They agreed that it is an important means of protecting investors and for holding the SPAC's management to account, and one specifically noted that it was imperative that a SPAC's sponsors be excluded. However, a small number agreed with the shareholder vote but asked about the appropriateness and proportionality of excluding founders, sponsors and directors. Comments included that it would increase the level of uncertainty of a deal being reached and is out of line with the approach in other jurisdictions.

2.31 Those that disagreed with this proposal mainly thought that this condition did not provide additional protections over and above the ability to redeem shares (see paragraphs 2.39 to 2.43) and the Board approval criteria.

2.32 Other comments included seeking clarification about the disclosures needed to inform a vote. For example, what constitutes necessary information and the level of financial information we would expect to be available about the proposed transaction at that time. We discuss our response to this in the disclosure paragraphs 2.44 to 2.48 below.

Our response

While we understand the view that the redemption option and Board approval may be sufficient, we have decided to finalise our proposed approach to shareholder approval, excluding founders, sponsors and directors from the shareholder vote.

We consider this provision provides the public shareholders with their say and helps to manage the inherent conflict of sponsors in the SPAC business model. Founders and sponsors that are directors will be able to vote as part of the Board approval, provided they are not excluded due to conflicts (as set out above). A public shareholder vote should help incentivise SPAC sponsors to ensure a deal is likely to be acceptable to shareholders. Should shareholders reject a deal, a SPAC can seek another deal or improve the terms of the existing deal and go back to shareholders again, provided the SPAC has remaining time in its operating period to do so. This is in contrast to relying solely on the redemption option, at which stage a deal is committed to and so the only outcome for investors is to proceed or exit.

We accept that not all jurisdictions require a shareholder vote, although it is mostly common market practice to include it. There are also examples of SPACs listed in other jurisdictions that require 70% of shareholders to approve a transaction, rather than a simple majority as we proposed. We therefore consider our approach to be proportionate in seeking to balance flexibility for issuers with protection for investors, noting it was supported by consultation respondents who represented investors.

Fair and reasonable statement on the terms of an acquisition

2.33 We proposed that, where any of the SPAC's directors have a conflict of interest in relation to the target or a subsidiary of the target, the Board of the SPAC should publish a statement that the proposed transaction is fair and reasonable as far as the public shareholders of the company are concerned. We proposed that this statement should reflect advice by an appropriately qualified and independent adviser. The Board statement should be published to the SPAC's shareholders in sufficient time ahead of the shareholder vote on the transaction.

2.34 We asked:

Q12: ***Do you agree that a 'fair and reasonable' statement should be published to shareholders based on advice from an appropriately qualified and independent adviser where any of the SPAC's directors have a conflict of interest in relation to the target or its subsidiary? Do you have feedback on who should be considered an appropriately qualified and independent adviser for this purpose?***

Q13: ***Should a fair and reasonable statement potentially be required to support any proposed transaction, regardless of any conflict of interest being present for SPAC directors?***

Summary of feedback

2.35 Responses to this proposal were mixed, but on balance were in favour of this being one of the criteria that a SPAC should meet in order to avoid suspension. Those who didn't support it suggested it was disproportionate given the other proposed conditions, especially for a redemption option and shareholder approval. It was also noted that this was not a requirement in other major jurisdictions, although 'fair and reasonable' statements are used as a tool by SPACs at their discretion in other markets.

2.36 Some asked who an appropriately qualified and independent adviser should be for this purpose. Suggestions included authorised investment banks or accounting firms, or an approved Sponsor under section 88 of the Financial Services and Markets Act and as described in LR 8 of our Listing Rules.

2.37 Some respondents asked what would trigger the need for a fair and reasonable statement. One suggestion was to include the scenario where a SPAC sponsor is a private equity firm and the SPAC is acquiring a portfolio company owned by the Private Equity company or a SPAC's sponsor also owns the target being acquired. Alternatively, this could include all transactions that would fall within the description of a related party transaction.

2.38 There was minimal support for extending the condition to cover all SPAC transactions and not just those where a conflict has been identified. One suggestion was to extend it to cover cases where audited historical financial information on the target company is not available or cannot be prepared ahead of a shareholder vote.

Our response

We have finalised the approach we consulted on. Rather than rely on market practice, we consider it appropriate to require a fair and reasonable statement to provide further protection for investors where a SPAC's directors have a conflict of interest in relation to the target or a subsidiary of the target.

We do not consider it appropriate to add more prescriptive requirements or guidance on who should be considered an appropriately qualified and independent adviser as this would restrict choice and/or impose additional costs on SPAC issuers. Likewise, we have not extended this criterion to apply beyond those cases where a director has a conflict of interest in relation to the target or its subsidiaries.

In our view, the specific examples given in paragraph 2.37 are likely to be caught as a conflict for this purpose, where for example the SPAC sponsor has a director on the board of the SPAC. A private equity firm having a director on the board of a SPAC and also having an ownership stake in a target is the type of director conflict we intended to be covered by this condition. In such cases, there will be competing financial interests for the private equity firm (and the director) in any deal between the SPAC and the target.

We consider that extending the use of the fair and reasonable statement to cases where audited financial information on the target company is not available to be a good example of where it may be

a useful tool to help manage a potential information gap. However, we have not included it in our final rules and guidance at this stage, as we consider the likelihood and extent to which this situation may arise is unclear and we expect it may be low. For example, we expect most private company targets of SPACs will be larger entities and so are more likely to have audited accounts. It would, of course, be open for SPACs to publish a fair and reasonable statement voluntarily in such cases.

Redemption option for shareholders

2.39 We proposed SPACs should provide a redemption option to shareholders as one of the investor protection criteria that would allow a SPAC to use the alternative approach to suspension. A redemption option, combined with ring-fencing of proceeds and a time limit for identifying and making an acquisition, gives investors a means to exit their shareholding if they do not like the target or final terms of the deal.

2.40 We proposed that the redemption option should specify a predetermined price at which shares will be redeemed, which could be a fixed amount or fixed pro rata share of the cash proceeds ring-fenced for investors, less pre-agreed amounts the SPAC retains for its running costs.

2.41 We asked:

> **Q14:** ***Do you agree with a criterion that a SPAC should include a redemption option for shareholders? If not, please explain why.***

Summary of feedback

2.42 Nearly all respondents saw this as the key investor protection SPACs should provide as part of our measures, and a feature that has driven market developments in other jurisdictions. Responses stressed the importance of the redemption condition being linked to ring-fenced proceeds, to ensure a SPAC will have sufficient cash to return funds to shareholders when necessary.

2.43 However, comments received included:

- requesting clarification about the redemption process
- redemption introduces risks to completing a transaction, and
- a suggestion to allow voters to redeem their shares if they do not want to approve a 12-month extension to a SPAC's operating period

Our response

We have finalised the changes as consulted on. We have considered the comments received and do not think it is necessary to provide guidance on the redemption process. This is for the SPAC to set out in its relevant documentation, including its initial prospectus. We do not consider a redemption option for investors introduces significant risks to the completion of a transaction, given redemption is now a common feature of SPACs in other jurisdictions. In any case, we continue to view

the redemption option as a key investor protection and one we expect a SPAC to provide if it wishes to avoid the presumption of suspension under our Listing Rules.

Finally, we can see some merit in the suggestion of linking the redemption option to the shareholder vote if a SPAC is seeking a 12-month extension to its operating period, so that those rejecting an extension could redeem their shares. But on balance, given the limited operating period of a SPAC, which will be clear to investors at the outset, we do not propose introducing this as part of our conditions at this stage. However, this would not prevent a SPAC providing this additional option to redeem if a shareholder does not agree with a 12-month extension, provided they still met the other criteria to avoid a presumption of suspension. Shareholders not wishing to remain invested in a SPAC for a further 12 months, if an extension is approved by a majority, also have the choice to sell their shares on the secondary market if they wish, although the market price may differ from the redemption value.

Disclosure

2.44 In CP21/10 we explained that we expect compliance with existing requirements (under the Prospectus Regulation, MAR and our transparency rules (DTR 4 to 6)) to largely safeguard adequate transparency around a SPAC's activities and key terms. However, we also said we consider it appropriate to indicate in high-level terms the disclosures we would expect a SPAC to provide to the market at the time it announces a target. So we proposed, under the alternative approach to suspension, that a SPAC issuer must undertake to provide, to the extent possible at that time:

- **a.** A description of the target business, links to all relevant publicly available information on the proposed target company (eg its most recent publicly filed annual report and accounts), any material terms of the proposed transaction (including the expected dilution effect on public shareholders from securities held by, or to be issued to, sponsors), and the proposed timeline for negotiations.
- **b.** An indication of how the SPAC has, or will, assess and value the identified target. This includes by reference to any selection and evaluation process for prospective target companies as set out in the SPAC's original prospectus.
- **c.** Any other material details and information that the SPAC is aware of, or ought reasonably to be aware of, about the target and the proposed deal that an investor in the SPAC needs to make a properly informed decision.

2.45 We also proposed that the announcement also identify any information described in a to c that has not been included because it is not known at the time of the initial announcement. Furthermore, that the SPAC must update the information described in a to c if new information becomes available before the shareholder vote. The intention of this is to set a disclosure expectation that still ensures a SPAC keeps investors and the market informed as far as is reasonably possible based on information known to it at the time.

2.46 We asked:

> **Q15:** ***Will the proposed disclosure requirements be sufficient, when taken together with wider existing disclosure obligations, to protect investors and ensure the smooth operation of markets?***
>
> **Q16:** ***Is there any additional information that we should explicitly require to be disclosed, which won't be addressed by the above, or are any elements likely to be difficult to satisfy for SPAC issuers?***

Summary of feedback

2.47 While we received general support for our proposal, this is one of the main areas where we were asked to clarify our intention and provide more guidance. The main theme of comments was that it is not sufficiently clear what information a SPAC needs to disclose and when during its life cycle in order to avoid suspension at the point it is ready to make a public announcement about a target. Respondents argued that this creates a level of uncertainty for investors, and therefore for the SPAC issuer, which could deter SPACs from using the alternative approach.

2.48 Specific points included:

- The need to clarify if our intention is that SPACs, when announcing their proposed target or if there is a leak, should go beyond what MAR already requires. We were also asked to confirm that if SPACs complied with the disclosures we consulted on, then this would mean the SPAC is presumed to have complied with its obligations under MAR.
- Historical financial information on the target would be needed at least to the level required by the existing shell company regime in LR 5.6.15G(1) to inform the shareholder vote to approve the acquisition.
- That we adopt the US approach of a more formulaic and prescriptive staggered disclosure regime.
- Other suggestions for additional disclosures included forward-looking projections and details of a SPAC's anticipated running costs.

Our response

We have carefully considered this feedback and have decided to finalise the changes as consulted on. However, we give further clarification on our expectations below.

We expect SPACs to comply with their MAR obligations on an ongoing basis. It is for each SPAC to consider its MAR obligations and make the necessary disclosures to comply. If a SPAC wants to make use of our alternative approach to suspension, they must also consider what information needs to be included in their public announcement of a target in order to comply with our final rules (LR 5.6.18DR(2)). We are not drawing a link between the specific information disclosures that form part of our final rules and MAR obligations, but there may be some overlap between the disclosures needed to ensure compliance with both.

As stated in CP21/10, we recognise that the extent of the current disclosure needed to discharge the presumption of suspension (eg LR 5.6.15G) is a key challenge for some SPACs to meet where the target is a private company. This is why we have not set historical financial information on the target to the level required by LR 5.6.15G(1) as a specific disclosure requirement as part of our alternative approach. However, we do expect a SPAC to provide historical financial information where it is available as this is likely to be inside information in relation to the SPAC (so should be disclosed in line with MAR).

We deal with further detail on our expectations in the event a leak occurs in Chapter 3, under our supervisory approach.

We also acknowledge that disclosures will be staggered or iterative from the point the target is announced to the point of the shareholder vote. Our approach recognises that some of the required information (under LR 5.6.18DR) may not be available at the point of the initial public announcement. In this situation, we state that the SPAC must make it clear what information has not been included and that this information must be announced when known. We do not expect provisional due diligence or financial accounts being prepared to support a final deal to be published before they are finalised. However, we would expect this to be provided in time to inform the shareholder vote, which is a key decision point for investors.

We note some suggestions to adopt the US approach of more standardised disclosures, which are filed with the regulator. However, the US regime and legislative framework are fundamentally different from the UK and requires multiple 'filings' of information with the regulator. We do not consider this to be appropriate or proportionate in a UK context, at this stage. It is also in contrast to the majority of feedback we received, which proposed that we should rely on the existing robust disclosure requirements as far as possible.

A few suggestions focused on the disclosures that would be relevant within a SPAC's prospectus, such as running costs. Since a prospectus should include all necessary information to enable investors to make an informed decision, it is likely information such as running costs would be included. However, to the extent information is not specifically required under the UK Prospectus Regulation, requiring it would involve legislative amendments that are a matter for the Treasury. As the Treasury is currently reviewing the Prospectus Regime in response to the UK Listing Review, we have not reflected these suggestions in finalising our rules.

Further investor protection or sustainability measures

2.49 Our consultation welcomed views on whether we could consider further measures or a different approach to ensure adequate protection for investors. This included whether our approach to SPACs could be differentiated for vehicles focused on sustainability and investing based on environmental, social and governance (ESG) factors.

2.50 We asked:

> **Q19:** ***Given the risks posed by SPACs, are there other investor protections than those we have proposed, that we should consider? This could include, for example, exploring marketing restrictions or other means to limit access for individual investors who are less sophisticated.***
>
> **Q20:** ***Should we explore providing differentiation in our measures applying to SPACs where they have a specific focus, eg on targets that develop green technologies? We welcome views on any benefits and risks this may have, and how this could be effectively implemented to avoid regulatory arbitrage.***

Summary of feedback

2.51 On additional investor protection measures, a small number of responses suggested marketing restrictions for retail investors or including specific risk warnings in prospectuses. A few also noted fewer conditions (as part of our alternative approach) would be needed if SPACs were not available to retail consumers.

2.52 On differentiating SPACs focused on ESG factors, respondents largely felt that this was an issue that needed to be considered more broadly across issuers and not something it was appropriate to consider only for SPACs.

Our response

Investors should be clear that, while our new provisions can provide additional protections in relation to those SPACs wishing to adopt the alternative approach to suspension, they remain responsible for undertaking their own due diligence, understanding investment terms, and taking appropriate action in line with their own risk appetite and investment objectives. In addition, not all SPACs will choose to structure themselves to comply with our new investor protection measures, and for these the presumption of suspension will remain.

We have carefully considered the feedback provided, recognising the potential risks of SPACs for less sophisticated investors in particular. Although we have not made any changes at this stage, we will keep this under review and monitor how SPACs are distributed and marketed.

On the suggestion for marketing restrictions, we think the minimum capital raising threshold of £100m will ensure SPACs have institutional investors, who will provide scrutiny that also benefits smaller investors. The redemption option and shareholder vote also provide important investor protections which would equally apply to retail investors. Therefore, it is our view that it would be disproportionate to restrict retail access to SPACs at this stage.

On the suggestion of more specific risk warnings in the prospectus document, we note that prospectuses must already provide disclosure of all material risk factors. We have also outlined key risks of SPACs

in CP21/10. We would also expect any authorised firm providing investment services giving investors access to SPAC investments to comply with relevant conduct of business and product governance rules, and to consider whether a key information document is required under the PRIIPs Regulation. This includes providing clear, fair and not misleading disclosure on the key features, risks, costs and charges of any investment. Given existing protections, we have not included a further standardised risk warning.

However, given the complexity of SPACs, it is important that investors understand the capital structure, especially the potential impacts of dilution from sponsor share allocations and warrants. Investors should carefully assess the potential value and return prospects of any proposed acquisition target once they are invested in a SPAC. For those SPACs that use the alternative approach to suspension, the redemption option provides a key safeguard at this stage. We may consider further consumer communications or warnings in future if we see any evidence SPACs are attracting or being marketed to investors who may not understand the features and risks involved.

3 Supervisory approach

3.1 In this chapter, we summarise and respond to the feedback to our proposed supervisory approach for the alternative approach for SPACs that want to avoid a presumption of suspension. We have considered respondents' feedback to our supervisory approach and set out our response below.

Our supervisory approach

3.2 In CP21/10 we said that:

- SPACs that want to use the alternative approach would still have to contact us before announcing a transaction which has been agreed or is in contemplation, or where details of the proposed target have leaked (LR 5.6.6R).
- To qualify for the alternative approach the SPAC would need to provide written Board confirmation that it has met the specified conditions, and that it will continue to do so post the announcement until the acquisition is completed.
- We would only be able to agree that a suspension is not required at the point a listed SPAC has contacted us before it announces a target, although some of the criteria will in effect need to be met at the point of a SPAC's listing.
- Where details of the proposed transaction have leaked, the presumption that the SPAC will be initially suspended remained unchanged.
- A SPAC may meet the measures when they list. But if it subsequently changes its structure so these measures no longer apply when it announces a target, or at any point afterwards until the reverse takeover completes, then they will not be able to use the proposed guidance.
- We proposed a new notification requirement to require a SPAC that wants to use the guidance to contact us to request a suspension if it makes changes to, or removes, any of the specified investor protection measures such that the criteria are no longer met at any point after the Board provides its confirmation.

3.3 We asked:

Q17: ***Do you have any comments on our proposed supervisory approach? We also welcome any feedback on proposed amendments to our Technical Note on cash shells and SPACs in Appendix 2***

Q18: ***Do you agree that it will be necessary for SPACs to contact us to request suspension in the event, post announcing a reverse takeover target, it no longer satisfies the proposed investor protection provisions?***

Summary of feedback

3.4 Of those responding to the question on our proposed supervisory approach, about half said they supported it or had no comments on it, and half disagreed.

3.5 Of those disagreeing with our supervisory approach, the consistent view was that SPACs would need more certainty at the point of listing that the presumption of suspension would not apply at the point of announcing a target, and that we should avoid burdensome case by case approval at the point of announcement. Respondents were concerned that uncertainty about whether the presumption of suspension did or did not apply would put off investors. Some thought it would effectively undermine the policy intention to remove a barrier to listing for SPACs that have certain investor protections built into their structures.

3.6 On the question of whether it will be necessary for a SPAC to contact us to request suspension post announcement if it no longer satisfies the conditions, a majority thought it was necessary, with one suggesting the notifications should be required at any point in a SPAC's lifecycle if they no longer comply with the conditions. Those that did not agree mostly said they disagreed with suspension as tool to protect investors. Other comments included that:

- the requirement was duplicative of existing requirements on issuers to notify us of any changes to their eligibility to list or of existing disclosure requirements
- it should depend on the feature removed and whether shareholder approval had been obtained to remove it
- that a SPAC could still avoid suspension if there is sufficient publicly available information about the proposed transaction

3.7 Comments received on the Technical Note included that:

- it should include more guidance on how the conditions should be met
- it could be clearer that SPACs should not be suspended when a SPAC confirms it meets the conditions

Our response

We have carefully considered these views and have further explained our supervisory approach below. We also explain some changes in our approach from that described in CP21/10. These are to reduce the level of uncertainty about whether the presumption of suspension is dis-applied.

We understand that issuers will want comfort prior to admission that they are within the guidance rather than only at the point that an announcement is to be made. Therefore we will work with issuers and their advisers to ensure that such comfort is achieved as part of vetting the prospectus and assessing eligibility for listing. At the same time issuers will need to be mindful that such comfort will not endure in the event that circumstances/arrangements have changed or have not been accurately described. At the point of announcement, we would not expect to revisit our previous assessment provided the SPAC issuer confirms the conditions are met.

It is our expectation that an issuer meeting the criteria when they announce the acquisition would not be subject to the presumption of suspension. Where a SPAC meets the criteria, it will generally be treated

similarly to commercial companies, whereby we expect compliance with MAR and our general suspension powers apply (LR 5.1.1R).

Where we have given comfort prior to admission that an issuer is within the guidance, a SPAC should still contact us:

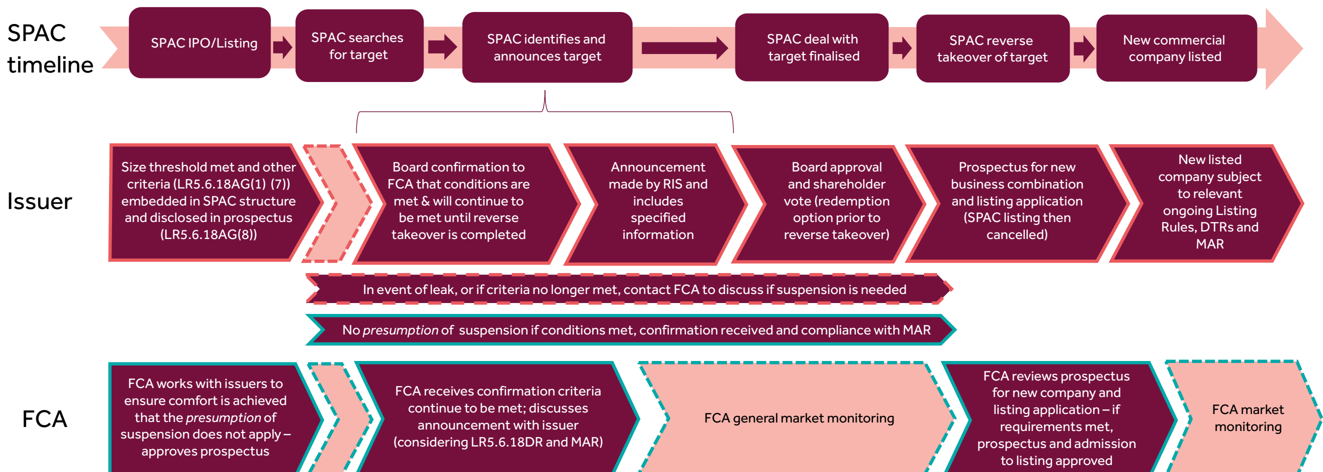
- Before announcing a reverse takeover which has been agreed or is in contemplation, in order for the SPAC to re-confirm (via written Board confirmation) it meets the conditions, and to discuss its proposed announcement of a target.
- If there has been a leak, to inform us of the action it has taken or will take. Under their existing obligations, a SPAC issuer (in line with all other listed companies) should have a plan that enables it to respond and cleanse the market as soon as possible in response to a leak.

In the event of a leak, our rules require a shell company contact us to request a suspension (LR 5.6.6R(2)). However, we clarify that we would not expect to reconsider our previous assessment of whether the SPAC meets the conditions or take action to suspend at this stage if the SPAC has acted in compliance with MAR and provides a Board confirmation to us in writing that it still meets the conditions. Suspension of listing may still be necessary, but we will consider this under our general suspension powers, as we would for other listed commercial companies.

The proposed obligation on the SPAC issuer to notify us if any of the criteria are no longer met will remain. If the criteria are no longer met, the presumption of suspension will re-apply (unless the SPAC can evidence that it meets the sufficient publicly available information requirements under LR 5.6.8G(1)).

We have made consequential changes to the Technical Note. We have not introduced more guidance, as requested by some respondents, at this stage. However, we will keep the need for this under review.

Figure 1: Overview of alternative approach to suspension and our supervisory approach



Annex 1
List of non-confidential respondents

Ashmore Group Plc

British Private Equity and Venture Capital Association

Cantor Fitzgerald Europe

City of London Law Society

Ernst and Young LLP

Hargreaves Lansdown

Institute of Chartered Accountants England and Wales

Investment Association

Japonica Partners

Quantvox Ltd

ScribeStar

The Share Republic.com Ltd

Winston and Strawn London LLP

UK Finance and Association of Financial Markets in Europe

Annex 2
Abbreviations used in this paper

Abbreviation	Description
AIF	Alternative Investment Fund
AIFM	Alternative Investment Fund Managers regime
CBA	Cost Benefit Analysis
CP	Consultation Paper
ESG	Environmental, Social and Governance
FSMA	Financial Services and Markets Act 2000
IPO	Initial Public Offer
MAR	Market Abuse Regulation
PIPE	Private Investment in Public Equity
PRIIPs	Packaged retail and insurance-based investment products
PS	Policy Statement
SPACs	Special Purpose Acquisition Companies

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Appendix 1
Made rules (legal instrument)

LISTING RULES (SPECIAL PURPOSE ACQUISITION COMPANIES) INSTRUMENT 2021

Powers exercised

A. The Financial Conduct Authority ("the FCA") makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):

(1) section 73A (Part 6 Rules);
(2) section 96 (Obligations of issuers of listed securities);
(3) section 137A (The FCA's general rules);
(4) section 137T (General supplementary powers); and
(5) section 139A (Power of the FCA to give guidance).

B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 10 August 2021.

Amendments to the Handbook

D. The Glossary of definitions is amended in accordance with Annex A to this instrument.

E. The Listing Rules sourcebook (LR) is amended in accordance with Annex B to this instrument.

Citation

F. This instrument may be cited as the Listing Rules (Special Purpose Acquisition Companies) Instrument 2021.

By order of the Board
22 July 2021

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

founding shareholder	as defined in *LR* 5.6.18BR.
public shareholder	as defined in *LR* 5.6.18BR.

Amend the following definitions as shown.

sponsor	(1)	(in *LR*, except in *LR* 5.6.18AG) a *person* approved, under section 88 of the *Act* by the *FCA*, as a sponsor.
	(1A)	(in *LR* 5.6.18AG) as defined in *LR* 5.6.18BR.
	…	

Annex B

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

5	**Suspending, cancelling and restoring listing and reverse takeovers: All securities**	

…

5.6	**Reverse takeovers**	

…

Requirement for a suspension

…

5.6.8	G	Generally, when a *reverse takeover* between a *shell company* and a *target* is announced or leaked, there will be insufficient publicly available information about the proposed transaction and the *shell company* will be unable to assess accurately its financial position and inform the market accordingly. In this case, the *FCA* will often consider that suspension will be appropriate, as set out in *LR* 5.1.2G(3) and (4). However, the *FCA* may agree with the *shell company* that a suspension is not required if the *FCA* is satisfied that:
		(1) there is sufficient publicly available information about the proposed transaction ~~it may agree with the *shell company* that a suspension is not required.~~; or
		(2) where the *shell company* is an *issuer* which falls within *LR* 5.6.5AR(2), the *shell company* has sufficient measures in place to protect investors and so that the smooth operation of the market is not temporarily jeopardised.
5.6.9	G	*LR* 5.6.10G to ~~*LR* 5.6.18R~~ *LR* 5.6.18FR set out circumstances in which the *FCA* will generally be satisfied that a suspension is not required.

…

Reverse takeover by a shell company which falls within LR 5.6.5AR(2): other circumstances where a suspension is not required

5.6.18A	G	The *FCA* will generally be satisfied that a *shell company* which falls within *LR* 5.6.5AR(2) has sufficient measures in place to protect investors and so that the smooth operation of the market is not temporarily jeopardised such that a suspension is not required where the following conditions are met:

(1) at the date of *admission* the aggregate gross cash proceeds received by the *shell company* in consideration for the *listed shares* issued by it to *public shareholders* was at least £100 million;

(2) the *shell company* has adequate binding arrangements in place with an independent third party to ensure that the aggregate gross cash proceeds received in consideration for any *listed shares* that it has issued, or issues, to *public shareholders* are protected from being used for any purpose other than:

(a) to provide the consideration for a *reverse takeover* which has been approved by:

(i) its board in accordance with (4); and

(ii) its *public shareholders* in accordance with (5);

(b) to redeem or purchase *listed shares* held by *public shareholders* following the exercise of the right to be redeemed or purchased referred to in (7);

(c) to be distributed to *public shareholders* if that a *reverse takeover* has not been completed by the date specified in (3); or

(d) to return capital to *public shareholders* in the event of a winding up of the *company*,

provided that a specified amount or proportion of such proceeds may be excluded from the amount which is protected, and may be retained to be used by the *shell company* to fund its operations, where that amount or proportion has been disclosed in the *prospectus* published in relation to the *admission to listing* of the *shell company's shares*;

(3) the *shell company's constitution*:

(a) provides that if the *shell company* has not completed a *reverse takeover* on or before the date which is 24 *months* from the date of *admission* it will:

(i) cease operations on the date which is 24 *months* from the date of *admission*; and

(ii) distribute the amount protected and referred to in (2) to *public shareholders* as soon as possible after the date specified in (i);

(b) may provide that the period of 24 *months* referred to in (a) can be extended for a further period of up to 12 *months* provided that any such extension is approved by the *public shareholders*

of the *shell company* before the end of the period referred to in (a);

(c) may provide that the period of 24 *months* referred to in (a), or the extended period referred to in (b), can be extended for a further period of up to 6 *months* where, before the end of the period referred to in (a) or (b), as applicable:

(i) the approval of shareholders for a *reverse takeover* has been obtained but the *reverse takeover* has not completed;

(ii) a general meeting to obtain the approval of shareholders for a *reverse takeover* has been convened;

(iii) the *shell company* has made an announcement that:

(A) a general meeting to obtain the approval of shareholders for a *reverse takeover* will be convened for a date which is specified in the announcement; and

(B) a notice to convene the general meeting referred to in (A) will be sent to shareholders within a specified time following the announcement; or

(iv) an agreement for a *reverse takeover* has been entered into but the *reverse takeover* has not been completed and the *shell company* has not made an announcement in accordance with (iii),

provided that any such extension is notified to a *RIS* before the end of the period referred to in (a) or (b), as applicable.

(4) the *shell company's constitution*:

(a) provides that the *shell company* must obtain the approval of its board for a *reverse takeover* before it is entered into; and

(b) ensures that the following do not take part in the board's consideration of the *reverse takeover* and do not vote on the relevant board resolution:

(i) any *director* who is, or an *associate* of whom is, a *director* of the *target* or of a *subsidiary undertaking* of the *target*; and

(ii) any *director* who has a conflict of interest in relation to the *target* or a *subsidiary undertaking* of the *target*;

(5) the *shell company's constitution*:

(a) provides that the *shell company* must obtain the approval of its shareholders for a *reverse takeover* either:

(i) before the transaction is entered into; or

(ii) if the transaction is expressed to be conditional on that approval, before it is completed; and

(b) ensures that any *founding shareholder*, *sponsor* or *director* does not vote on the relevant resolution;

(6) the *shell company's constitution* provides that where any *director* has a conflict of interest in relation to the *target* or a *subsidiary undertaking* of the *target*, the *shell company* must publish, in sufficient time before shareholder approval for a *reverse takeover* is sought, a statement by the board that:

(a) the proposed transaction is fair and reasonable as far as the *public shareholders* of the *shell company* are concerned; and

(b) the *directors* have been so advised by an appropriately qualified and independent adviser;

(7) the holders of the *listed shares* have the right to require the *shell company* to redeem or otherwise purchase their *shares* for a pre-determined amount, which is exercisable:

(a) at the discretion of the holder prior to completion of a *reverse takeover*; and

(b) whether or not the holder voted in favour of the *reverse takeover* on any shareholder resolution to approve the transaction;

(8) the *shell company* has disclosed the matters set out in (2) to (7) in the *prospectus* published in relation to the *admission to listing* of the *shell company's shares*.

5.6.18B R In *LR* 5.6.18AG:

(1) "*founding shareholder*" means a shareholder who founded or established a *shell company*;

(2) "*public shareholder*" means a shareholder who is not a *founding shareholder*, a *sponsor* or a *director*;

(3) "*sponsor*" means a person who provides any of the following to a *shell company*:

(a) capital or other finance to support the operating costs of the *shell company*;

(b) financial, advisory, consultancy or legal services;

(c) facilities or support services; or

(d) any other material contribution to the establishment and ongoing operation of the *shell company*.

5.6.18C R (1) In order for the *FCA* to be satisfied for the purposes of *LR* 5.6.8G(2), the *shell company* must provide a written confirmation from the board to the *FCA* that:

(a) the conditions set out in *LR* 5.6.18AG have been met; and

(b) the conditions set out in *LR* 5.6.18AG(2) to (7) will continue to be met until a *reverse takeover* is completed.

(2) The *shell company* must provide to the *FCA* evidence of the basis upon which it considers that it meets the conditions set out in *LR* 5.6.18AG, if requested to do so.

5.6.18D R (1) Where the *FCA* has agreed that a suspension is not necessary as a result of the *shell company* meeting the conditions set out in *LR* 5.6.18AG and having provided the written confirmation set out in *LR* 5.6.18CR, the *shell company* must make an announcement of the *reverse takeover*.

(2) The announcement must include:

(a) a description of the business carried on by the *target*;

(b) hyperlinks to all relevant publicly available information on the *target*;

(c) all material terms of the proposed transaction, including the expected dilution effect on *public shareholders* from *securities* held by *directors*, *sponsors* or *founding shareholders*, or from new *securities* issued or expected to be issued as part of the transaction;

(d) the proposed timetable for the transaction;

(e) an indication of how the *target* has been, or will be assessed and valued by the *shell company*, with reference to any selection and evaluation process for prospective target companies set out in the *prospectus* published in relation to the *admission to listing* of the *shell company's shares*; and

(f) any other material details and information which the *shell company* is aware of, or ought reasonably to be aware of,

about the *target* or the proposed transaction that an investor in the *shell company* needs to make a properly informed decision.

(3) If any of the information set out in (2) is not known when the announcement required by (1) is made:

(a) the announcement required by (1) must also identify the information set out in (2) which has not been included in that announcement; and

(b) the *shell company* must make an announcement of such information as soon as it is known or the *shell company* becomes, or ought reasonably have become, aware of it and in any event in sufficient time before shareholder approval for the *reverse takeover* is sought.

5.6.18E R An announcement made for the purposes of *LR* 5.6.18DR must be published by means of an *RIS*.

5.6.18F R The *shell company* must contact the *FCA* as soon as possible if at any time after the written confirmation referred to in *LR* 5.6.18CR has been provided to the *FCA* any of the conditions set out in *LR* 5.6.18AG(2) to (7) are no longer met to request a suspension of *listing*.

…

Appendix 1 Relevant definitions

Insert the following new definitions in the appropriate alphabetical position and amend the existing definitions as shown.

Appendix 1 Relevant definitions

App 1.1 Relevant definitions

App 1.1.1	…
…	
founding shareholder	as defined in *LR* 5.6.18BR.
public shareholder	as defined in *LR* 5.6.18BR.
…	

sponsor	(1)	except in *LR* 5.6.18AG, a *person* approved, under section 88 of the *Act* by the *FCA*, as a sponsor.
	(2)	in *LR* 5.6.18AG, as defined in *LR* 5.6.18BR.

Appendix 2
Changes to Technical Note

FINANCIAL CONDUCT AUTHORITY

Primary Market Technical Note

Cash shells and special purpose acquisition companies (SPACs)

The information in this note is designed to help issuers and practitioners interpret our Listing Rules, Prospectus Regulation Rules, Disclosure Guidance and Transparency Rules, and related legislation. The guidance notes provide answers to the most common queries we receive and represent FCA guidance as defined in section 139A FSMA.

LR5; LR6; LR 14 and LR 7.2.1R

The terms 'cash shell' and 'SPAC' are not defined in the Listing Rules. However, we note the following points about how these terms are broadly understood, how these types of issuers meet the eligibility requirements for listing shares and when the listing may be suspended if a reverse takeover is announced or leaked (as cash shells and SPACs will be shell companies under LR 5.6.5AR).

The terms 'cash shell' and 'SPAC'

Cash shells

'Cash shell' is a term often used for companies whose assets consist wholly or predominantly of cash (or potentially short dated securities). A listed issuer may be a cash shell because it has been admitted to the Official List as a commercial company but has subsequently disposed of all or a majority of its assets and currently operates only residual business activities, if any. These types of issuers may have been admitted to the Official List with either a premium listing (pursuant to Chapter 6 of the Listing Rules) or a standard listing (pursuant to Chapter 14 of the Listing Rules). Cash shells may or may not have a strategy to seek an acquisition opportunity or to develop a business as a start-up. So there is some overlap between cash shells and SPACs.

SPACs

We understand the term special purpose acquisition company or 'SPAC' to mean a new company incorporated to identify and acquire or merge with a suitable business opportunity or opportunities. It may also be referred to as a 'search fund'. We would expect that a SPAC would fall within LR 5.6.5AR(2).

Its initial funds are usually raised through an IPO on a stock market or through a fundraising undertaken before the IPO. After IPO, its cash resources are used to identify acquisition opportunities, finance the due diligence costs and potentially fund or part fund the acquisition of a suitable business to invest in.

The issuer may have raised significant funds to finance these activities. However, this is not always the case and we note that many such issuers are microcap companies listing with a market capitalisation of around £1 million.

Eligibility for listing

When these types of issuers are listed, they are most typically, but not always, listed under Chapter 14 of the Listing Rules which sets out requirements for the standard listing of shares.

An applicant which is a cash shell or SPAC would not meet the eligibility requirements for premium listing. This is because it would not have an independent business and a financial track record that meets the requirements of LR 6 (additional requirements for premium listing, commercial companies). It would also not normally have a policy of investing its assets to spread investment risk in accordance with the requirements of LR 15 (closed-ended investment funds). A cash shell or SPAC can list under LR 14 provided it is not an 'investment entity' as defined in the Listing Rules (LR 14.1.1R and Glossary).

Cash shells that have previously been admitted to premium listing and remain premium listed should note LR 5.4A.16G which will apply to them. This states that there may be situations where an issuer's business has changed over time so that it no longer meets the requirements of the applicable listing category which it was initially assessed for listing. In those situations, we may consider cancelling the listing of the equity shares or suggest to the issuer that, as an alternative, it applies for the transfer of its listing category.

We therefore encourage such issuers to consider whether to apply to us for their listing to be cancelled, or to transfer to standard listing (LR 14), and to contact us to discuss this.

Reverse takeovers

Listed cash shells and SPACs are caught by the provisions on reverse takeovers that apply to a 'shell company' in LR 5.6.5AR. This is because a shell company is a listed issuer whose assets consists solely or predominantly of cash or short dated securities, or whose predominant purpose or objective is to undertake an acquisition or merger or a series of acquisitions or mergers.

Also, the acquisition by a cash shell or SPAC of a target is a reverse takeover according to the definition in LR 5.6.4R and the related guidance in LR 5.6.5G. In particular, the percentage ratios are likely to be 100% or more because, in applying the class tests, the cash and short dated securities held by the cash shell or SPAC must be excluded in calculating its assets and market capitalisation (paragraph 8R(5) in LR 10 Annex 1). Also, the transaction is likely in substance to result in a fundamental change in the business or a change in board or voting control of the issuer.

The classification of the transaction as a reverse takeover under the Listing Rules is important because a cash shell or SPAC will be subject to the rebuttable presumption that, where a reverse takeover is announced or leaked, there will generally be insufficient publicly available information in the market that will often lead to the suspension of listing in the context of a reverse takeover. We refer to this as the

'rebuttable presumption of suspension'. In this case the issuer or, if the issuer is premium listed, its sponsor, is required to contact us as early as possible to discuss whether a suspension is appropriate (before announcing a reverse takeover which has been agreed or is in contemplation) or to request a suspension (where details of the reverse takeover have leaked).

Also, we will generally seek to cancel the listing of an issuer's equity shares when the issuer completes a reverse takeover (LR 5.2.3G).

We discuss these points below.

Suspending listing

We may suspend, with effect from such time as we may determine, the listing of any securities if the smooth operation of the market is, or may be, temporarily jeopardised or it is necessary to protect investors (LR 5.1.1R(1)).

Rebuttable presumption of suspension

The Listing Rules create a rebuttable presumption that certain types of issuer will be suspended upon announcement or leak of a reverse takeover as there will generally be insufficient publicly available information in the market.

When suspending, we will rely on the general suspension power set out under LR

5. 1.1R(1) which is supported by examples of when we may suspend listing in LR 5.1.2G. These include where it appears to us that the issuer cannot accurately assess its financial position and inform the market accordingly in LR 5.1.2G(3) or there is insufficient information in the market about a proposed transaction in LR 5.1.2G(4).

Although LR 5.1.2G(4) refers only to a 'proposed transaction', we would consider this to refer to situations where information has been announced or leaked in relation to transactions under contemplation, as well as those where the terms have been agreed.

Early engagement on reverse takeovers

LR 5.6.8G highlights that, in the case of a reverse takeover for the types of issuer referred to in LR 5.6.5AR, we will often consider that a suspension will be appropriate, unless we are satisfied that ~~there is~~:

i. there is sufficient publicly available information about the proposed transaction., or

ii. where the issuer falls within LR 5.6.5AR(2), it has sufficient measures in place to protect investors and so that the smooth operation of the market is not temporarily jeopardised

This is subject to no other situations occurring at the same time where we would usually suspend pursuant to LR 5.1.1R(1).

We would like to remind issuers of the need to ensure that they consider Listing Principle 2, which requires issuers to deal with us in an open and co-operative manner, when considering the appropriate time to contact us.

Early engagement with us is particularly important in circumstances where the issuer intends to pursue the transaction or has reached a stage where the transaction can be described as being in contemplation (LR 5.6.7G). A decision to suspend can have a significant market impact and so early engagement, preferably before the point where a reverse transaction can be considered in contemplation, is essential.

Timing of the announcement

LR 5.6.7G sets out examples of when we will generally consider a potential reverse transaction sufficiently advanced to trigger an announcement and that a suspension may be appropriate. However, we know that at times the situation may not be as clear cut as set out in these examples. There may be situations where there has been a purely speculative leak and a potential suspension would be inappropriate.

We also recognise that competitive auction processes are often difficult to fit into this framework, so we are happy to discuss the specifics of each case with issuers or their advisers. In making a decision about whether it is appropriate to consider suspension, we would expect the issuer to apply a similar rationale as they would when considering the announcement requirements under the Market Abuse Regulation (MAR). We would not, for example, expect the issuer to request a suspension where the transaction is too speculative to trigger an announcement under MAR.

Timing of suspension, cancellation and readmission

When a reverse takeover is announced or has leaked, we may suspend listing if we believe, having considered the information in the market on the target at the time, that the smooth operation of the market is or may be temporarily jeopardised ~~there is or may be a disorderly market~~ or it is necessary to protect investors. We will follow this approach in the case of acquisitions by shell companies because our experience is that share prices in these types of issuers can experience a lot of volatility and price spikes around the time of a proposed transaction. An exception will be where a SPAC confirms that it meets certain conditions and makes certain disclosures such that we are satisfied that the SPAC has sufficient measures in place to protect investors and so that the smooth operation of the market is not temporarily jeopardised (LR 5.6.18AG to LR 5.6.18FR).

As noted above, LR 5.2.3G makes it clear that we will generally seek to cancel the listing of a company's equity shares when it completes a reverse takeover. UK-regulated markets follow suit and will cancel the admission to trading. So, if the issuer wants to remain listed and admitted to trading, it will need to apply to us to be re-admitted to listing as well as making appropriate arrangements with the operator of the relevant market about its readmission to trading.

The application for re-admission to a regulated market is most likely to trigger the requirement for the issuer to publish a further prospectus. We may suspend listing pending publication of that prospectus if we believe, having considered the information in the market on the target at the time and considered whether LR 5.6.18AG to LR 5.6.18FR have been complied with, that ~~there~~ the smooth operation of the market is or may be temporarily jeopardised ~~a disorderly market~~ or it is necessary to protect investors. We will follow this approach in the case of acquisitions by a cash shell or SPAC.

The cash shell or SPAC may apply for its enlarged share capital to be listed under LR 6 when it has completed the acquisition. Alternatively, it may wish to apply to be listed under LR 14. We will assess eligibility in the usual way and if re-admitted under LR 6, the usual rules for premium-listed commercial companies will apply.

Pub ref: 007701

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