

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

Consultation Paper

CP21/10**

April 2021

How to respond

We are asking for comments on this Consultation Paper (CP) by **28 May 2021**.

You can send them to us using the form on our website at: www.fca.org.uk/cp21-10-response-form

Or in writing to:

Capital Markets Policy
Financial Conduct Authority
12 Endeavour Square London E20 1JN

Email:

cp21-10@fca.org.uk

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1 Summary

Why we are consulting

- 1.1** We are proposing 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. SPACs are already permitted to list in the UK. However, the changes we propose may encourage a wider range of SPAC listings with stronger investor protection features in future, offering a better choice of investment opportunities, and alternative routes to public markets for private companies.
- 1.2** There is currently a general presumption that we will suspend the listing of a SPAC when it identifies a potential acquisition target. We propose to remove this presumption for SPACs that meet certain criteria intended to strengthen the protections for investors, while maintaining the smooth operation of the market. This change will provide an alternative approach for SPACs that must otherwise provide detailed information to the market on a proposed target to avoid a suspension. We detail our proposals in Chapter 4.
- 1.3** SPACs remain a more complex investment, requiring investors to understand their capital structure and assess the potential value and return prospects of any acquisition target proposed. Evidence from the US market suggests SPACs have highly varied returns for investors and can often result in losses. Even if we proceed with our proposals, investors, particularly individual investors, should carefully consider all available information and risks before deciding whether to invest in a SPAC.
- 1.4** In developing our proposals, we have carefully analysed features and trends in the US market, assessing the risks, benefits and key features of SPACs following the growth of SPAC initial public offerings in the last 15 months. In addition, we have considered the recent recommendation on SPACs in Lord Hill's UK Listing Review Report, which proposed, following consultation with stakeholders, considering rules changes subject to key investor protections being in place.
- 1.5** The approach we propose provides a timely, flexible response, by primarily using guidance criteria to address the issues. This applies at the point a SPAC identifies a prospective target. We recognise there may be merit in considering, in due course, a separate listing category for SPACs. This would allow for a more rules-based framework that, for example, includes some requirements as threshold conditions for a SPAC to list. We intend to discuss this in later publications on our review of primary markets and response to Lord Hill's report.

Who this applies to

1.6 This consultation should be read by:

- 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

1.7 This consultation will also be of interest to:

- trade associations representing the various market participants noted above
- wider financial market participants, such as research analysts

What we want to change

1.8 We propose to amend our Listing Rules to provide an alternative route to market for SPACs demonstrating higher levels of investor protection. This route would only apply 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, risks to investor protection and the smooth operation of the market may be sufficiently mitigated that we will not generally seek to suspend listing at the point a potential acquisition target is identified. For SPACs not meeting these conditions, existing guidance setting a presumption of suspension unless more specific, detailed information is provided to the market on a proposed target would continue to apply.

1.9 The alternative criteria we are proposing focus on various aspects. They are designed to benefit SPACs that can achieve a certain scale, making it more likely they will have more experienced management and advisors, and the ability to attract the institutional investors that will apply increased scrutiny to the investment proposition. The criteria also aim to ensure transparency, and to mitigate the risk of conflicts of interest between the SPAC's founders, directors, and others that may play a role in promoting or supporting the SPAC operationally on the one hand, and the SPAC's investors on the other. For example, a key area of conflict can arise as a result of a SPAC's allocation of shares to its founders and directors. These allocations can dilute investors' returns in a material way, and also create incentives on the part of the founders to undertake a transaction when it may not be in the interests of investors to do so. It is therefore important that SPACs are transparent about such allocations and other potential conflicts, to ensure investors have the information they need to make informed decisions.

1.10 Specifically, the features we are proposing include:

- meeting a minimum size threshold based on the amount raised when a SPAC's shares are initially listed, and setting a time limit on a SPAC's operating period if no acquisition is completed

- ensuring monies raised from public markets are ring-fenced so they are preserved to either fund an acquisition, or be returned to shareholders, less any amounts specifically agreed to be used for a SPAC's running costs
- ensuring shareholder approval for any proposed acquisition, based on sufficient disclosure of key terms and a 'fair and reasonable' statement where any conflict of interest exists between SPAC directors and a target company
- a 'redemption' option allowing investors to exit a SPAC before any acquisition is completed, and
- adequate disclosures given to investors at the appropriate stages in the SPAC's lifecycle, from a SPAC's initial listing to any final transaction that results in the SPAC completing a takeover of another business and establishing a new company

1.11 By contrast, our current suspension approach means investors are usually locked into a SPAC (as they are not able to trade the SPAC's shares), at the point a target is announced, potentially for many months before completion. This is undesirable for investors and issuers. We describe the proposed features in more detail in Chapter 4.

1.12 In this CP, collectively we refer to the founders, directors and others that play a role in promoting or supporting a SPAC operationally as 'sponsors', as they are the key people behind the SPAC. This is different from the Handbook definition of a sponsor, which relates to Premium Listed issuers.

Measuring success

1.13 We would expect our changes to provide a more flexible regime for larger SPACs demonstrating strong investor protections, potentially resulting in a wider range of SPACs listing in the UK, and increased choice for investors wanting to invest in such vehicles. This is because the current suspension rules create uncertainty and inflexibility for issuers and prospective investors, especially when the UK's regime is compared to other jurisdictions which allow a SPAC's shares to continue trading.

1.14 By setting clear conditions under which we will not look to suspend, our rules will provide strong investor protection, give greater certainty for issuers, and align more closely with standards in other international markets. We consider that issuers will be prepared to meet these standards, since they are likely to improve investors' confidence and ability to make an informed investment decision about a SPAC.

1.15 In due course, any increase in SPACs listed in the UK will give private companies a potential route to public markets and sources of new investment. This may offer more choice to private companies that may lead, over time, to further new listings of commercial companies in the UK.

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

1.17 SPACs continue to have risks and complexity, which investors should ensure they can adequately assess and understand before investing. Evidence from the US on returns from SPACs indicates investors experience a wide range of outcomes, and those

holding SPAC shares through to a completed acquisition often lose money. However, our rules aim to ensure that SPACs making use of our proposed rule changes do not undermine investor protection or the smooth operation of markets, which should reduce risks to investors of unexpected losses.

- 1.18** Depending on the outcome of the consultation process, we intend to keep any final Handbook changes under review. We welcome views on, and will consider further, whether the changes proposed (which primarily take the form of guidance) should be codified as more specific set of rules for SPACs in the future. If there is evidence to suggest that the proposed changes are not having the intended effect, and some larger SPACs are not complying with our rules and guidance, we may also seek to introduce more stringent requirements as a matter of urgency.

Next steps

- 1.19** We are consulting for 4 weeks on these proposals.
- 1.20** We consider it appropriate to consult quickly to seek to introduce investor protection measures by the summer, given the market activity anticipated in this sector. This shorter period also takes into account our public statement on 31 March 2021, where we said we intended to consult shortly on this topic. Finally, Lord Hill's recent, extensive engagement with market participants on SPACs and his resulting public recommendation has further set out and raised awareness of this debate.
- 1.21** Please respond by completing the form on our website or sending a response to cp21-10@fca.org.uk

2 The wider context

The harm we are trying to reduce

- 2.1** We believe our existing rules do not provide enough flexibility for, and recognition of, alternative and potentially more effective investor protections provided by some SPACs, which we have seen emerge in other markets. Our current rules set a presumption of suspension for a SPAC's listed shares when it identifies a potential acquisition. By doing so, our rules potentially impose a disproportionate barrier to listing for larger SPACs that build specific investor protections into their structures.
- 2.2** While a SPAC is suspended, investors cannot sell their shares exposing them to an uncertain period, with limited ability to scrutinise or give their view of the SPAC's proposed target. Suspension may also be less effective in reducing or managing the effects of any conflicts of interest for SPAC sponsors when choosing a target company versus other measures. Investors can be harmed if they cannot realise their investment, or if they lose money as a result of a poor acquisition they had little control over.

Wider context

- 2.3** While SPACs are not new in the UK market, since early 2020 there has been a significant increase in the level of SPAC IPO activity and the size of offers seen in the US market (see further detail in Chapter 3). Such US SPACs routinely include features designed to improve protections for investors. US regulation does not presume a suspension of listing when a SPAC identifies a target, but instead focuses on other investor protection measures. Models similar to those seen in the US are now emerging and looking to list in the UK and other European markets. A few recent listings on markets in Amsterdam and Paris have combined features from US market practice with EU regulatory requirements, while also not presuming a suspension of listing at the time an acquisition is in contemplation. The major US markets, as well as certain European markets, are recognised overseas investment exchanges (ROIEs) for UK regulatory purposes, including investor protection, and UK investors are generally able to access SPACs listed on those markets.
- 2.4** This model of SPAC is different to those we have commonly seen in the UK in recent years. So we consider it timely to reconsider whether we can better calibrate our Listing Rules to permit SPACs which demonstrate higher standards of investor protection, and so promote more effective UK markets.
- 2.5** Alongside these market developments, Lord Hill published his final UK Listing Review Report and recommendations on 3 March 2021. The review, launched by the Treasury in November 2020, asked market participants for their views on how to enhance the UK as a destination for IPOs, and optimise the capital raising process for companies seeking to list on the main UK markets.

- 2.6** Among other recommendations on listing and related rules, Lord Hill recommended that the FCA consider our approach to suspension for SPACs. While the proposals in this paper reflect our own analysis of the effect of our rules for SPACs, and the relative benefits and risks of possible changes, based on our objectives, we have considered Lord Hill's recommendation on SPACs as part of this process.
- 2.7** We intend to bring forward further policy proposals and discussion on our Listing Rules more broadly in due course. This will include a further consultation paper in the summer, as we stated publicly in response to Lord Hill's review. We also seek to discuss whether a potential further, holistic review of both our listing framework and the prospectus regime will offer significant opportunities to explore reforms that will make UK markets more efficient and effective in the long term. The measures we propose in this CP seek to ensure our rules provide adequate protections and different routes to market for issuers in the meantime, reflecting more immediate market developments.

How it links to our objectives

Consumer protection

- 2.8** Our proposals aim to address the current lack of flexibility for larger SPACs. Removing a presumption of suspension for large SPACs with protections and transparency for investors should provide for a wider range of listed securities with high standards of investor protections. Our 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.
- 2.9** Our proposed changes will not apply for smaller SPACs or those not meeting the conditions set out, where we will continue to apply a more stringent presumption of suspension.

Market integrity

- 2.10** SPACs can pose market integrity risks if the issuers of these vehicles do not comply with continuing obligations and disclosure requirements. Given the nature of a SPAC, which largely serve as a 'bet' and future option on a management team finding an attractive takeover target, false or misleading information about potential acquisition targets can lead to share price volatility. This is despite the cash value of the SPAC being effectively fixed.
- 2.11** Our proposals 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. Meanwhile, we will continue to monitor price movements in SPAC shares, as with other issuers. We will take action to maintain orderly markets using our general suspension powers if appropriate.

Competition

- 2.12** In general, SPACs can provide an investment opportunity in UK markets, and offer an alternative source of funding and route to market for private companies versus a 'traditional' IPO. SPAC vehicles may offer private companies an option to enter public markets in ways that are more cost-effective, quicker, or pose lower execution risk or

provide greater certainty of funding. While we consider SPACs are likely to remain a modest feature of UK markets overall, and we may see less investor demand and resulting reverse takeover listings via SPACs than seen in the US, any increase in appropriate opportunities for investors and issuers to access UK capital markets would be positive.

- 2.13** It is important, though, that target companies and their management do not consider SPACs to be an alternative to the rigours of public market transparency and obligations. Any new operating company that emerges from a SPAC acquisition will need to apply for a new listing, and demonstrate that they satisfy the eligibility criteria, as well as meeting ongoing requirements if admitted.

Wider effects of this consultation

- 2.14** We recognise that new SPAC listings may apply to us during this consultation period, and seek assurance that, at the point of listing, they are likely to fall within any proposed guidance that will later apply to UK SPACs when they identify a target. While we welcome SPACs choosing to adopt good standards, we cannot pre-determine the outcome of our consultation and any final decision on whether to adopt proposals, either as consulted on or with any changes. So we will not provide any guarantee that a SPAC issuer applying to us will be able to use the proposed alternative approach to discharge our presumption of suspension.
- 2.15** Even if we proceed with final Handbook changes, our decision on whether or not to suspend a listing would remain a point-in-time assessment when a SPAC has identified a target and approaches us on that basis. This is regardless of the fact that a SPAC's terms at its original IPO will, by necessity, meet some of the features outlined in our guidance. We would envisage, though, our approach being appropriately transparent and predictable to market participants.

Unintended consequences of our intervention

- 2.16** If our rule changes result in a significantly higher number of SPACs listing in the UK, there is a risk that excess capital seeking similar 'growth' private companies may drive excessive valuations or poor choices of acquisitions, even with additional protections. This may result in growth of lower-quality or less mature companies brought to market via a SPAC and poor returns for their investors. SPAC acquisitions may also dampen future levels of non-SPAC IPOs, so represent a substitution of activity rather than additional capital raising and listings over time.
- 2.17** Our changes also do not prevent speculative trading in a SPAC's shares based on rumours or limited information in the market. This may result in some investors buying shares at a premium to the cash value of the SPAC. In this scenario, investors would subsequently suffer a loss if they redeem before the SPAC completes a transaction. Alternatively, if they do not redeem their shares, they will have paid more per share for their interest in the new company (formed in a reverse takeover) relative to those investors who bought the SPAC shares at par.
- 2.18** Overall, the changes we propose may encourage a wider range of listings which include alternative investor protections. However, there is a possibility that the changes we propose lead to few or no additional SPAC listings, which may favour listing on other markets.

Equality and diversity considerations

- 2.19** We have considered the equality and diversity issues that may arise from the proposals in this CP.
- 2.20** Overall, we do not consider that the proposals materially impact any of the groups with protected characteristics under the Equality Act 2010. But we will continue to consider the equality and diversity implications of the proposals during the consultation period. We will revisit them when making the final rules.
- 2.21** We welcome any feedback to our consultation on this.

3 Background to SPACs and our current rules

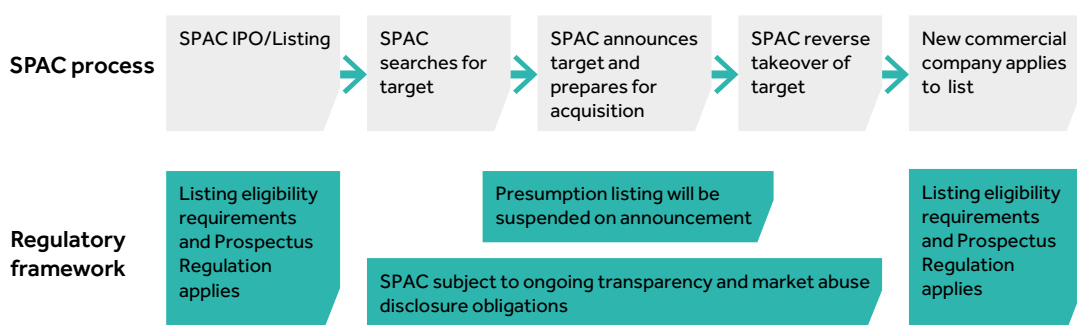
- 3.1 In this chapter, we explain what SPACs are, including the risks they present to investors, and summarise our existing rules.
- 3.2 Investors should be clear that, while our rules can provide additional protections, they remain responsible for undertaking their own due diligence, understanding investment terms, and taking appropriate action in line with their own risk appetite and investment objectives.

Background

What is a SPAC?

- 3.3 A SPAC is a shell company whose sponsors raise funds with the objective of buying one or more companies. A SPAC raises funds through an IPO of its shares. It retains the funds to use at a later date to make an acquisition. SPACs do not have an operating business model when created, but their management works to identify and then negotiate with potential acquisition targets. Typically, a SPAC seeks out a mature private company to buy in a reverse takeover and form a new operating company, which will need to apply to be listed on public markets.

Figure 1: SPAC process and regulatory framework



- 3.4 SPACs are not new. Traditionally the UK has seen limited activity in this sector. Typically, UK SPACs have a very small market capitalisation, broad investment strategies and relatively few investors (both professional and some retail). The share price in these types of issuers becomes highly volatile around the time of a proposed transaction. Some SPACs are incorporated in overseas jurisdictions.

Table 1: Summary of UK SPAC market

Market cap:	≤£5m	>£5m to ≤£10m	>£10m to ≤£100m	>£100m	Unknown	Total
Number of 'live' UK-listed SPACs	13	–	2	2	3	20
% of live listings	65%	–	10%	10%	15%	100%
UK SPACs with suspended listing (last recorded market cap*)	10	3	–	–	–	13
% of suspended SPACs	77%	23%	–	–	–	100%
Total SPACs:						33
% of total SPACs that are currently suspended						39%

Source: FCA internal analysis; *LSE Group public data

Recent market developments

- 3.5** Other jurisdictions, such as the US, have recently seen evolution and significant growth in this sector. In these markets, typically larger scale SPACs have emerged, supported by experienced management and with investor protections built into their structures. European markets, such as Amsterdam, have also seen interest in these structures.
- 3.6** The US, in particular, saw over \$80bn raised in 2020 with over 200 transactions, and has seen a similar amount raised in Q1 2021 alone. The average amount raised in individual US SPAC IPOs has exceeded \$300m from the start of 2020 to end Q1 2021, covering 464 deals, with a median value of just over \$270m (source: Bloomberg).
- 3.7** SPAC shares in the US are generally allowed to continue trading when a target is identified, with no presumption of suspension, subject to meeting certain disclosure requirements under US Securities and Exchange Commission (SEC) rules. SPACs also typically embed investor protection measures through a combination of both exchange rules and market practice. These include the option for shareholders to redeem their investment either at par or at a pre-determined amount once they have full information about the proposed acquisition and following a shareholder vote on the proposed acquisition. Funds raised at IPO are also usually held in trust pending an acquisition. Additionally, market practice typically limits a SPAC's operating period to 24 months within which it must complete a transaction, while exchange rules set a limit of 3 years.

Our current approach to listing of SPACs

- 3.8** All companies, including SPACs, seeking admission to the Official List have to meet the eligibility requirements set out in our Listing Rules. Once listed, all companies, including SPACs, are subject to Listing Principles and the continuing obligations for the segment and category in which their securities are listed. They are also subject to the Market Abuse Regulation (MAR) and our Disclosure Guidance and Transparency Rules (DTR) provisions.
- 3.9** In the UK, there is no set market convention to embed investor protection measures in a SPAC's structure, such as setting a time limit for identifying and completing an acquisition, or giving shareholders the right to vote on the approval of an acquisition.

While some SPACs may adopt such measures, we have not seen them adopted widely across the sector as conventional market practice in the UK.

- 3.10** A SPAC is a new company incorporated to identify and acquire a suitable business opportunity or opportunities. We consider that they are a subset of a 'shell company', the definition of which, for the purposes of our Listing Rules, includes an issuer whose 'predominant purpose or objective is to undertake an acquisition or merger, or a series of acquisitions or mergers' (LR 5.6.5AR).
- 3.11** 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).
- 3.12** The Listing Rules also presume a shell company, including a SPAC, will be suspended from listing when it announces its target acquisition, or if details of the proposed acquisition are leaked. This is to protect investors from disorderly markets as a result of incomplete information being available at that stage, which could impair the process of proper price formation. Suspension is not a default, but a rebuttable presumption. The acquisition of a target company will be a reverse takeover for the purposes of our Listing Rules. Upon completion of the reverse takeover the listing of the SPAC's shares will be cancelled and a new listing application will be required for the combined entity.
- 3.13** A listed shell company must contact us (LR 5.6.6R) as early as possible:
- before announcing a reverse takeover which has been agreed or is in contemplation, to discuss whether a suspension is appropriate, or
 - where details of the reverse takeover have leaked, to request a suspension.
- 3.14** Our guidance in the Listing Rules explains that in these circumstances there will generally be insufficient publicly available information about a proposed transaction and the shell company will be unable to assess accurately its financial position and inform the market accordingly. If we are satisfied, however, that there is sufficient publicly available information about the proposed transaction, we may agree that suspension is not necessary. We set out circumstances in which we will generally be satisfied that a suspension is not required in LR 5.6.10G to LR5.6.18R. If it is unable to satisfy us that there is sufficient publicly available information about the proposed transaction, or if there are other grounds for suspension, we will suspend the SPAC's listing, meaning its shareholders will be unable to trade their shares.
- 3.15** More details on the provisions relating to suspending listing can be found in [Technical Note 420.2: Cash shells and special purpose acquisition companies](#). A copy of the Technical Note is included in Appendix 2 with proposed amendments to reflect the proposals in this CP. However, the amendments are only intended to be consequential to reflect this new alternative approach to suspension being available, if we proceed to finalised these measures, rather than providing further guidance.

UK Listing Review

- 3.16** On 3 March 2021, Lord Hill published his [recommendations](#) from the UK Listings Review, launched by the Treasury in November 2020.

- 3.17** Lord Hill's report noted that several market participants believed that SPACs would become increasingly popular sources of finance for European companies seeking alternatives routes to market to a traditional IPO. On the other hand, the report also noted that a number of reservations were expressed about SPACs, including concerns about the role of, and share allocation to, the management of the SPAC, and the performance of SPACs over time.
- 3.18** The report noted that responses to the review's Call for Evidence suggested that '... while there may be several reasons why UK SPAC financing has not emerged at scale, a key factor is regulatory and relates to FCA rules which can require trading in a SPAC to be suspended when it announces an intended acquisition'.
- 3.19** Recognising the purpose of our rules, Lord Hill proposed that we consider conditions around SPACs to help provide additional investor protections and reflect similar terms embedded in the model of SPAC in the US, in lieu of our presumption of suspension, including:
- i.** the information which SPACs must disclose to the market upon the announcement of a transaction in relation to a target company
 - ii.** the rights investors in SPACs must have to vote on acquisitions prior to their completion
 - iii.** the rights investors in SPACs must have to redeem their initial investment prior to the completion of a transaction
 - iv.** if necessary, to safeguard market integrity, the size of SPAC below which the suspension presumption may continue to apply.

Key risks we have considered

- 3.20** 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.
- 3.21** We have considered these risks as part of our proposals. But investors should also 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:
- **Experience and ability of SPAC management and strategy:** When investing in a SPAC, investors are reliant on and backing the sponsoring management team to identify an appropriate target.
 - **SPAC structure and sponsor incentives:** Sponsors may receive shares in a SPAC for nominal investment, reflecting their commitment of time and expertise to find a target. However, the effect of this is to dilute the relative value of other shareholders. Other models may feature lower sponsor share allocations but involve cost-sharing between investors and sponsors, eg 1-2% of funds raised at IPO can be used to fund the running of the SPAC.
 - **Long time-horizon to find a target:** SPACs typically set a time-horizon of 2 years to identify a target, failing which the company will be dissolved and cash held returned pro rata to investors. There are no guarantees that a SPAC will identify a target. In such cases, investors may receive less back than they put in, as well as the lost opportunity cost of having committed money they could have invested elsewhere.

- **Conflicts of interest between sponsor and investor:** The timeline and incentives on sponsors may also create the risks of poorer-quality transactions being proposed late in the lifespan of the SPAC or the sponsor's decisions being driven by other conflicts of interests around the proposed target.
- **Governance over the terms of a proposed transaction:** A key decision point for any investment in a SPAC is the point at which it proposes an acquisition and puts it to shareholders. Information on the proposed target company, the valuation of the deal, the purported prospects of a new listed company, and the terms on which SPAC investors receive shares in the enlarged entity, versus terms for other investors such as the sponsor, will be critical.
- **Speculative trading of SPAC shares:** the shares of a listed SPAC are admitted to trading on a public market (eg the Main Market of the London Stock Exchange). While in substance, the SPAC's economic value should broadly equal the amount of the cash raised at IPO, plus interest and less any running costs, speculation on possible targets being considered by the SPAC may lead to price changes and volatility for investors.
- **Celebrity endorsements:** The US has seen examples of some SPACs where a well-known celebrity has co-invested or endorsed a SPAC, publicising such opportunities through a range of channels, including social media. Celebrity endorsement, even if legitimate, provides no guarantee of returns and may increase share price volatility. It should not be a substitute for proper due diligence.
- **SPACs may be incorporated in other jurisdictions:** Some UK-listed SPACs are incorporated in jurisdictions outside the UK. While they must meet our listing requirements to be admitted to the Official List, the nature of company law or insolvency law may differ from the UK. This may affect shareholders' legal rights, for example if the SPAC winds up or is subject to a legal claim.

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?

4 Our proposals

4.1 In this chapter we set out our proposals for changes to our Listing Rules and seek feedback on both the policy approach and the draft legal instrument.

Our proposals

4.2 In view of our objectives and market developments, we propose to introduce guidance explaining that we will generally be satisfied that a suspension is not required where a SPAC has certain features built into its structure and provides certain disclosures to protect investors and so that the smooth operation of the market is not temporarily jeopardised. There will be a set of criteria (including both structural features and disclosures), all of which we would expect a SPAC to meet to discharge our presumption of suspension.

4.3 The proposed investor protection measures provide clarity and control to public shareholders during the lifecycle of the SPAC. By 'public shareholder', we mean a shareholder who is not a founder, director, or someone who otherwise promotes or supports the SPAC operationally (collectively we refer to these as 'sponsors' in this CP). However, even with these protections, SPACs remain a more complex investment. Investors should be aware of the risks outlined in Chapter 3, undertake careful due diligence, and invest in line with their own investment objectives and risk appetite.

4.4 In the remainder of this chapter, we discuss each of the criteria we propose a SPAC should meet in order for us generally to be satisfied that suspension is not required, as well as the policy intention of each, and seek feedback. The draft legal instrument setting out the corresponding changes proposed to our Listing Rules sourcebook can be found in Appendix 1. We welcome feedback on the proposed changes set out in the draft legal instrument.

4.5 This proposed approach is only relevant to removing a presumption of suspension for SPACs if they meet these criteria. We will retain our general power to suspend listing if we have other concerns that the smooth operation of the market is, or may be, temporarily jeopardised or it is necessary to protect investors (LR 5.1.1R).

4.6 Alongside the proposed criteria, a SPAC would continue to be subject to MAR and our transparency rules in the DTR sourcebook, as issuers with shares admitted to trading on a UK regulated market.

4.7 As SPACs are not eligible for premium listing due to some of their inherent characteristics, the proposals will not impact premium listed issuers.

Size threshold

4.8 We propose applying a size threshold to SPACs that want to use the proposed alternative approach to suspension. The SPAC's ability to raise material sums from public shareholders at inception is more likely to mean:

- i. a high level of institutional investment is needed, with those investors performing due diligence on the SPAC and its management (this potentially leads to greater scrutiny of the investment proposition, giving co-investing individual investors some assurance) and
- ii. an experienced management team and supporting advisors

4.9 We propose 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 by way of general cash injection in the company). This is different from the meaning of market capitalisation in LR 2.2.7R, which is the expected aggregate market value of all securities (excluding treasury shares) to be listed. This is also consistent with our policy rationale that a SPAC should be capable of attracting a considerable level of external investment, which is likely to apply higher scrutiny of the SPAC's prospects, to benefit from our alternative approach to suspension.

4.10 The proposed threshold of £200m reflects consideration of both the UK experience of SPACs and analysis of SPAC IPO capital raisings in the US in the last 15 months, although there remains a degree of judgement in the amount set. We welcome views and evidence on our proposed threshold, or any proposed alternative level that is consistent with our policy intention.

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?

Ring-fenced cash for acquisition, redemption or repayment purposes

4.11 SPACs should adequately ring-fence, via an independent third party, proceeds raised from public shareholders. This is to protect investors from misappropriation or excessive running costs being incurred by the SPAC's management. Proceeds should be ring-fenced in a way that ensures 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)

4.12 We understand that some SPACs may specify an amount or proportion of proceeds the company will retain to fund its operations. Where this is the case and the specified amounts have been clearly disclosed to investors in the prospectus published at the time of admission to listing, the proceeds to be ring-fenced can be reduced by those agreed amounts. We have 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 is intended to allow a degree of flexibility for issuers, recognising for example that trust law is not consistent in all jurisdictions.

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?

Time limit for making an acquisition

- 4.13** We propose that, in order to benefit from the alternative approach to suspension, a SPAC should have a time limit and not be 'open-ended'. This is because, in our view, this would expose investors to an unacceptable level of uncertainty. A time limit should also focus the SPAC management on finding a suitable target.
- 4.14** Therefore, we propose that SPACs seeking to use the alternative approach to suspension should include a time limit on their operations in their articles of association or equivalent constitutional document, requiring the SPAC to find and acquire a target within 2 years of admission to listing. The company should make this time limit clear to investors at the outset by also making reference to this in its prospectus. We understand that such clauses are already a relatively common practice for SPACs.
- 4.15** We recognise that in some cases, the 2-year deadline may occur when a target has been identified and announced, but before the SPAC can complete the acquisition. To provide some flexibility in this case, we propose that a SPAC may extend its operations by up to 12 months subject to approval by its public shareholders.
- 4.16** 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 (see above).
- 4.17** It is our expectation that in this scenario the SPAC would then be an 'empty shell', and as such would seek to wind itself up. As a result, we would expect it to apply to have its listing cancelled. This is because it would not meet the continuing obligations for listing, eg having a sufficient number of shares in public hands.

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?

Board and shareholder approval of a transaction

- 4.18** It is important that SPACs that want to use the alternative approach to suspension are accountable to shareholders and apply a high standard of due diligence to any potential acquisition.
- 4.19** To encourage this, and to protect shareholders against poor choice of target and conflicts of interest by the SPAC's sponsors, we propose as part of the criteria that a SPAC should:

- a.** Be required to obtain Board approval of any proposed transaction, excluding 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
- b. 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 sponsors should be prevented from voting.
- c. 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.

4.20 The intention of these measures is to ensure both the Board and shareholders have an opportunity to scrutinise and approve a proposed transaction, and that conflicts of interest in relation to any target are appropriately managed. An investor's decision should also be based on sufficient information being provided on the transaction to make an informed decision. We would expect this to include detail on the impact on ordinary shareholders of shares or warrants held by the SPAC's sponsors (eg dilution), any conflict of interest they have in the proposed transaction, and any additional dilution effects on existing shareholders from potential redemptions or the terms on which additional investment is provided from private placements to finance the transaction.

4.21 Given the inherent incentives for SPAC sponsors to vote for a transaction they put forward, in particular the financial incentive to find a target versus not concluding any deal, we propose the SPAC should exclude their participation in the shareholder vote.

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?

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

Fair and reasonable statement on the terms of an acquisition

4.22 As well as the above, where any of the SPAC's directors have a conflict of interest in relation to the target or a subsidiary of the target, we propose that 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. This statement should reflect advice by an appropriately qualified and independent adviser. The Board statement should be published to shareholders of the SPAC in sufficient time ahead of the shareholder vote on the transaction.

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?

Redemption option for shareholders

4.23 We propose SPACs should provide a redemption option to shareholders as a key element of the investor protection criteria that would allow a SPAC to use the alternative approach to suspension. This reduces risks for investors from allowing a SPAC to continue to be traded following the announcement of a target, when publicly available information on the deal may be limited. A redemption option, combined with a ring-fencing of proceeds and 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.

4.24 We propose that any 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. We would expect the terms of a redemption option to be detailed in the SPAC's initial prospectus under existing prospectus requirements, since it will be a right attaching to the shares.

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

Disclosure

4.25 We consider there should be clear disclosure about the structure and arrangements of a SPAC if they wish to take advantage of the alternative approach to suspension. Information relating to ring-fenced arrangements, time limits for making an acquisition, a commitment to publish a fair and reasonable statement, and voting and redemption rights attached to shares, will be required to be included in the initial SPAC prospectus under the prospectus regime. Subject to the requirements of the prospectus regime, an issuer may choose to incorporate this information by reference, eg if certain governance features are detailed in its company articles of association or other constitutional documents.

4.26 Article 6 of the Prospectus Regulation sets out the overarching requirement that 'a prospectus shall contain the necessary information which is material to an investor for making an informed assessment'. We therefore consider a SPAC prospectus will also have to provide information on:

- the full structure of the offer, including any warrants issued alongside shares and the terms of those instruments
- details of the expertise of management
- the strategy of the SPAC
- identified risk factors, and
- conflicts of interest

4.27 Both before and after any target is identified, as long as a SPAC is listed and traded on a UK regulated market, it will already need to comply with MAR and our transparency rules (DTR 4 to 6). A SPAC must therefore continue to fulfil obligations to identify and disclose inside information as soon as possible, unless they have a valid reason to delay disclosure under MAR. MAR makes clear that inside information can include information which, if made public, a reasonable investor would be likely to use as part of the basis of his or her investment decisions.

4.28 We therefore expect adequate transparency around a SPAC's activities and key terms to be largely safeguarded by compliance with existing requirements. We do, however, 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. At the same time, we recognise that the extent of the current disclosure needed to discharge the presumption of suspension (eg LR 5.6.15 G) is a key challenge for some SPACs to meet where the target is a private company.

4.29 We therefore also propose, under the alternative approach to suspension, that a SPAC issuer must undertake to provide, to the extent possible at the point of an initial target announcement:

- 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, including 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.

4.30 The announcement must also identify any information described in a to c above that has not been included because it is not known at the time of the initial announcement.

4.31 The SPAC must update the information described in a to c above following an initial announcement of a target as necessary if new information becomes available prior to the shareholder vote. This is intended 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, alongside other protections, which in combination should provide protection to investors and enable the smooth operation of markets.

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?

Supervisory approach

- 4.32** SPACs that want to use the proposed approach set out above 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).
- 4.33** At the point the SPAC contacts us before announcing a transaction, in order to avoid suspension the SPAC will need to indicate that they have met the criteria described above from the point of listing and that it will continue to do so post announcement until the completion of the reverse takeover. We propose this take the form of a Board confirmation in writing to us that the SPAC satisfies the specified conditions and will continue to do so until a reverse takeover is completed. We may require the SPAC to provide evidence to support the written confirmation on request.
- 4.34** Where details of the proposed transaction have leaked, the presumption that the SPAC will be initially suspended remains unchanged. Therefore, it is possible that a short period of suspension may occur following a leak, before being lifted if an issuer can confirm that the new criteria have been met and makes the required announcement, as proposed above.
- 4.35** We recognise that SPACs must include disclosure in the prospectus at the point of their listing application to take advantage of the proposed alternative guidance to avoid suspension when a reverse takeover target is identified. A SPAC may also wish to indicate its intention to prospective investors that it will seek to take advantage of our guidance in this future situation. We will be open to discussing these disclosures with applicants and any concerns we have about them at the point of listing. However, we will not review the underlying material, such as the company's contracts or articles of association (or other constitutional documents). It is important to note that as part of the listing application process, we would not be providing an indication at that time about whether we are satisfied that suspension at a future date will not be necessary, and a SPAC's disclosures should reflect this fact.
- 4.36** We will 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, notwithstanding some of the criteria will in effect need to be met at the point of a SPAC's listing.
- 4.37** 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.

4.38 So we propose a new notification requirement to require a SPAC that wants to use the proposed guidance to also 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 (paragraph 4.33).

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?**

Further investor protection or sustainability measures

4.39 We think our proposed measures strike an appropriate balance between investor protection, versus allowing access to investment opportunities and providing flexibility for issuers. However, we welcome any views on whether further measures or a different approach could be considered to ensure adequate protection for investors.

4.40 We are also interested to consider whether our approach to SPACs could be differentiated for vehicles focused on sustainability and investing based on environmental, social and governance (ESG) factors. For example, if a SPAC is seeking to invest in targets that develop green technology and it provides disclosures that align with the Task Force for Climate-related Financial Disclosure (TCFD) initiative, we could consider applying modified criteria to such SPACs. This could include eg a longer period to complete an acquisition or a lower initial capital raising threshold (e.g. £100m). While we are not proposing such provisions at this stage, we are keen to receive any feedback on whether we should explore this idea further.

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.**

Annex 1

Questions in this paper

- 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?
- 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?
- 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?
- Q6:** As one of the criteria, do you agree that SPACs should set a time limit on their operations from the point of its admission to list? 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?
- 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 subsidiary?
- Q11:** Do you agree that approval from shareholders, excluding SPAC sponsors, should be required in order to proceed with a proposed acquisition?

- 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 is a 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?
- Q14:** Do you agree with a criterion that a SPAC should include a redemption option for shareholders? If not, please explain why.
- 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?
- Q17:** Do you have any comments on our proposed supervisory and monitoring 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?
- 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.

Annex 2

Cost benefit analysis

Introduction

1. FSMA, as amended by the Financial Services Act 2012, requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'.
2. This analysis presents estimates of the significant impacts of our proposal. We provide monetary values for the impacts where we consider it is reasonably practicable to do so. Where it is not reasonably practicable to do so, we provide a qualitative assessment of outcomes, taking account of various factors. Our proposals are based on carefully weighing up these multiple factors and reaching a judgement about the appropriate level of investor protection and market integrity.
3. As described in more detail in Chapter 3, a special purpose acquisition company (SPAC) is a company founded by an individual or group of individuals with the objective of making one or more acquisitions. Its funds are raised through an Initial Public Offering (IPO) of its shares, and the proceeds of the IPO are later deployed to make the acquisition.
4. Generally, when a SPAC announces its target acquisition, or that information is leaked, it is treated as a reverse takeover under our Listing Rules. Based on our existing rules, it is very likely at that point that insufficient information will be publicly available about the proposed target company, and the SPAC will be unable to assess accurately its financial position and inform the market accordingly. In this situation, the SPAC is usually suspended from trading to prevent the risk of trading based on incomplete or false information.
5. When a SPAC has agreed a deal to acquire the target company, typically a prospectus and new application to list will be needed for the new combined company.
6. Traditionally the UK has seen limited activity in this sector. We currently estimate there are 33 SPACs listed in the UK. Of these, 40% (13) currently have their listing suspended. These suspended SPACs all had very small market capitalisations at the point of suspension, with around 75% worth less than £5m, and the remainder less than £10m. Of the estimated 20 SPACs with live listings, two have a size exceeding £100m market capitalisation, while two thirds are worth around £5m or less.
7. From the FCA's role in approving SPAC listings, we often see SPAC applications with broad investment strategies. Most target privately owned companies, for which there is more limited publicly available information. We also often see, post-admission to listing and trading, instances of high levels of volatility in the share price of these issuers around the time of a proposed transaction. Our rules are designed to address our concerns about very small SPACs ([CP17/4](#) and [PS17/22](#) refers), but potentially impose a disproportionate barrier to listing for larger SPACs.

Problem and rationale for the intervention

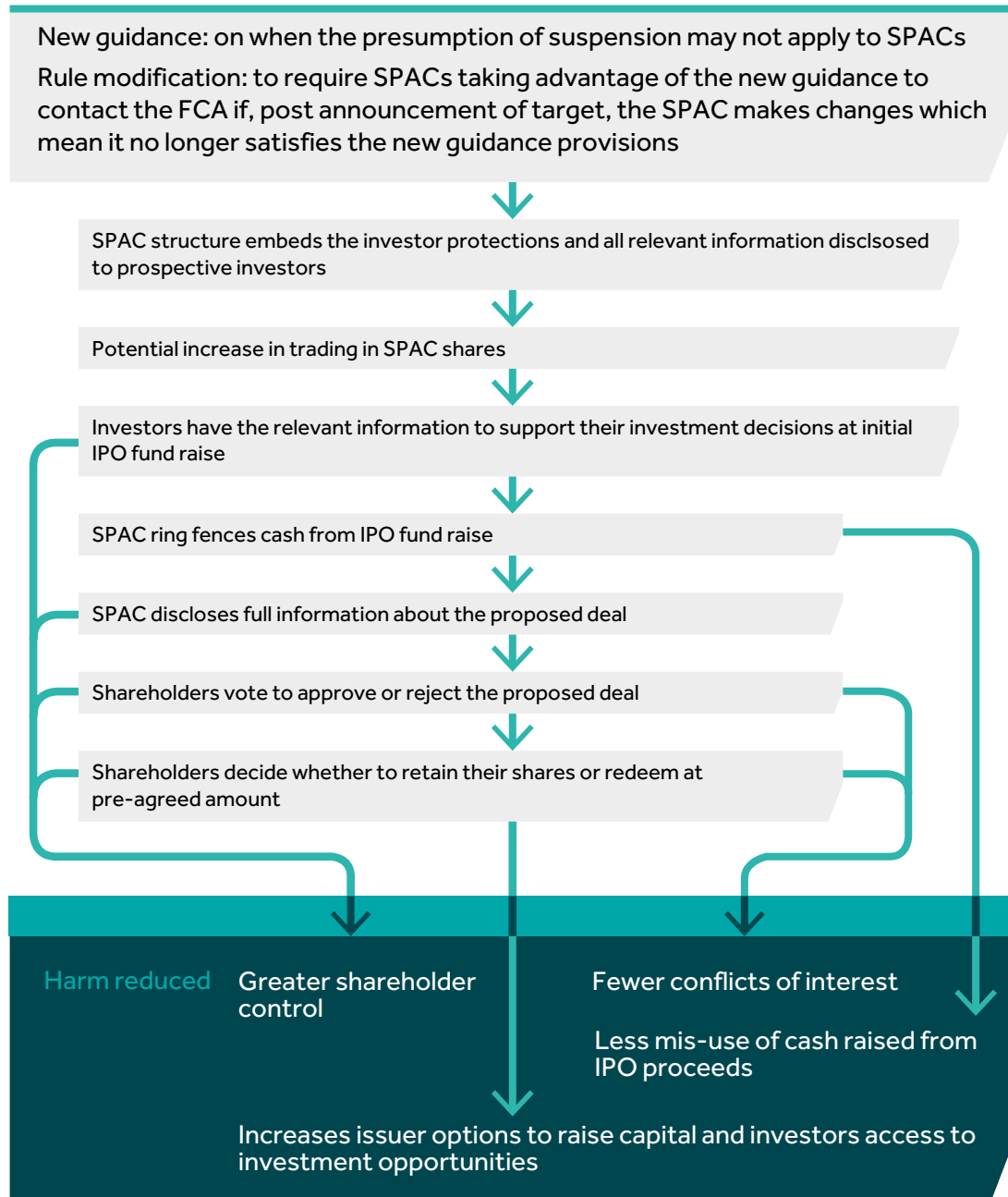
8. From a combination of observing market developments in other jurisdictions and stakeholder feedback, including the recommendations of Lord Hill's review, we have identified potentially unnecessary barriers to listing for large SPACs that have investor protection measures built into their structures.
9. The US has recently seen evolution and significant growth in this sector, with the emergence of typically larger scale SPACs, supported by experienced management, with investor protections built into their structures. Data on US SPAC activity during 2020 shows that in the region of 300 SPACs raised over \$90bn during that year. In Q1 2021 the data shows approximately 165 SPACs raised over \$50bn. The average amount raised in US SPAC IPOs have exceeded \$300m from the start of 2020 to end Q1 2021, covering in the region of 460 deals, with a median value of just over approximately \$260m in 2020, and \$345m in Q1 2021.
10. The US approach generally allows trading to continue when a target is identified (i.e. there is no presumption of suspension), subject to meeting certain disclosure requirements and supported by the SPACs embedding certain investor protection measures. This includes the option for shareholders to redeem their investment either at par or at a pre-determined amount once they have full information about the proposed acquisition and following a shareholder vote. Funds are also usually held in trust pending an acquisition, and market practice typically limits a SPAC's operating period to 24 months within which it must find a deal.
11. Other EU jurisdictions and exchanges are now seeing the emergence of similar SPAC models to the US. EU markets also do not typically adopt a presumption of suspension that we have in our rules.

Harm and drivers of harm

12. Our rules, which are designed to address our concerns about smaller SPACs ([CP17/4](#) and [PS17/22](#) refers), potentially impose a disproportionate barrier to listing for the new model of larger SPACs that has emerged. Timely and adequate disclosures, alongside other investor protections, such as offering public shareholders an option to redeem their investment, is likely in our view to offer investors better protection than the presumption of suspension for such SPACs.
13. We consider the existing UK framework may benefit from reforms which could lead to improvements in market efficiency and effectiveness. The harm and drivers identified can be described as follows:
14. **Potential regulatory failure:** The rebuttable presumption does not provide sufficient flexibility for and recognition of alternative investor protections incorporated into the structure and governance of some SPACs, and potentially acts as barrier to listing. Other measures will likely deliver a similar, or better, degree of investor protection than this approach while reducing a perceived regulatory barrier for SPAC issuers to list in the UK.
15. For example, recent developments in market practice in other jurisdictions, where SPACs are building specific investor protections into their structures (such as those mentioned in paragraph 10 above), suggest that our rules are potentially suboptimal as they do not take these structures into account.

- 16. Potential harm:** The current presumption of suspension, applied to shell companies at the point a target acquisition is announced, prevents trading in a SPAC's shares from that point and prior to any acquisition being completed. Investors cannot sell their shares during this period, which may deter investment in the first place. Issuers' needs may not be met if they cannot fully access the capital they need, and as a result investors may not have access to all the investment opportunities they could benefit from. In addition, investors are exposed to uncertainty during this period, since they receive limited or no information on the proposed acquisition target, including potential risks of conflicts of interest between the key individuals of the SPAC and the proposed target. Harm to investors can also arise because they may lose out as a result of a poor acquisition deal over which they have little control or information prior to the final proposal for a deal.
- 17.** We consider there is a case for revisiting our approach to suspension in the case of the new model of SPACs that has emerged, given the embedded investor protections within their structures.
- 18.** Therefore, we are consulting on removing the presumption of suspension, for such SPACs, where the SPAC confirms it has specific structural features in place to provide investor protection and makes, or commits to making, adequate related disclosures at key stages in the SPAC's listing and in any potential acquisition.
- 19.** As set out in Chapter 4 of the CP, we propose to amend Chapter 5 of the Listing Rules to make clear that we will no longer apply a rebuttal presumption that a shell company's listing will be suspended, when a reverse takeover is announced to the market, if the shell company has certain features. The specified investor protection measures will be set out in guidance (outlined in Chapter 4).
- 20.** Issuers, including SPAC issuers, are already subject to existing obligations to provide timely information to the market, under MAR and Prospectus Regulation. We also have a general power to suspend or cancel a listing in certain circumstances. We believe that the combination of our proposed new guidance and existing provisions should allow us to safeguard market integrity and provide adequate investor protection.
- 21.** If a SPAC meets the measures specified at the point of listing, but subsequently changes its structure so that they no longer apply at the point of announcement of the target, or at any point thereafter until the reverse takeover, they will not be able to take advantage of the proposed guidance. In this situation, the SPAC should contact the FCA to request a suspension, and we propose to modify the current notification rule to make this clear.
- 22.** Where a shell company does not want to structure itself to reflect the characteristics specified in the proposed guidance, the existing rebuttable presumption of suspension for shell companies will remain.

Figure 2: Causal chain (for SPACs which implement the new investor protections)



The baseline

23. The counterfactual for our intervention is SPACs continuing to list under a presumption that trading will be suspended when the transaction is announced. We see no reason to believe that other regulatory changes to the listing regime by the FCA or through primary legislation will significantly affect this baseline.
24. Our assumption is that our proposals are highly unlikely to impact existing listed SPACs, given a number of the proposed criteria and related disclosures would have needed to be in place at the point of listing. Furthermore, our assumption is that our proposals will not impact Premium Listed issuers. This is because SPACs cannot meet the Premium Listed eligibility requirements, e.g. they do not have an operating business or a 3-year track record.

Assessing the costs and benefits

- 25.** The benefits and costs of the changes we propose will only occur if a SPAC is considering listing. This is a choice, and we are not requiring SPACs to structure themselves in this way, either as part of their eligibility to list or as part of meeting their ongoing obligations. Given this, it is not reasonably practicable for us to
- accurately predict the number of shell companies that may wish to list directly as a result of our proposals; or
 - predict the number of future transactions where the choice provided by our proposals is considered as an option by listed SPACs; or
 - give a meaningful estimate of how either of the above would affect costs.
- 26.** As a result, we do not think it is reasonably practicable to quantify the benefits and costs that might arise from our proposals. Therefore, we have set out below our qualitative assessment of the impact of the proposals.

Costs

- 27.** We expect the one-off familiarisation costs for SPACs that may wish to list and take advantage of our proposals will be minimal (approximately £3,400 per SPAC¹). This will include reading the consultation document and the draft instrument (in Appendix 1) and briefing the relevant persons (e.g. the management team) on its contents.
- 28.** We have not included any costs from the additional investor protection measures or related disclosures, as these are discretionary. SPACs will have the choice to adopt these if they conclude the benefit of doing so outweighs the costs.
- 29.** There may be a potential cost, or rather a potential unintended consequence from the proposal, for investors if the changes make it more likely that market integrity issues arise. For example, investors could experience losses if they trade in a SPAC's shares based on incomplete or erroneous information between the point when a prospective deal is announced and any final deal put to shareholders (when, without our proposed changes, a listing would otherwise be suspended and so no trading occurs). If an investor bought SPAC shares during this period at a price higher than the known redemption value, on the basis of complete and accurate information, and then held those shares before exercising the redemption option, they would experience a loss equal to the premium they paid above the redemption value. However, there would likely be a corresponding gain to the selling investor(s).
- 30.** We do not think it reasonably practicable to quantify the scale of the market integrity risk that may result from the additional trading that occurs because of our proposed measures. However, we have sought to minimise such risks through the guidance criteria we propose, which sit alongside existing disclosure obligations on issuers, and our powers to suspend a listing if we detect disorderly markets. We therefore consider the risk to market integrity is likely to be small.

1 We have assumed that 3 staff members will spend ca. 1.5 hours each at £59/hour to familiarise themselves with the proposal (CP) and 4 legal specialists will spend 45 hours in total at £69/hour to consider the handbook text (using salaries from the Willis Towers Watson UK 2016 Financial Services Report, adding 30% overheads to account for non-wage labour costs).

- 31.** We also have considered a further potential unintended consequence, in the form of the potential investor detriment risk to retail investors of a potential increase in the numbers of SPACs listing in the UK. For example, if our proposals result in more SPACs listing in the UK, or more media attention on this type of investment, they could attract more interest from retail investors for which this type investment may not be suitable. Due to data limitations, it is not possible to identify or estimate the volume of retail investors that have, or might, invest in SPACs.
- 32.** On balance, we consider the size threshold we propose (that SPACs raise a minimum of £200m at admission to listing) will mean institutional investors are the most likely target investors and would be necessary participants to make a SPAC listing viable.
- 33.** While there is still the risk of incomplete information being available on a proposed transaction at the point a target acquisition is announced, as a package we consider our proposals reduce the likely negative impacts on market integrity and investor protection. Issuers also remain bound by transparency and MAR obligations at all times. We will continue to monitor markets to ensure smooth and orderly functioning, and retain our general power to suspend if necessary.
- 34.** Other than the points identified above, we do not foresee any new costs in the proposed changes.

Benefits

- 35.** We think that the proposed change to our rules and guidance recognises the emergence of the new model of SPAC. As well as providing choice to such companies seeking to list, it provides increased transparency and protections for investors.
- 36.** Generally, the package of proposals should provide clarity for shareholders and discipline issuer conduct, encouraging robust processes, and promoting good practice in the sector. For example, ring-fencing proceeds of the IPO combined with shareholder voting rights will safeguard investments against misuse and help manage conflicts of interests within the management of a SPAC.
- 37.** The benefits of not suspending in cases where specified disclosures and investor protection features are in place include:
- Benefits to issuers:
 - Removal of a regulatory barrier that may deter some SPACs from listing in the UK. This widens the choice for SPACs wishing to raise capital in the UK, and increases potential capital available to private companies that are seeking investment and are sufficiently mature to enter public markets via a deal with a SPAC, which may provide greater certainty than pursuing their own IPO listings process.
 - Optional flexibility for SPAC issuers, without increased regulatory burdens, as each SPAC will be able to decide how to structure itself and whether or not to do that in such a way to be eligible to qualify for the proposed exemption to our presumption of suspension.

- Benefits to shareholders:
 - Avoiding listing disruption and maintaining the smooth operation of the market, allowing shareholders to continue to trade. They are not locked in post announcement of a target and can sell their shares if they wish to.
 - more control to shareholders throughout the life cycle of the SPAC.
 - Shareholders will gain from being able to vote to approve or reject the proposed acquisition when full information is available, which is necessary to inform their investment decision. At that point they will be able to retain their shares if they wish, or use their redemption option to get their money back (at the pre-agreed known amount).
- Benefits to investors and markets:
 - Investors have wider and more diverse opportunities to invest in SPACs, which will offer enhanced investor protections if seeking to use our new guidance to avoid a presumption of suspension. Investors would gain exposure to any subsequent further listing of a new operating company through any deal subsequently negotiated by the SPAC issuer.
 - SPACs' capital could facilitate business growth in the real economy, bring new companies to list in the UK (whether from the UK or elsewhere), and increase activity and revenue opportunities for UK-based financial and professional services firms.
 - The size threshold would be too large for a retail only investor base. Therefore, institutional investors would be expected to be investing alongside any retail participation. Institutional money would bring due diligence and price formation, which would benefit the retail co-investors as they would be able to enter and exit at the same price as institutional investors.
 - Through the redemption option, the proposals provide a floor to the market price that reduces the degree of price volatility and limits the potential downside for investors when the target is announced to a known amount.

38. We consider it better for both investors and issuers to encourage SPACs to operate within UK public markets, which are subject to high regulatory standards of transparency, enhanced price formation and access, compared to alternatives such as non-listed markets.

39. Having considered the quantifiable and non-quantifiable costs and the non-quantifiable benefits, we see reason to believe that the expected benefits will likely outweigh the expected costs.

Annex 3

Compatibility statement

Compliance with legal requirements

1. This Annex records the FCA's compliance with a number of legal requirements applicable to the proposals in this consultation, including an explanation of the FCA's reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA).
2. When consulting on new rules, the FCA is required by section 138I(2)(d) FSMA to include an explanation of why it believes making the proposed rules is (a) compatible with its general duty, under s. 1B(1) FSMA, so far as reasonably possible, to act in a way which is compatible with its strategic objective and advances one or more of its operational objectives, and (b) its general duty under s. 1B(5)(a) FSMA to have regard to the regulatory principles in s. 3B FSMA. The FCA is also required by s. 138K(2) FSMA to state its opinion on whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.
3. This Annex also sets out the FCA's view of how the proposed rules are compatible with the duty on the FCA to discharge its general functions (which include rule-making) in a way which promotes effective competition in the interests of consumers (s. 1B(4) FSMA). This duty applies in so far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.
4. In addition, this Annex explains how we have considered the recommendations made by the Treasury under s. 1JA FSMA about aspects of the economic policy of Her Majesty's Government to which we should have regard in connection with our general duties.
5. This Annex includes our assessment of the equality and diversity implications of these proposals.
6. Under the Legislative and Regulatory Reform Act 2006 (LRRRA) the FCA is subject to requirements to have regard to a number of high-level 'Principles' in the exercise of some of our regulatory functions and to have regard to a 'Regulators' Code' when determining general policies and principles and giving general guidance (but not when exercising other legislative functions like making rules). This Annex sets out how we have complied with requirements under the LRRRA.

The FCA's objectives and regulatory principles: Compatibility statement

7. The proposals set out in this consultation are primarily intended to advance the FCA's operational objective of protecting consumers. They are also relevant to our operational objective of protecting and enhancing market integrity:
- Protecting consumers – securing an appropriate degree of protection for consumers by ensuring that investors benefit from appropriate disclosure for SPAC reverse takeovers, greater control of their investment, and that we avoid unnecessary suspensions of listing and trading.
 - Market integrity – protecting and enhancing the integrity of the UK financial system by ensuring that we apply the Listing Rules proportionately, transparently and effectively.
8. We consider these proposals are compatible with the FCA's strategic objective of ensuring that the relevant markets function well because they seek to ensure requirements for listed companies and companies seeking to list their securities are clear and proportionate. We think our measures may encourage a wider range of SPAC listings with stronger investor protection features, offering a better choice of investment opportunities to investors, and alternative routes to public markets for private companies. For the purposes of the FCA's strategic objective, "relevant markets" are defined by s. 1F FSMA.
9. In preparing the proposals set out in this consultation, the FCA has had regard to the regulatory principles set out in s. 3B FSMA. In particular:

The need to use our resources in the most efficient and economic way

10. The proposals set out in this CP are consistent with an efficient and economic use of our resources. Our approach is designed to provide enough flexibility for, and recognition of, alternative and potentially more effective investor protections provided by some SPACs, while also maintaining the smooth operation of markets.
11. Our supervisory resources will be used efficiently as our approach seeks to address harms identified and to encourage a wide range of SPAC listings with better investor protections.

The principle that a burden or restriction should be proportionate to the benefits

12. We consider that our proposals will have a positive impact on ensuring that the burdens and restrictions placed on issuers under the Listing Rules are proportionate to the benefits. We have undertaken a cost-benefit analysis which is included in Annex 2 of this CP.

The desirability of sustainable growth in the economy of the United Kingdom in the medium or long term

13. Our proposals have regard to the desirability of sustainable growth in the medium and long term. They seek to address a potential barrier to listing for larger SPACs that build specific investor protections into their structures. If more SPACs choose to list in the UK, it would increase investment opportunities for investors and raise capital that might be used to acquire a private company, which is then listed on UK public markets.

The general principle that consumers should take responsibility for their decisions

14. Investors in those SPACs that choose to structure themselves to build in the specific features proposed in this CP will benefit from clearer terms and greater control over their investment during the SPAC's lifecycle. While our proposed approach can provide additional protections, investors remain responsible for undertaking their own due diligence, understanding the investment terms, and taking appropriate action in line with their own risk appetite and investment objectives. We also identify some of the key features and risks of SPACs that consumers should be aware of and consider in Chapter 3 of this CP.

The principle that we should exercise of our functions as transparently as possible

15. We consider that our proposals will deliver greater transparency in the way we exercise our functions in relation to the Listing Rules.
16. In formulating these proposals, the FCA has had regard to the importance of taking action intended to minimise the extent to which it is possible for a business carried on (i) by an authorised person or a recognised investment exchange; or (ii) in contravention of the general prohibition, to be used for a purpose connected with financial crime (as required by s. 1B(5)(b) FSMA). We do not expect our proposals to have a direct bearing on financial crime.

Expected effect on mutual societies

17. The FCA does not expect the proposals in this paper to have a significantly different impact on mutual societies. These proposals have no direct impact on mutual societies.

Compatibility with the duty to promote effective competition in the interests of consumers

18. In preparing the proposals as set out in this consultation, we have had regard to the FCA's duty to promote effective competition in the interests of consumers.
19. We do not consider the proposals in this CP to be inconsistent with our duty to promote effective competition in the interests of consumers.

Equality and diversity

20. We are required under the Equality Act 2010 in exercising our functions to 'have due regard' to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, and to foster good relations between people who share a protected characteristic and those who do not.

21. As part of this, we ensure the equality and diversity implications of any new policy proposals are considered. The outcome of our consideration in relation to these matters in this case is stated in paragraph 2.19 of the CP.

Legislative and Regulatory Reform Act 2006 (LRRRA)

22. We have had regard to the principles in the LRRRA for the parts of the proposals that consist of general policies, principles or guidance and consider that they are proportionate and result in an appropriate level of investor protection, without creating undue burdens on listed companies. For example, our proposals allow for a range of SPAC models, and aim to increase investor protections and clarify expectations for SPACs, which should also maintain the smooth operation of the market.
23. We have had regard to the Regulators' Code for the parts of the proposals that consist of general policies, principles or guidance and consider that the proposals are proportionate to the potential market failures identified.

Treasury recommendations about economic policy

24. We consider that our proposals are consistent with the aspects of the government's economic policy to which the Financial Conduct Authority should have regard.
25. In the remit letter from the Chancellor of the Exchequer to the FCA on 23 March 2021, the Chancellor affirms the FCA's role in protecting consumers, promoting competition in financial services and protecting and enhancing the integrity of the UK financial system.
26. The FCA has regard to this letter and the recommendations within. As set out in this Annex, we consider that our proposals are proportionate, aim to increase investor protection and promote effective competition.
27. They are of relevance, in particular, regarding competitiveness and the government's wish to ensure that the UK remains an attractive domicile for internationally active financial institutions, and that London retains its position as the leading international financial centre and hub for green finance. They are also of relevance regarding innovation, and the government's recommendation that we should encourage new methods of engaging with consumers of financial services and new ways of raising capital, including recognising differences in the nature and objectives of business models, promoting effective competition and ensuring burdens are proportionate.

Annex 4

Abbreviations used in this paper

Abbreviation	Description
CBA	Cost benefit analysis
CP	Consultation Paper
DTR	Disclosure Guidance and Transparency Rules sourcebook
ESG	Environmental, social and governance
IPO	Initial Public Offer
LR	Listing Rules sourcebook
MAR	Market Abuse Regulation
ROIE	Recognised overseas investment exchange
SPAC	Special purpose acquisition company
TCFD	Task Force for Climate-related Financial Disclosure
UK	United Kingdom
US	United States of America
US SEC	US Securities and Exchange Commission

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Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

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Appendix 1

Draft Handbook text

**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 *[date]*.

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
[date]

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; 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.

~~it may agree with the *shell company* that a suspension is not required.~~

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 £200 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*;

- (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 which has been agreed or is in contemplation.

(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 negotiation of 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	...	
...		
<i><u>founding shareholder</u></i>	as defined in <i>LR 5.6.18BR</i> .	
<i><u>public shareholder</u></i>	as defined in <i>LR 5.6.18BR</i> .	
...		
<i>sponsor</i>	(1)	except in <i>LR 5.6.18AG</i> , a <i>person</i> approved, under section 88 of the <i>Act</i> by the <i>FCA</i> , as a sponsor.
	(2)	in <i>LR 5.6.18AG</i> , as defined in <i>LR 5.6.18BR</i> .

Appendix 2

Draft changes to the Technical Note

January 2018 [month] 2021 / UKLA / Primary Market / TN / 420.23

Primary Market Technical Note

Cash shells and special purpose acquisition companies (SPACs)

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 a suitable business opportunity or opportunities. It may also be referred to as a 'search fund'.

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, 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.

