

UK's FCA Consults on Proposed Changes to the Listing Rules Relating to SPACs

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The Financial Conduct Authority (FCA) has launched a consultation on proposed changes to its Listing Rules for certain special purpose acquisition companies (SPACs). The proposed changes to the rules around SPACs were outlined in the [UK Listing Review](#), led by Lord Hill on 3 March 2021.

SPACs are cash shell companies formed by sponsors that raise funds through an IPO with a view to making one or more acquisitions, with the subsequent acquisition of a target company being referred to as the “deSPAC” transaction.

Existing rules

There is a presumption in the Listing Rules that trading in the SPAC will be suspended when it announces an intended acquisition or details of the potential transaction have leaked. The current rules seek to preserve market integrity by suspending the listing and therefore avoiding disorderly markets as a result of incomplete information about the proposed transaction being available at that stage, which could impair the process of proper price formation. However, the FCA acknowledges that for larger SPACs, the rules potentially impose a disproportionate barrier to listing.

Investors are also negatively impacted by suspension as they are subsequently “locked into” their investment for an uncertain period once the acquisition target is announced and are prevented from selling their shares, potentially for many months before completion.

The new rules seek to address these concerns and encourage a wider range of SPACs to list in the UK. The UK has seen very little SPAC IPO activity in recent years. In 2020, when nearly 250 SPAC vehicles were listed in the US, only four SPACs were listed in the UK, raising an aggregate total of £0.03 billion.

Proposed changes

In consultation paper [CP21/10](#), the FCA sets out proposed amendments to the Listing Rules to provide an alternative route to market for SPACs demonstrating higher levels of investor protection. The FCA's proposed changes would mean that SPACs that have certain structural features and provide adequate disclosure are not subject to the suspension requirement.

The FCA are proposing the following disclosure and investor protection features for SPACs to be able to avoid suspension of the listing:

- **Minimum size threshold** – The SPAC should meet a minimum size threshold based on the amount raised when the SPAC's shares are initially listed. This threshold is proposed to be set at £200 million or more in gross proceeds.
- **Ring-fencing of IPO proceeds** – The SPAC will be required to have binding arrangements in place with an independent third party to ensure that the monies raised from public markets are ring-fenced so they are preserved to either fund an acquisition, or to be returned to shareholders, less any amounts agreed to be used for the running costs of the SPAC (as disclosed in the

SPAC IPO prospectus). The FCA has not specified that funds must be held in a trust or escrow account, although they note that those methods are currently used in other markets and may be appropriate.

- **Imposing a time limit for making an acquisition** – 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 them to find and acquire a target within two years of admission to listing. This should be made clear to investors at the outset in the SPAC's IPO prospectus. A SPAC will be able to extend its operations by up to 12 months subject to approval by its public shareholders.
- **Board and shareholder approval of a transaction** – SPACs will be required to obtain board approval of any proposed transaction, excluding from the board discussion and vote any board member that is associated with, or has a conflict of interests in relation to, the target. Public shareholders will be provided with the right to vote on any acquisition, with a majority vote in favour being required to proceed with a deal; SPAC sponsors will not be able to vote. Shareholders should be 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 investment decision.
- **Fair and reasonable statement on the terms of an acquisition** – Where any of the SPAC's directors have a conflict of interest in relation to the target, the FCA proposes that the board of the SPAC should publish a statement that the proposed transaction is fair and reasonable as far as the public shareholders are concerned. This statement should reflect advice by an appropriately qualified independent adviser.
- **Redemption option for shareholders** – SPACs should provide a redemption option, specifying a pre-determined 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 that the SPAC retains for its running costs.
- **Disclosure** – Under the alternative approach to suspension, a SPAC issuer must undertake to provide, to the extent possible at the point of an initial target announcement, certain information about the target's business, the proposed transaction, valuation methodology and other material details and information. In addition, 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.

SPACs that are unable to meet these conditions, or those choosing not to, would continue to be subject to a presumption of suspension on announcement of an acquisition.

The FCA's consultation will only last for four weeks and it is looking to introduce these rule changes by the summer given the market activity anticipated in the sector.

Further changes?

The FCA acknowledges that 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 would, for example, include some requirements as threshold conditions for a SPAC to list. The FCA notes that it intends to discuss this in later publications on its review of primary markets and response to Lord Hill's report.

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