



Hong Kong

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HKEX ISSUES CONSULTATION PAPER ON SPACS

I. SPACS BACKGROUND AND INTRODUCTION TO HONG KONG SPACS

The Stock Exchange of Hong Kong Limited, a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited (the **HKEX**) published a consultation paper on 17 September 2021 to seek market feedback on proposals to create a listing regime for special purpose acquisition companies (“**SPACs**”) in Hong Kong (the **HKEX SPAC Consultation**). The proposed Hong Kong SPAC listing framework aims to provide another attractive route to listing in Hong Kong.

In the U.S., SPACs listings are already an established regime and have gained prominence in recent years; IPO funds raised by US-listed SPACs rose from approximately US\$13.6 billion in 2019 to approximately US\$83.4 billion in 2020.¹ It is hoped that this alternative route to listing will enhance Hong Kong’s listing framework and ensure its competitiveness as one of the world’s leading IPO markets.

The HKEX SPAC Consultation sets out HKEX’s proposals to create a listing framework for SPACs in Hong Kong and market feedback is sought during a 45-day consultation period. The deadline for responses is 31 October 2021 and interested parties are encouraged to respond to the HKEX SPAC Consultation online.

Given proportionately higher retail market participation in Hong Kong than in the U.S. as well as observation of over-supply of SPACs seeking business combination with a limited pool of target businesses resulting from the U.S. SPAC boom, the HKEX

proposals under HKEX SPAC Consultation are designed to provide a high entry point for SPAC listing applicants and targets, and hence, a more stringent SPAC listing regime than the U.S.

The HKEX SPAC Consultation’s key proposals are as follows:

(1)	Key proposals relating to the period prior to a “De-SPAC Transaction” (i.e. prior to the business combination of a SPAC and the “De-SPAC Target” (i.e. the unlisted issuer with business operations) resulting in the combined company (the “Successor Company”))	Investor suitability	Subscription and trading of a SPAC’s securities (including shares and warrants) to be restricted to professional investors only. A SPAC must distribute securities to a minimum of 75 professional investors (30 of which must be institutional professional investors).
		SPAC Promoters	Each SPAC must have at least one “ SPAC Promoter ”, being a professional manager who have private equity, corporate finance and/ or industry experience which meets eligibility and suitability requirements. A SPAC Promoter must hold (i) a licence with the Securities and Futures Commission of Hong Kong (“ SFC ”) to carry out corporate finance advisory and/or asset management regulated activity and (ii) at least 10% of the “ Promoter Shares ” (i.e. a class to shares of the SPAC which are issued exclusively to a SPAC Promoter at nominal consideration as a financial incentive to establish and manage the SPAC).

¹ SPAC Analytics, retrieved on 16 April 2021.

(1)	Key proposals relating to the period prior to a "De-SPAC Transaction" (i.e. prior to the business combination of a SPAC and the "De-SPAC Target" (i.e. the unlisted issuer with business operations) resulting in the combined company (the "Successor Company")	SPAC Promoters	Material change in SPAC Promoters would require approval by special resolution of independent shareholders (i.e. excluding SPAC Promoters and close associates). Any shareholder voting against such material change would be given a redemption right in respect of their investment.	
		Trading arrangements	Separate trading of SPAC Shares and SPAC Warrants from initial offering date, with additional measures in place to mitigate risk of volatility associated with trading of SPAC Warrants.	
		Dilution cap	Promoter Shares, which may be convertible into shares of the SPAC on a one-for-one basis, are proposed to be capped at a maximum of 20% of total number of shares in issue as at the initial offering date (with possibility for further issuance of Promoter Shares to increase the threshold to 30% after completion of De-SPAC Transaction, subject to achievement of objective performance targets (such as in terms of revenue or profits) for the Successor Company). Similarly, dilution effect of (i) all warrants that may be issued (including warrants that may be issued to SPAC Promoters ("Promoter Warrants")); and (ii) all Promoter Warrants that may be issued, must not exceed 30% and 10%, respectively, of shares in issue at the time of the warrant issue.	
		Fund raising size	Funds expected to be raised by a SPAC from its initial offering must be at least HK\$1 billion.	
(2)	Key proposals relating to De-SPAC Transactions	Application of new listing requirements	A Successor Company must meet all new listing requirements (including, <i>inter alia</i> , the engagement of IPO sponsor to conduct due diligence, minimum market capitalisation requirements and financial eligibility tests).	
(2)	Key proposals relating to De-SPAC Transactions	Independent third party investment	Investment from independent third party (negotiated prior to announcement of the De-SPAC Transaction) must: a. constitute at least 25% of the expected market capitalisation of the Successor Company (or at least 15% where market capitalisation of Successor Company is expected to exceed HK\$1.5 billion), validating the valuation of the Successor Company; and b. result in at least one asset management firm or fund (with asset under management or fund size of at least HK\$1 billion) beneficially owning 5% of the Successor Company.	
			Shareholder vote	De-SPAC Transactions must be approved by SPAC shareholders at a general meeting where any shareholder with material interest (including any outgoing controlling shareholder of any De-SPAC Transaction involving a change of control) must abstain from voting.
			Redemption option	SPAC shareholders to be given the option to redeem their shares prior to: a. a De-SPAC Transaction; b. a change in SPAC Promoter; and c. any extension to the deadline for finding a suitable De-SPAC Target.
			Open market in Successor Company's shares	The Successor Company must have an adequate spread of holders of at least 100 shareholders.
		Forward looking statements	Application of existing requirements on any forward looking statements in the listing document for De-SPAC Transaction to a standard as that required for an IPO.	
(3)	Liquidation and De-Listing	Return of funds to Shareholders	If a SPAC is unable to find a De-SPAC Target and announce a De-SPAC Transaction within 24 months, or complete one within 36 months, the SPAC must be liquidated and all of the funds raised must be returned to its shareholder. The HKEX will then delist the SPAC.	

The following describes the practice in the U.S. unless stated otherwise, where SPACs have been in operation and have gained prominence in recent years.

What are SPACs?

SPACs are formed by professional managers (known as “SPAC Promoters”), usually with private equity, corporate finance and/or industry experience who are responsible for establishing and managing SPACs.

A SPAC is a type of shell company that is formed for the purposes of seeking out an operating company (an existing, privately held company) that it can bring to the public markets via a merger (known as a “De-SPAC Target”). Thus, they allow companies to go public without the time and expense of a traditional IPO.

De-SPAC Transaction

A SPAC Promoter will set up a SPAC with a nominal amount of investor capital and once the SPAC is set up, the company will execute an IPO to raise additional funds from the public for the purpose of conducting a business combination (i.e. a buyout) with an operating company within a pre-defined time period (typically 2 years after listing).

SPACs are often referred to as “blank check” companies because investors are effectively investing in companies with no actual business operations and handing companies a blank check to seek out and buy as-yet-unknown target companies. After a SPAC is listed, the SPAC Promoter will identify a De-SPAC Target and enter into negotiations on the terms of the merger (i.e., the De-SPAC Transaction). Once the terms are agreed and approved by the boards of both the SPAC, the De-SPAC Target as well as the SPAC shareholders, the parties will close the SPAC merger and complete the De-SPAC Transaction.

Once the De-SPAC Transaction has completed, the entity resulting from the transaction becomes a listed issuer (i.e. the Successor Company) in place of the SPAC and is usually no longer known by the SPAC moniker but the name of the acquired company. The stock ticker for the SPAC will be changed to reflect the name of the Successor Company. Following a De-SPAC Transaction, the owners of the De-SPAC Target will usually become the controlling shareholders of the Successor Company.

SPAC Units

SPACs commonly offer SPAC units (“**SPAC Units**”) to IPO investors consisting of shares in the SPAC (that is not a Promoter Share) (“**SPAC Shares**”) and warrants of SPAC (that are not Promoter Warrants) (“**SPAC Warrants**”) (or fraction of a SPAC Warrant)

stapled together in a particular ratio.² SPAC Units are issued at an IPO price of US\$10.00 each and begin trading on a stock exchange at IPO, normally on the 52nd day following the date of the SPAC’s prospectus. SPAC Units can be severed into SPAC Shares and SPAC Warrants and are traded separately (the separation of SPAC Units is usually at the discretion of the unitholder and is not automatic).

SPAC Warrants

A SPAC Warrant provides the holder with the right to purchase a SPAC share (or a fraction of a SPAC share) at a set exercise price at a set time. These are typically priced “out of the money” with an exercise price greater than the IPO price of a SPAC Unit (typically US\$11.50 per share). The purpose of including SPAC Warrants in the SPAC Units is, as a form of “sweetener”, to compensate IPO investors for the lack of return on their investment until a De-SPAC Target is found and a De-SPAC Transaction occurs.

SPAC Warrants are typically exercisable on the later of 30 days after the completion of a De-SPAC Transaction or 12 months from the IPO closing.

SPAC IPO funds

Net proceeds raised in a SPAC offering (after deducting fees and expenses in connection with the offering) are typically held in an interest bearing trust account until the De-SPAC Transaction is completed or until the SPAC liquidates (if a De-SPAC Target is not found).

Failure to complete a De-SPAC Transaction within the lifespan of a SPAC

The deadline within which a SPAC aims to complete a De-SPAC Transaction is normally 24 months and will be stated in the prospectus issued by a SPAC at IPO. If a SPAC fails to complete a De-SPAC Transaction within the stated period, it must either seek the approval of the SPAC shareholders for an extension of the life of the SPAC (usually one year) or liquidate the SPAC, in which case the investors will receive a pro rata amount of the funds held in the SPAC’s trust account and their SPAC Warrants (right to purchase shares) will become worthless.

Redemption option

When seeking shareholders’ approval of a proposed De-SPAC Transaction, a SPAC will give SPAC shareholders the option of

² A stapled unit may contain a fraction of a warrant (with each warrant carrying the right to purchase one SPAC Share) or one warrant with the right to purchase a fraction of a SPAC Share.

redeeming their shareholdings in the SPAC and receiving a pro rata amount of the funds held in the SPAC's trust account (which normally results in SPAC Investors receiving US\$10 per share held).

Redemption is not contingent upon a SPAC shareholding voting against a proposed De-SPAC Transaction (i.e. a SPAC shareholder may vote in favour of a De-SPAC Transaction but choose to redeem their SPAC shareholdings).

PIPE Transaction

PIPE means (in a U.S. context) Private Investments in Public Equity ("PIPE"), the purchase of ordinary shares at a predetermined price (or exchange rate) in a private placement. In the context of Hong Kong, it means an outside third party investment for the purposes of completing a De-SPAC Transaction that has been negotiated prior to the announcement of that transaction and is included in the terms of the transaction.

The redemption option available to SPAC Investors and high actual redemption rates (in practice) create uncertainty as to the amount of cash that will be available to meet the terms of a De-SPAC Transaction. This concern is commonly mitigated by SPACs through issuing new securities to institutional accredited investors in PIPE transactions that are contingent upon the closing of the De-SPAC Transactions.

An investor presentation for potential PIPE investors will usually be prepared by the SPAC and De-SPAC Target to propose for investment in the De-SPAC Transaction and their agreement to maintain the confidentiality of the information. Once agreed, the parties will enter into a subscription agreement for the PIPE transaction (involving subscription to SPAC Shares, but without warrants, at the SPAC IPO price of US\$10 per share) concurrently with the De-SPAC Transaction agreement and make an announcement once they are signed.

SPAC Promoter incentives

SPAC Promoters will pay a minimum amount, usually US\$25,000 for Promoter Shares which, at closing of the IPO, would normally represent approximately 20% of the SPAC's outstanding shares. These shares are usually designated as separate "class B" shares and will convert into SPAC Shares at the time of the De-SPAC Transaction. These Promoter Shares are akin to "founder shares" and act as a "promote" to incentivise the SPAC Promoters to successfully complete De-SPAC Transactions. This allocation of Promoter Shares is known as "the Promote".

The rights of Promoter Shares are generally identical to that of

SPAC Shares (including a right to vote on a De-SPAC Transaction) but Promoter Shares are subject to contractual transfer restrictions and do not carry a right to share redemption or participate in a SPAC's liquidation.

Promoter Warrants

A SPAC Promoter will normally purchase Promoter Warrants as part of a unit (commonly referred to as a "private unit" or a "private placement unit") or on a standalone basis of a value that is enough to cover the underwriting fees for the SPAC IPO, offering expenses as well as expenses needed to find a De-SPAC Target.

Promoter Warrants are purchased by SPAC Promoters in private placements that close concurrently with the closing of the IPOs. They are classified as "restricted securities" and therefore may not be resold in the market. The SPAC Promoters will usually agree not to transfer or sell the Promoter Warrants until 30 days after the completion of a De-SPAC Transaction. They often contain more favourable terms than SPAC Warrants but the period during which they can be exercised and converted to shares are generally the same.

SPACs in markets other than the U.S.

In the first half of 2021, two SPACs listed in the UK and 15 listed in other parts of Europe. Although the number of SPAC IPOs in Europe is significantly below those in the U.S., European exchanges have reported an increasing interest in SPAC listings in 2021.

There has been a growing appetite for SPAC IPOs in Asia and the number of SPACs with Asia-based SPAC Promoters grew from zero in 2016 to eight in 2020 and together, these SPACs raised approximately US\$1.5 billion during 2020.

US listed SPACs have also increasingly sought out De-SPAC Targets in Asia, including Greater China.

II. SPAC PERFORMANCE

De-SPAC rate

The percentage of SPACs completing acquisitions (i.e. the De-SPAC rate) has been high in the U.S.. As of 12 July 2021, 102 (90%) of the 113 SPACs that listed in the U.S. between 2015 and 2018 have completed acquisitions.³

Of the SPAC issuers who listed in the U.S. during 2015 to 2018

³ SPACInsider, retrieved on 12 July 2021.

(inclusive of both years), the average time required to complete a De-SPAC Transaction was 22 months.⁴

As of 12 July 2021, only a small proportion (8%) of SPACs listed in the U.S. from 2015 to 2018 redeemed their outstanding public shares and liquidated because they failed to consummate a business merger or acquisition within their lifespan.⁵

Performance prior to De-SPAC

Studies show that SPAC Share price movements are generally stable before a De-SPAC Transaction and few would post strong returns (positive or negative) in the pre-announcement stage, with an average IPO-to-date return of less than 10% just prior to the announcement of a De-SPAC Transaction.⁶

SPACs in general lag behind their traditional IPO counterparts in terms of post-IPO share price performance. The under-performance of SPACs is due to their nature as cash companies with no business operations. Their share price performance is unaffected by factors such as fluctuation in the performance of an industry sector and its own financial position and prospects.

Post De-SPAC performance

Studies show that post-merger SPAC price performance is poorer than traditional IPO performance in general. They also show that SPACs with “high quality” SPAC Promoters⁷ produced better post-completion returns as compared to other SPACs.

Volatility of SPAC Share prices

Prior to a De-SPAC Transaction, the volatility in the share prices of most U.S. listed SPACs is similar to that of a bond, with low volatility at a constant valuation around their IPO share price.⁸ Some SPACs have been observed to experience large spikes in their share prices following merger rumours but once the merger rumours subsided, the SPAC price would fall. In general, SPAC returns are most volatile during the final days prior to and round the completion of a De-SPAC Transaction.

⁴ Dealogic, retrieved on 26 March 2021.

⁵ SPACInsider, retrieved on 12 July 2021.

⁶ Nasdaq Economic Research, A Record Pace for SPACs, 21 January 2021.

⁷ High Quality SPAC Promoters refer to those affiliated with a fund listed in Pitchbook (a provider of data on private and public finance with assets under management of HK\$7.8 billion or more, or any former CEO/senior officers of a Fortune 500 Company).

⁸ Nasdaq Economic Research, A Record Pace for SPACs, 21 January 2021.

Volatility of SPAC Warrant prices

In general, SPAC Warrants experience much higher volatility than SPAC Shares. Research shows that prior to De-SPAC, SPAC Warrants experience higher price volatility soon after a SPAC is listed and the price volatility increases gradually as the deadline for a De-SPAC Transaction approaches. This is likely driven by the potential liquidation of the SPAC on reaching the deadline, since liquidation would render the SPAC Warrants worthless.⁹

III. POTENTIAL BENEFITS OF A HKEX LISTING REGIME FOR SPACS

The following table sets out the potential benefits of a listing regime for SPACs in Hong Kong:

(1)	Benefits to SPAC investors	Redemption option	SPAC investors can avoid (or at least reduce) losses on their investment if they do not wish to be a shareholder of the Successor Company after a DE-SPAC Transaction opportunity has been identified by redeeming their SPAC Shares on a pro rata basis from the proceeds from the SPAC IPO.
		Funds raised are held in trust	Funds are held by a third party trustee in a trust account until a De-SPAC Transaction occurs or the SPAC is liquidated (if De-SPAC Target not found). This protects and preserves the value of funds raised from misuse and misappropriation.
		Shareholder vote	Shareholders are given the opportunity to consider the terms of a De-SPAC Transaction proposed by the SPAC Promoter and vote on whether or not to approve it at a general meeting. Therefore, SPAC shareholders can reject the transaction if a majority believe that it would not be in their best interests.
(2)	Benefits to De-SPAC Target	Reduced time to listing	One of the purported benefits of listing via a SPAC is that less time is needed to execute a De-SPAC Transaction than to execute an IPO transaction (partly as it involves negotiation with only one party, the SPAC Promoter, without a book-building process). This time-saving can be important if it helps to ensure that an issuer lists at a time that is optimum to achieving the highest valuation.

⁹ Nasdaq Economic Research, A Record Pace for SPACs, 21 January 2021.

(2)	Benefits to De-SPAC Target	Greater price and deal certainty	<p>A De-SPAC Transaction may provide a target company with a greater degree of certainty than a traditional IPO because IPO applicants cede control of pricing to underwriting investment banks and the book-building process (and there is limited flexibility to change underwriters if the IPO applicant believes the book-building would result in undervaluation), and the number of parties that determine the price at which a company lists is also larger for traditional IPOs.</p> <p>In De-SPAC Transactions, De-SPAC Targets negotiate a price with SPAC Promoters and so retain greater control over the pricing process and are able to list and do so at a more attractive price.</p>
		Greater flexibility on deal structure	<p>De-SPAC Targets can negotiate the raising of more capital, compensation for dilution, management incentives or lock-up periods to tailor their listing around their requirements. This flexibility is not normally possible in traditional IPOs due to the need to get the buy-in from many IPO subscribers.</p>
		Expertise of SPAC Promoter	<p>SPAC Promoters are often experts in the sectors in which they aim to find a De-SPAC Target. This benefits De-SPAC Targets from a valuation perspective if they are businesses with very few listed issuer comparables or their business is likely to face some other uncertainty or complexity such as extremely long-term growth (e.g. for electric vehicle businesses). The knowledge and expertise of SPAC Promoters may allow them to more accurately ascribe a fair value to the De-SPAC Target, rather than merely rely on market demand over the book-building process of underwriters.</p>
(3)	Potential competition benefits for Hong Kong	Competition for SPAC listings	<p>As at 13 July 2021, there were 25 SPACs listed in the U.S. which collectively raised approximately US\$4.2 billion (HK\$33.1 billion) from their IPOs. Of these companies, 20 are headquartered in Hong Kong and 5 are headquartered in Mainland China.</p> <p>If SPACs focused on finding a Greater China target were able to list in Hong Kong, then such targets could choose Hong Kong as their listing venue rather than the U.S.</p>
		Competition for Greater China and South East Asia listings	<p>In the last 3 years, 12 companies with a combined market capitalisation (as at 13 July 2021) of approximately HK\$26 billion* have listed in the U.S. via a De-SPAC Transaction (2 HK, 8 Mainland China and 2 Singapore companies).</p>

(3)	Potential competition benefits for Hong Kong	Competition for Greater China and South East Asia listings	<p>Preliminary discussions between the stakeholders and the HKEX has found that many listing applicants wish to take a “dual track” approach to going public, so they would simultaneously apply to list via a traditional IPO and also negotiate with several SPAC Promoters to list via a SPAC. If Hong Kong was also able to offer such a dual-track option then it may be better placed to compete for Greater China listings.</p>
		Wider investment opportunities	<p>SPAC Promoters have the expertise needed to source and list targets with high growth potential that may struggle to obtain an attractive valuation through a traditional IPO.</p> <p>SPACs allow public investors to gain access to the growth of early stage companies that is normally only available to professional investors in private equity funds. Public investors are given the opportunity to co-invest alongside experienced SPAC Promoters through shares and warrants as they would in private equity funds, without having to pay the high management fees that are normally charged.</p>

* Dealogic and S&P Capital IQ, retrieved on 13 July 2021.

IV. MAJOR ISSUES CONCERNING A HKEX LISTING REGIME FOR SPACS

Current prohibition on “shell activities”

To ensure the quality and reputation of the Hong Kong listing markets, the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (the “**HKEX Listing Rules**”) prevent the creation and maintenance of shell companies and the circumvention of IPO requirements (including qualitative and quantitative criteria for listing) through the injection of sub-standard assets and/or businesses into listed shells. These prohibitions would prevent the listing of SPACs. In particular:

- i) currently, listing applicants are not considered suitable for listing if their assets consist wholly or substantially of cash or short-term investments. This avoids issuers utilising cash or short-term investments to acquire and/ or commence new businesses that are not suitable for listing and circumventing the HKEX’s initial listing requirements;
- ii) listing applicants seeking to list on the HKEX must also demonstrate a trading record of at least 3 financial years for the Main Board and a trading record of 2 financial years for GEM (unless waived by the HKEX). The HKEX will consider an applicant’s proven track record and use it to evaluate

the substance, viability and sustainability of an applicant's business; and

- iii) to warrant a listed issuer's continued listing, it must carry out on a continuous basis business with a sufficient level of operations and assets of sufficient value to support those operations, failing which the trading of its securities may be suspended until the matter is remedied within a stipulated timeframe. An issuer's listing status may also be cancelled if it do so within the stipulated timeframe.

Trading related concerns

The creation and maintenance of shell companies with minimal operations can lead to opportunities for market manipulation, insider dealing and unnecessary volatility in the market which undermine investors' confidence and may not be in the interest of the investing public. The same concerns apply to SPACs, which are in essence cash shells with no business operations. The following table summarises some key trade related concerns:

(1)	Risk of price volatility	Lack of business operations means lack of availability of performance factors (e.g. revenue, profit/ loss and cash flow) that investors would normally use to determine the value of their shares. The share price of a SPAC is therefore more likely to be driven by speculation and rumour instead, particularly with regards to the potential outcome of a SPAC's efforts to find a suitable De-SPAC Target.
(2)	Additional risk of volatility of warrants	Market research shows that SPAC Warrants experience much higher price volatility than SPAC Shares at all stages prior to a De-SPAC Transaction. The cost of purchasing the warrants needed to convert into one share is typically several times lower than the market price of the said share. This "gearing" means warrants can be used to leverage capital. However, any changes in share price will be magnified in the price of the warrant, exaggerating their volatility and level of risk on warrant investors.*
(3)	Risk of market manipulation	The sensitivity of a SPAC's share price to rumours makes them more susceptible to share price manipulation. For example, fraudsters can deliberately spread rumours of a forthcoming De-SPAC Transaction to raise the value of their shareholdings to a level at which it is advantageous for them to sell.
(4)	Risk of insider dealing	For SPACs, insider information** may arise in relation to negotiations with a possible De-SPAC Target. If an ordinary listed issuer announces its acquisition, any subsequent movement in its share price will be influenced by investors' views on the current and expected performance of the issuer's business operations and investor sentiment will also be influenced by the perceived costs and benefits of the acquisition.

(4)	Risk of insider dealing	Since SPACs do not have any business operations, any movement in their share price following the announcement of a De-SPAC agreement would be solely the result of the announcement. Therefore, someone in possession of inside information on a De-SPAC Transaction prior to its announcement would have greater certainty of making a gain from insider dealing than he would if he was dealing with shares of an ordinary listed issuer engaged in the same negotiations. Thus, the probability of insider dealing occurring in a listed SPAC would be higher than for an ordinary listed issuer.
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* For example, if a company's share price is HK\$1.50 and the price of a warrant that converts into one share of the company is HK\$0.50, the warrant has a gearing factor of three (HK\$1.50 / HK\$0.50).

** Inside Information is information that is specific to a particular corporation, is not generally known to the market which deals or which would likely deal in the corporation's securities; and would, if so known, be likely to have a material effect on the price of the corporation's securities.

Quality of management concerns

There are concerns that SPAC Promoters may lack the knowledge and experience required to find an acquisition target that can provide SPAC Investors with a good return on their investment.

In the U.S., celebrities endorsed SPACs have been marketed to the public through social media and the concern is that SPAC Investors may be lured into investing in SPACs based on such endorsements. In March 2021, the SEC¹⁰ issued an investor alert cautioning investors not to make investment decisions related to SPACs based solely on celebrity involvement.¹¹

There are also concerns that SPAC Promoters may deliberately mislead investors as to the extent of their abilities, with fraudsters attempting to fabricate, exaggerate or hide facts about their backgrounds and presenting themselves as successful professionals to entice investors or falsely misrepresenting the success or accomplishment of certain SPAC Promoters.

Continuity of management

Since SPAC Promoters will typically have the knowledge and experience of managing listed issuers and the industry to which a De-SPAC Target belongs, they will usually have an economic stake in the company that results from a De-SPAC Transaction and take on a management role.

¹⁰ SEC – US Securities and Exchange Commission

¹¹ SEC, Investor Alerts and Bulletins, "Celebrity Involvement with SPACs – Investor Alert", 10 March 2021.

If the composition of the board of a De-SPAC Target changes substantially after the De-SPAC Transaction, its historical financial track record becomes a less reliable indicator of its future performance. This is because its new management team was not responsible for any previous financial track records. Uncertainty therefore arises as to whether they would be able to improve upon or replicate that track record.

Concerns concerning valuation

In a traditional IPO, the meeting of market capitalisation threshold under the listing rules (currently at least HK\$500 million for Main Board applicants) by a listing applicant is demonstrated through price determination of offered shares over the book-building process. However, such book-building is not required for a De-SPAC Transaction and valuation of a De-SPAC Target is instead negotiated and agreed between De-SPAC Target and SPAC Promoter (and validated by outside third party PIPE investors).

The lack of public book-building may mean that the transaction may be more susceptible to deliberate attempts for over-valuation for circumventing (or artificially meeting) market capitalisation requirements, and may therefore result in listing of sub-standard businesses or assets.

Shareholder protection concerns

(1)	Misalignment of interests	The interests of SPAC Promoters and SPAC investors should, as much as possible, be aligned so that SPAC Promoters are not incentivised to act against the interests of SPAC Investors. However, their interest are not always aligned (for example, the terms of SPAC Units and Promoter Warrants may be overly generous which are not commensurate with efforts required to manage the SPAC and bring about a De-SPAC Transaction).
(2)	Dilution risk	An investor may be at greater risk of dilution of their economic interest in a SPAC compared to an investment in a traditional IPO. This additional dilution risk results from: <ol style="list-style-type: none"> Promoter Shares being issued to the SPAC Promoter at a nominal price and which are convertible into ordinary shares without the SPAC Promoter providing any additional funds; and in the U.S., the Warrants included in SPAC Units can be retained at no cost following a redemption of SPAC Shares, and upon their exercise, would result in a dilution in the number of shares in issue. The dilution effect increases with the number of SPAC Shares that are redeemed as each redemption leads to an increase in the proportion of SPAC Warrants in existence relative to unredeemed SPAC Shares.

V. POSSIBLE SAFEGUARDS PROPOSED BY THE HKEX

This section sets out some possible safeguards outlined by the HKEX in the HKEX SPAC Consultation which are aimed at achieving a suitable balance between providing the potential benefits of a Hong Kong SPAC regime while mitigating the major issues described above. Such proposals, tailored to the particular risks and requirements of the Hong Kong market, follows preliminary discussions with key stakeholders including SPAC Promoters, SPAC investors and market practitioners.

(A) CONDITIONS FOR LISTING SPACS

I. SPAC Investor suitability

Jurisdictional comparison – investor suitability

The U.S., UK and Singapore do not restrict the subscription and trading of SPAC securities to professional investors, and all investors (including retail investors) can trade SPAC securities.

The following table summarises some comments for and against retail participation in preliminary discussions with stakeholders:

In favour of retail participation	Against retail participation
<ul style="list-style-type: none"> SPAC viewed as a mechanism for retail investors to gain access to growth of early stage companies (normally only available to professional investors in private equity funds). The population of professional investors in Hong Kong to whom SPAC can be marketed to is small. 	<ul style="list-style-type: none"> In practice, SPACs are only marketed to and traded by professional investors so a restriction to those types of investors is unlikely to impact the success of a SPAC regime in Hong Kong.
<p>If a threshold for the minimum number of professional investors is required to hold a SPAC's securities to ensure an open market, it should not be set at an unrealistic high level.</p>	

HKEX proposal regarding investor suitability

Prior to a De-SPAC Transaction, the HKEX proposed that the subscription and trading of a SPAC's securities be restricted to "professional investors" only (including both institutional and individual professional investors as defined under the Securities and Futures (Professional Investors) Rules – i.e. an individual with a portfolio of not less than HK\$8 million; a corporation or partnership with a portfolio of not less than HK\$8 million or total assets of not less than HK\$40 million). Such restriction however would not apply to the Successor Company whose securities would be freely transferable amongst all investor types.

II. HKEX Arrangements to ensure marketing to and trading by professional investors only

The HKEX proposed that adequate arrangements be made to ensure that the securities of a SPAC are marketed to or traded by professional investors only and not the general public in Hong Kong.

HKEX proposal on SPAC requirements

The HKEX proposes that:

- board lot size and subscription size of SPAC shares should have a value of at least HK\$1,000,000;
- intermediaries selling securities for and on behalf of the SPAC must satisfy themselves that each placee is a professional investor through their “know your client” procedures; and
- the SPAC would need to demonstrate to the HKEX that all other aspects of the structure of any SPAC securities offering preclude access by the public (except professional investors).

HKEX proposal on Exchange Participant requirements for secondary trading

Measures will be implemented by the HKEX to limit participation in secondary trading of SPAC securities to professional investors.

The following are proposed requirements for secondary trading:

Proposed Requirement	It is proposed that:
SPAC Exchange Participant approval process	<ul style="list-style-type: none"> an approval process for “SPAC Exchange Participants”* be established for exchange Participants wish to trading SPAC securities SPAC Exchange Participants are required to provide written undertakings (from responsible officers), or any information required by the HKEX (e.g. relevant policies, procedures and system control etc.) SPAC Exchange Participants must acknowledge and comply with the requirement not to allow the securities of a SPAC to be traded by or marketed to clients who are not professional investors
Monitoring	<ul style="list-style-type: none"> SPAC Exchange Participants be required to confirm on each order or trade concerning SPAC securities that it was made by or on behalf of a professional investor (e.g. by typing “PI” on the order) HKEX conduct scheduled thematic reviews on a half-yearly basis on selected SPAC Exchange Participants to ensure their compliance with professional investor-only SPAC trading requirements

Proposed Requirement	It is proposed that:
Enforcement	<ul style="list-style-type: none"> HKEX takes enforcement action against SPAC Exchange Participants found to have breached the professional investor-only SPAC trading requirements (e.g. by way of warning letters, fines, temporary or permanent prohibition from trading in SPAC securities) HKEX issues compulsory orders to SPAC Exchange Participants to unwind settled positions found to be in breach of the professional investor-only SPAC trading requirements (the position must be unwound within 3 days of the settlement) SPAC Exchange Participants must make appropriate arrangements to ensure their clients understand the requirements and are aware of the potential losses that an ineligible investor may suffer as a result of mandatory unwinding
Stock Short Name Marker	<ul style="list-style-type: none"> HKEX to assign a special stock short name market to the stock short names of SPAC Shares and SPAC Warrants to help the market differentiate them from the securities of non-SPAC issuers

* SPAC Exchange Participant – an Exchange Participant wishing to use the Exchange’s facilities to trade SPAC shares and SPAC Warrants

III. HKEX Trading arrangements

Jurisdictional comparison – trading arrangements

Country	Trading arrangements
U.S.	<ul style="list-style-type: none"> Investors generally allowed to separate SPAC Units into SPAC Shares and SPAC Warrants (at their discretion) 52 days after a SPAC IPO SPAC Shares and SPAC Warrants are then separately tradeable (under their own stock tickers) alongside SPAC Units Separation of SPAC Units is not automatic, but rather at the discretion of the unitholder
UK	<ul style="list-style-type: none"> SPAC Shares and SPAC Warrants can be traded separately the Financial Conduct Authority of the UK (“FCA”) is giving further consideration to the listing of stapled units
Singapore (under consultation)	<ul style="list-style-type: none"> SPAC Shares and SPAC warrants can be traded separately (although it has previously been proposed that they should not be detachable and should be traded as a single unit until a De-SPAC Transaction)
Germany	<ul style="list-style-type: none"> SPAC Shares and SPAC Warrants can be traded separately from the date of initial listing onwards

HKEX proposal on trading arrangements

Volatility risk associated with the trading of SPAC securities

There is concern that if SPAC Units are separated into SPAC Shares

and SPAC Warrants immediately after the commencement of listing, it would lead to a disorderly market for SPAC securities due to sudden changes in the volatility of share prices given SPAC's nature.

Concerns	Reason for concerns and solutions
Warrant are more volatile than their underlying shares	<ul style="list-style-type: none"> Warrants are generally more volatile than their underlying shares and the volatility of share prices may lead to exponential price movements No market maker or liquidity provider will be appointed to provide liquidity in SPAC Warrants (unlike derivative warrants) and the lack of liquidity may further exaggerate the volatility of SPAC Warrants Option: to disallow the separate trading of SPAC Shares and SPAC Warrants until a De-SPAC Transaction completes (although stakeholders are concerned that this approach may discourage certain types of investors – e.g. hedge funds who prefer to hold warrants than shares due to lower investment capital required)
Stabilisation of SPAC Units following a SPAC IPO will not be possible to avoid extreme volatility or disorderly market	<ul style="list-style-type: none"> Under the U.S. regime, SPAC Units are separated into SPAC Shares and SPAC Warrants after 52 days following a SPAC IPO (at unitholders' direction). The practice is in place to allow the stabilisation of SPAC Units over that period. However, due to professional-investor-only restrictions, stabilisation will not be possible under the proposed HK regime Option 1: allow only manual trades on SPAC Warrants <ul style="list-style-type: none"> this reduces the likelihood of investors engaging in speculative trading professional investors would be required to request quotes from the SPAC Exchange Participants (they will provide bids or offers for the quantities required) if transacted, the SPAC Exchange Participant acting as agent or counterparty would then report the transaction to the HKEX as per current manual trade reporting requirements post-trade transparency of the transaction would remain but there would be no automation of this process and no pre-trade transparency of the orders (in the central limit order book) Option 2: allow both auto-matching of orders with Volatility Control Mechanism* ("VCM"), and manual trades, on SPAC securities <ul style="list-style-type: none"> Auto-matching of trading orders and manual trades for SPAC securities would be permitted (but subject to the HKEX's VCM)

* Volatility Control Mechanism – an Exchange mechanism, designed to protect the market from disorderliness caused by extreme price volatility arising from trading incidents such as "flash crash" and algorithm errors. It triggers a 5 minute cooling-off period if the price of a security deviates by more than 10%, 15% or 20% from the price it was traded at 5 minutes ago (the % level varies by market capitalisation size of the securities)

IV. Open market requirements

Jurisdictional comparison - open market requirements

The U.S., UK and Singapore all have regimes that do not limit investment in SPACs (prior to the completion of a De-SPAC Transaction) to professional investors. The shareholder distribution requirements imposed are comparable to, or slightly lower than that for traditional IPOs:

U.S.	UK	Singapore (under consultation)
SPACs are required to distribute their shares to a minimum of either 300 or 400 round lot holders.	No minimum threshold for the number of SPAC shareholder, but 25% of a SPAC's shares must be in public hands.	Minimum of 25% of the SPAC's total number of issued shares must be held by not less than 300 public shareholders at the SPAC IPO.

HKEX proposal on open market requirements

For a class of securities new to listing, the current HKEX Listing Rules require an adequate spread of holders of the securities to be listed. The number of holders will depend on the size and nature of the issue but there must be at least 300 shareholders. This is a long established benchmark minimum number considered necessary to ensure an open market and is designed to establish a broad base of shareholders to help ensure subsequent liquidity in the newly listed securities.

The HKEX aims to list high quality SPACs that have experienced and reputable SPAC Promoters (that seek good quality De-SPAC Targets), which should, in turn, attract sizeable commitments from large well-established investors.

The following are proposed to achieve a good distribution of holders:

Proposed Requirement	It is proposed that:
Capital raise amount	<ul style="list-style-type: none"> SPACs raise at least HK\$1 billion in funds from their initial offering to help attract good quality De-SPAC Targets
Minimum distribution of SPAC Shares and SPAC Warrants	<ul style="list-style-type: none"> SPACs must distribute SPAC Shares and SPAC Warrants to a minimum of 75 professional investors, of which 30 must be institutional professional investors.

Proposed Requirement	It is proposed that:
Public float requirements	<ul style="list-style-type: none"> Not more than 50% of securities in public hands at time of SPAC's listing can be beneficially owned by 3 largest public shareholders At least 25% of a SPAC's total number of issued SPAC Shares and at least 25% of its SPAC Warrants must be held by the public (these requirements apply on an ongoing basis)
Exemptions to be allowed due to restricted marketing requirements of SPACs' initial offering	<ul style="list-style-type: none"> SPACs shall not be required to demonstrate that there will be sufficient public interest in the business of the SPAC and in the securities proposed to be listed SPACs shall not be required to ensure that their securities are freely transferable by the public (but they must ensure that their securities are freely transferable between professional investors) SPACs shall not be required to ensure a fair basis of allocation of the securities on offer

V. SPAC share issue price

Jurisdictional comparison – SPAC share issue price

U.S.	UK	Singapore
SPACs required to have a minimum issue price of US\$4 but SPACs listed typically have a unit issue price of US\$10.	No minimum issue price requirement for SPAC Units.	SPACs required to have a minimum issue price of S\$5. This minimum issue price is considered to be sufficiently high for retail investors to carefully evaluate the associated risks of investing in a SPAC but also allow SPAC Promoters more commercial flexibility in pricing the SPAC Shares.

HKEx proposal on SPAC share issue price

The HKEx proposed that SPACs should be required to issue SPAC Shares at an issue price of HK\$10 or above so to ensure spreads for each price tick as a percentage of the price are small, which would help mitigate the high price volatility sometimes associated with SPACs.

VI. SPAC fund raising size

Jurisdictional comparison – SPAC fund raising size

U.S.	UK	Singapore (under consultation)
No minimum size requirement for SPAC IPO fund raising but applicants are required to have a minimum market capitalisation of US\$50 million (HK\$388 million) for a listing on NASDAQ or NYSE	Minimum IPO fund raising size of UK\$100 million (HK\$1.1 billion). This threshold should help ensure that SPACs have the funds available to them to seek good quality De-SPAC Targets that have a proportionately higher transaction value	No minimum IPO fund raising size for SPACs but requires market capitalisation threshold of S\$150 million (HK\$869 million)

It is believed that a minimum fund raising requirement would validate the reputation of SPAC Promoters by showing that professional investors have faith in their ability to complete De-SPAC Transactions on favourable terms and ensures that the transactions will be of a sufficiently large size to attract Successor Companies that meet the minimum market capitalization requirements for listing.

HKEX proposal on SPAC fund raising size

The HKEX proposes that SPACs must raise at least HK\$1 billion in funds from their initial offering to help attract good quality De-SPAC Targets.

VII. SPAC Warrants

Jurisdictional comparison – warrants

Country	Requirements
U.S.	<ul style="list-style-type: none"> Where a SPAC offers units at listing, the warrant component of the units must meet applicable initial listing standards.
UK	<ul style="list-style-type: none"> SPAC Warrants are not regulated but the terms of the warrants must be disclosed in the SPAC's IPO prospectus to ensure investors can make an informed assessment of them.
Singapore (under consultation)	<ul style="list-style-type: none"> Warrants issued by a SPAC in connection with the SPAC IPO or prior to completion of a De-SPAC Transaction must meet its existing requirements for the issue of warrants

Country	Requirements
Singapore (under consultation)	<ul style="list-style-type: none"> • The securities must also meet the following requirements: <ul style="list-style-type: none"> o their exercise price must not be lower than the price of the ordinary shares offered for the IPO o they must not be exercisable prior to the completion of a De-SPAC Transaction o they must not have entitlement to liquidation distribution and redemption; and o their tenure must expire on the earlier of: <ol style="list-style-type: none"> 1. the maximum tenure under the issuance terms stated in the prospectus; or 2. the maximum permitted time frame for completion of a De-SPAC Transaction

HKEX proposal concerning issue of warrants

The HKEX considers that the share price of a SPAC is likely to be driven by speculation and rumour, particularly with regards to finding a suitable De-SPAC Target. As such, SPAC Warrant prices are likely to be more volatile than that of SPAC Shares and when exercised, Promoter Warrants and SPAC Warrants will dilute the number of SPAC Shares in issue. Therefore, it is proposed that the existing requirements to warrants (as set out in Chapter 15 and Practice Note 4 of the Listing Rules) be modified for SPAC Warrants and Promoter Warrants as follows:

Proposed Requirement	It is proposed that:
Approval by the HKEX	<ul style="list-style-type: none"> • Promoter Warrants and SPAC Warrants must be approved by the HKEX prior to their issue or grant and, after a SPAC's initial offering, approval by shareholder
Expiry and convertibility into further rights	<ul style="list-style-type: none"> • Promoter Warrants and SPAC Warrants must expire not less than one (1) and not more than 5 years from the date of completion of a De-SPAC Transaction; and • Promoter Warrants and SPAC Warrants must not be convertible into further rights to subscribe for securities which expire less than one (1) year or more than 5 years after the date of the completion of a De-SPAC Transaction
Conditions on material terms must be met	<ul style="list-style-type: none"> • material terms of Promoter Warrants and SPAC Warrants including: <ol style="list-style-type: none"> (1) the maximum number of securities to be issues upon exercise; (2) the exercise period and exercise price; (3) the arrangement for transfer of the warrants; (4) the arrangement for the variation in the subscription or purchase price or the number of securities; and (5) the rights of holder upon the SPAC's liquidation, must be disclosed in the listing document of the SPAC for the purpose of its listing

Proposed Requirement	It is proposed that:
Alterations of terms after issue or grant	<ul style="list-style-type: none"> • any alteration of the terms of Promoter Warrants and SPAC Warrants after issue or grant must be approved by the HKEX (except where such alterations take effect automatically under the terms of such warrants). Any alteration must also comply with Practice Note 4 of the Hong Kong listing rules, including the requirement for approval by shareholders
Exercisability	<ul style="list-style-type: none"> • Promoter Warrants and SPAC Warrants be exercisable only after the completion of a De-SPAC Transaction
Valuation of Promoter Warrants	<p><i>* This is applicable to Promoter Warrants only</i></p> <ul style="list-style-type: none"> • Promoter Warrants may not be issued at less than fair value and must not contain terms more favourable than those of SPAC Warrants (so to reduce the risk of a misalignment of interests between SPAC Promoters and SPAC shareholders), including any terms: <ol style="list-style-type: none"> (1) that provides for exception from the forced exercise of the warrants if the shares of the Successor Company trade above a prescribed price; (2) that grants the ability to exercise on a cashless basis; and (3) that provides a more favourable warrant to share conversion ratio.

(B) SPAC PROMOTERS AND SPAC DIRECTORS

I. SPAC Promoters

Jurisdictional comparison - SPAC Promoters and SPAC directors

U.S.	UK	Singapore (under consultation)
May consider, among other factors, the experience and/or track record of the SPAC Promoters when assessing the suitability for listing of SPACs.	No requirement for a suitability assessment of the SPAC Promoters.	Consider the track record and reputation of the founding shareholders of SPAC Promoters and the experience and expertise of the management team. SPAC Promoters and directors must, in aggregate, subscribe for equity securities equivalent to 2.5% - 3.5% of the SPAC's market capitalisation at the time of listing.
No requirement that SPAC promoters or directors are have specific qualifications or licenses.		

HKEX proposal concerning SPAC Promoters

The HKEX proposes that it must be satisfied as to the character, experience and integrity of each SPAC Promoter and that each SPAC Promoter is capable of meeting a standard of competence commensurate with their position over the period from the time of listing until completion of a De-SPAC Transaction.

The HKEX will publish guidance in respect of the required information in relation to the experience of the SPAC Promoter which must be provided to the HKEX for assessment of their suitability and disclosed in the listing document of the SPAC. The information concerning the proposed SPAC Promoter to be provided to the HKEX will include, *inter alia*:

- a) their experience as a SPAC Promoter including number of years of experience and name of SPACs they have promoted;
- b) in respect of each SPAC they have promoted, *inter alia*:
 - i) amount of funds raised at its IPO;
 - ii) description of targets sought for De-SPAC Transaction;
 - iii) size and terms of the Promote;
 - iv) time that has elapsed between date of IPO and date of De-SPAC Transaction;
 - v) amount of funds raised in PIPE investments;
 - vi) percentage of SPAC shareholders who voted against, or redeemed shares prior to, any De-SPAC Transaction;
 - vii) description of the terms of the De-SPAC Transaction;
 - viii) market capitalisation of the Successor Company following De-SPAC Transaction; and
 - ix) performance indicators of the Successor Company;
- c) their investment management or advisory experience to third party investors including, *inter alia*, role and responsibilities, investments managed, fund size and performance indicators;
- d) their other relevant experience concerning role of SPAC Promoter (such as experience in business sectors of the De-SPAC Target);

- e) details of licences held;
- f) details of any competing business interests in respect of the SPAC, prospective De-SPAC Targets and the relevant industry sectors; and
- g) details of any breach of laws, rules and regulations or other matters which have a bearing on their integrity and/or competence.

The HKEX will reserve the right to request that a SPAC provide such further information regarding any proposed SPAC Promoter's character experience and integrity.

Competence and experience

The HKEX's aim is to list SPACs that are managed by SPAC Promoters who have and can demonstrate a higher than average standard of ability and experience. The Guidance will state that the HKEX will view favourably a SPAC Promoter who can demonstrate that they have experience:

- a) managing assets with an average collective value of at least HK\$8 billion over a continuous period of at least three financial years; or
- b) holding a senior executive position (for example, chief executive) of a HKEX listed company that is or has been a constituent of the Hang Sang Index or an equivalent flag ship index.

Licensing and holding of material portion of Promoter Shares

The HKEX further proposes that at the time of listing and during the lifecycle of the SPAC, at least one SPAC Promoter must be a firm that holds:

- a) a SFC license to carry out type 6 (advising on corporate finance) and/or type 9 (asset management) regulated activity; and
- b) at least 10% of the Promoter Shares.

Material change in SPAC Promoters

The HKEX proposes that where there is a material change in a SPAC Promoter who is managing the SPAC or the eligibility and/or suitability of a SPAC Promoter, the material change must be approved by a special resolution of the shareholders at a general meeting on which the SPAC Promoters and their close associates

must abstain from voting at the relevant shareholders' meetings. The HKEX identifies the following as being an example of a material change:

- a) the departure or addition of a SPAC Promoter;
- b) a change in control of a SPAC Promoter;
- c) the revocation of a SPAC Promoter's license(s) issued by the SFC;
- d) breaches of laws, rules and regulations and any other matters bearing on the integrity and/or competence by a SPAC Promoter; and
- e) any other changes the HKEX may consider relevant to the eligibility and/or suitability of a SPAC Promoter.

In addition to being given the chance to vote as mentioned above, the HKEX proposes that where there is a material change in the SPAC Promoter, that shareholders will also be given the opportunity to elect to redeem their shares at the price at which they were issued in the SPAC's initial listing, plus any accrued interest (the "**Redemption Price**"). Please refer below to the sub-heading "*HKEX proposals concerning share redemptions*" for further details.

Where the SPAC does not receive the requisite shareholder approval within one month of the material change (i.e. that being the material change in relation to the SPAC Promoter(s)), the HKEX proposes that the trading of the SPAC's securities will be suspended and the SPAC will be required to return the funds it raised from the initial offering, to the shareholders, liquidate and delist.

II. HKEX SPAC directors

HKEX proposal concerning SPAC directors

Directors of SPACs ("**SPAC Directors**") will be required to meet the current requirements of under the Hong Kong listing rules.¹² In addition, a majority of the SPAC Directors must be "officers" (as defined in the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong)¹³ (the "**SFO**") of the SPAC Promoters

¹² These requirements include requirements in relation to the SPAC directors' fiduciary duties, their character, experience and integrity set out in Chapter 3 of the HKEX Listing Rules.

¹³ Officer (a) in relation to a corporation, means a director, manager or secretary of, or any other person involved in the management of, the corporation; or (b) in relation to an unincorporated body, means any member of the governing body of the unincorporated body (Part 1 to Schedule 1 of the SFO).

(both licensed and unlicensed) representing the respective SPAC Promoters who nominate them.

The HKEX aims to ensure that SPAC Promoters are held accountable for the performance of the SPAC and that the SPAC Directors have fiduciary duties, of skill, care and diligence to the SPAC investors and the SPAC as a whole.

(C) SPAC CONTINUING OBLIGATIONS

I. SPAC funds to be held in trust

Jurisdictional comparison - Funds to be held in trust

U.S.	UK	Singapore (under consultation)
90% of the gross SPAC proceeds must be held in escrow by an independent custodian, an insured depository institution, or in a separate account that is established by a registered broker or dealer.	The FCA does not currently propose that there will be a minimum requirement for SPAC IPO proceeds to be ring-fenced and held in trust or escrow.	SPACs are required to place 90% of their gross IPO proceeds in a trust account and invest the proceeds in cash or cash-equivalent short dated securities of at least A-2 rating until the completion of the De-SPAC Transaction.

HKEX proposals as to whether funds should be held in trust

The HKEX proposes to require 100% of the gross proceeds from a SPAC IPO (excluding the funds raised from the issue of Promoter Shares and Promoter Warrants) be held in a ring-fenced trust account in Hong Kong. Further, the trustee/custodian must meet the qualification criteria set out in Chapter 4 of the SFC's Code on Unit Trusts and Mutual Funds (the "**UT Code**") and must operate the account in a manner that is consistent with Chapter 4 of the UT Code.

The proceeds will need to held in cash or cash equivalents. The HKEX considers bank deposits or short-term securities issued by governments with a minimum credit rating described in (a) – (d) below as being cash equivalent:

- a) A-1 by S&P;
- b) P-1 by Moody's Investor Services;
- c) F1 by Fitch Ratings; and
- d) equivalent rating a credit rating agency that is acceptable to the HKEX.

The funds (and any interest earned on such funds) that are held on trust will only be released in the following circumstances:

- a) to meet any redemption requests;
- b) to complete a De-SPAC Transaction; or
- c) to return funds to SPAC Shareholders in accordance with SPAC provisions under the HKEX Listing Rules.

II. SPAC Promoter Shares and Promoter Warrants

The SPAC Promoter is allocated Promoter Shares (i.e. the Promote) which is used to incentivise the SPAC Promoter to successfully complete a De-SPAC Transaction. The SPAC Promoter will purchase these shares for a minimal amount which will convert into SPAC Shares at the time of the De-SPAC Transaction. Additionally, the SPAC Promoter will normally purchase SPAC Warrants to cover the underwriting fees of the SPAC’s initial offering, other expenses associated with the offering and the expenses required to search for a De-SPAC Target.

Jurisdictional comparison - Promoter Shares and Promoter Warrants

U.S.	UK	Singapore (under consultation)
<p>Promoter Shares are subject to transfer restrictions and their resale must be registered under the Securities Act or be made in reliance on an exemption.</p> <p>Promoter Warrants are “restricted securities” and therefore, cannot be resold on the market.</p> <p>Promoters generally undertake not to sell their Promoter Warrants until 30 days after the De-SPAC Transaction.</p>	<p>No restrictions placed on the issue and transfer of Promoter Shares or Promoter Warrants.</p>	<p>From the date of the listing of the SPAC until the completion of the De-SPAC Transaction, there is a moratorium on the sale of or transfer of a shareholding (direct or indirect) in the SPAC which is held by shareholders, management team, controlling shareholders and their respective associates.</p>

HKEX proposals concerning Promoter Shares and Promoter Warrants

The HKEX proposes that there be restrictions on the transfer of the Promote and that only SPAC Promoters be permitted to beneficially hold Promoter Shares and Promoter Warrants at the

time of listing of the SPAC and thereafter. To this end, the HKEX proposes that the Promoter Shares and Promoter Warrants will not be eligible for listing and the SPAC will be required not to certify the transfer of legal ownership of any Promoter Shares or Promoter Warrants.

To guard against what the HKEX believes is a heightened risk of insider dealing in respect of the securities of the SPAC, the HKEX proposes that a SPAC Promoter (including the directors and employees), SPAC directors and the SPAC employees (including their respective associates) will be prohibited from dealing in the SPAC securities prior to the completion of the De-SPAC Transaction.

III. SPAC Trading halts and suspensions

Jurisdictional comparison – Trading halts and suspensions

U.S.	UK	Singapore (under consultation)
<p>The same trading halt and suspension requirements applied to ordinary listed companies will be applied to SPACs.</p>	<p>SPAC must contact FCA as soon as a De-SPAC Transaction is “in contemplation” to discuss whether a suspension is appropriate.</p> <p>A suspension of trading will generally not be required where certain criteria are met by the SPAC, which include:</p> <ul style="list-style-type: none"> a. meeting a minimum initial public offering size; b. setting a two-year deadline within which to complete the De-SPAC Transaction; c. disclosing clearly the structure and arrangements of the SPAC; d. obtaining shareholder approval for the De-SPAC Transaction; and e. providing shareholders with a redemption option. 	<p>The same trading halt and suspension requirements applied to ordinary listed companies will be applied to SPACs.</p>

HKEX proposals concerning trading halts and suspensions

The HKEX proposes to apply its current trading halt and suspension policy to SPACs. The HKEX is of the opinion this approach maximises the trading time of the SPAC’s securities while still providing the shareholders with the necessary protection from uneven distribution and inside information.¹⁴ The HKEX will expect SPACs to adopt measures to preserve confidentiality of information and the SPAC will be required to meet the requirements of Part XIVA (disclosure of information) of the SFO.

Where the SPAC has a reasonable belief or that it is reasonably likely that confidential information may have been lost in respect of inside information regarding the De-SPAC Transaction negotiations, the SPAC will be required to as soon as reasonably practicable, apply to the HKEX for a trading halt where an announcement cannot be made promptly. The HKEX have stated that it will only agree to a trading halt where it appears that there is a reasonable concern the Inside Information has been leaked and/or the practical difficulty in maintaining the confidentiality.

(D) DE-SPAC TRANSACTION REQUIREMENTS

I. Application of new listing requirements to SPACs

Jurisdictional comparison – De-SPAC Transaction requirements

U.S.	UK	Singapore (under consultation)
The U.S. exchanges apply strict eligibility requirements to the Successor Company (including requirements on minimum share price, market capitalisation and public float, and full initial listing requirements where a transaction is considered a “backdoor listing”).	The Successor Company must meet the listing regime requirements which are applicable to its listing category (premium or standard). A Successor Company seeking a premium listing will be required to appoint a sponsor.	The Successor Company must meet the initial listing criteria and the documentary requirements as those required for an IPO.

¹⁴ The definition of Inside Information under Section 307A of the SFO is applicable. Inside Information in relation to a listed corporation, means specific information that:

- (a) is about-
 - (i) the corporation;
 - (ii) a shareholder or officer of the corporation; or
 - (iii) the listed securities of the corporation or their derivatives; and
- (b) is not generally known to the persons who are accustomed or would be likely to deal in the listed securities of the corporation but would if generally known to them be likely to materially affect the price of the listed securities.

U.S.	UK	Singapore (under consultation)
Due-diligence are documentary requirements that are applicable to the Successor Company and comparable to what is required for an IPO. The U.S. exchanges will suspend and initiate delisting where the aforementioned requirements are not satisfied.	A De-SPAC Transaction is considered to be a reverse takeover and therefore, the documentary and due-diligence requirements for such transaction are the same as those required for an IPO.	A financial adviser (the equivalent to an IPO sponsor) must be appointed to perform the due-diligence in respect of the De-SPAC Transaction, the requirements of which are the same as those for an IPO.

HKEX proposals on De-SPAC Transaction requirements

The HKEX proposes to consider the Successor Company in the same way as it does a reverse takeover (“RTO”), i.e. being a deemed new listing on the HKEX. Therefore, sponsor due diligence requirements will apply.

The HKEX is of the view that this approach will ensure that the quantitative and qualitative requirements that are applicable to a new listing will not be circumvented by the Successor Company. The HKEX is of the opinion that this will guard against the quality and reputation of the Hong Kong market being compromised.

The HKEX noted that in preliminary discussions with stakeholders, the following were noted in respect of the aforementioned proposals:

- a) some stakeholders argued that the absence of quantitative and financial eligibility requirements in relation to the De-SPAC Transaction was one of the advantages of a SPAC over a traditional IPO;
- b) other stakeholders voiced their concerns that the requirement of the IPO sponsor appointment would reduce (i) deal speed; and (ii) deal certainty, as negotiations between the SPAC Promoters and the De-SPAC Target would be subject to the uncertainty of the sponsor’s findings.

Suitability and eligibility requirements

The HKEX proposes that new listing requirements which apply to new listings will be applicable to De-SPAC Transactions. Therefore, the Successor Company will be required to meet all of the listing requirements under the HKEX Listing Rules including the (i) minimum market capitalisation requirements; (ii) the financial eligibility tests; and (iii) management and ownership continuity requirements.

The HKEX do not require the De-SPAC Target to separately meet financial eligibility tests (as is the case under current RTO rules), given that the SPACs themselves are in fact a cash shell without any financial track record (i.e. it would be sufficient for the Successor Company to meet all new listing requirements).

IPO sponsor appointment

The HKEX proposes that the Successor Company appoint at least one IPO sponsor (independent of both SPAC and the Successor Company) to assist with its listing application in accordance with Chapter 3A of the Hong Kong listing rules. The IPO sponsor must be formally appointed at least two (2) months prior to listing (the “**Minimum Engagement Period**”). In circumstances where a listing applicant simultaneously considers an application for a traditional IPO and a listing via a SPAC, the HKEX will take into account the due-diligence performed by the IPO sponsor during the entire dual-track record period for the purposes of considering whether the Minimum Engagement Period has been met by the Successor Company.

Due-diligence requirements

The SPAC would be required to provide sufficient information to the HKEX to demonstrate that the Successor Company meets the listing track record requirements, including the financial information in respect of the De-SPAC Target based on an accountant’s report.

The IPO sponsor must carry out the due-diligence such that it is capable of making the declaration that, among other things:

- a) the Successor Company is in compliance with all conditions of listing under Chapter 8 of the Hong Kong listing rules (qualifications for listing); and
- b) the Successor Company’s listing document contains sufficient information to enable a reasonable person to form a valid and justifiable opinion in respect of the financial condition and the profitability of the Successor Company.

Documentary requirements

The De-SPAC Announcement

An announcement in respect of the De-SPAC Transaction (the “**Announcement**”) will be required to be made as soon as practicable once the terms have been finalised. The Announcement must:

- a) contain all information required by the Hong Kong listing rules for transactions and RTOs;
- b) be submitted to the HKEX prior to publication and must not be published until the HKEX has no further comments; and
- c) state the expected date that the listing document will be issued.

In addition to the above requirements, the HKEX proposes that the De-SPAC Transaction must comply with all other applicable Hong Kong listing rule requirements applicable to notifiable transactions.

Listing document requirements

The HKEX proposes that the De-SPAC Transaction must comply with the procedures and requirements that are applicable to new listing applicants as set out in Chapter 9 of the HKEX Listing Rules (application procedures and requirements). These requirements include that:

- a) the SPAC submits an application for listing (Form A1) that is to be completed by the IPO Sponsor together with an advanced proof of a ‘*substantially complete*’ listing document; and
- b) the listing document must not be issued until the HKEX has confirmed that it has no further comments.

In addition, the listing document must contain all the information that would be required for a new listing on the HKEX and for a RTO, and must be sent to shareholders either at the time that notice of the general meeting is given to approve the De-SPAC Transaction or prior to such notice.

The listing document must also satisfy the prospectus requirements under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32 of the Laws of Hong Kong).

Listing approval

The HKEX proposes that the terms in respect of the De-SPAC Transaction must include a condition that the De-SPAC Transaction must not be completed unless the Successor Company has been given approval for listing on the HKEX (to avoid the situation where a De-SPAC Transaction is completed prior to the Successor Company having obtained listing approval from the HKEX).

HKEX listing fee

The SPAC will need to pay the HKEX a non-refundable initial listing fee in respect of the De-SPAC Transaction. The listing fee in respect of the issue of new equities ranges from HK\$150,000 (where the monetary value of the equity securities to be listed does not exceed HK\$100 million) to HK\$650,000 (where the monetary value of the equity securities to be listed exceeds HK\$5,000 million).

II. Eligibility of De-SPAC Targets

Jurisdictional comparison – eligibility of De-SPAC Targets and their size

U.S.	UK	Singapore (under consultation)
No restrictions on the type of targets provided the Successor Company meets the applicable requirements. De-SPAC Target must have a fair market value of at least 80% of the proceeds held in trust.	No restrictions on the type of targets provided the Successor Company meets the applicable requirements. No requirement on size of De-SPAC Target.	No restrictions on type of targets, and expressly contemplates De-SPAC Transactions in respect of companies in the life sciences field and the mineral, oil and gas fields. De-SPAC Target must have a fair market value of at least 80% of the proceeds held in trust.

HKEX proposals on eligibility of De-SPAC Targets and their size

The HKEX proposes that an investment company under Chapter 21 of the HKEX would not be an eligible De-SPAC Target while biotech companies and mineral companies will be eligible provided that these companies comply with applicable requirements.

In addition, a SPAC may also become a Successor Company with a weighted voting rights (WVR) structure, provided the applicable requirements under the HKEX Listing Rules are met.

Further, the HKEX proposes to require that the De-SPAC Target have a fair market value of at least 80% of the funds raised by the SPAC at its initial offering prior to any redemptions, to help ensure that the De-SPAC Targets are businesses with sufficient substance to justify a listing.

The HKEX is seeking views as to whether the SPAC should be required to use a certain portion of its net proceeds raised (i.e. funds raised from the initial public offering plus the PIPE

investments, minus any redemptions) as consideration for a De-SPAC Transaction. In particular, the HKEX is concerned that if the Successor Company is permitted to retain all or a substantive amount of these funds, it may become a “cash company” which is not considered suitable for listing on the HKEX under the existing listing regime. However, the HKEX understands that it is market practice for the consideration for a De-SPAC Transaction to be predominantly settled through payment in shares (i.e. for cash raised by the SPAC to be used by the Successor Company for its future development). The HKEX recognises that imposing such requirements may put the Successor Company at a disadvantage vis-à-vis a company which lists via a traditional IPO.

III. Independent third party investment in SPACs

Jurisdictional comparison – independent third party investment

U.S.	UK	Singapore (under consultation)
No requirement for third party investment to complete a De-SPAC Transaction.	No requirement for third party investment to complete a De-SPAC Transaction.	Where there is no PIPE investor, an independent valuer must be appointed. Where there is a PIPE investor, the shareholders’ circular concerning the De-SPAC Transaction must disclose reasons why the involvement of PIPE investors would address the independent valuation issue.

HKEX proposals on necessity to have independent third party investment

The HKEX proposes to make it a requirement that a SPAC obtain funds from outside independent PIPE investors for the purposes of completing a De-SPAC Transaction.

The HKEX believes that independent investment will mitigate against risk of artificial valuations of the De-SPAC Target. To this extent, it is proposed that funds raised by third party investors will have to constitute at least 25% of the expected market capitalisation of the Successor Company. However, the HKEX may accept a lower threshold of between 15% - 25% where the expected market capitalisation of the Successor Company is in excess of HK\$1.5 billion at the time of listing.

In addition to the above requirements, the HKEX proposes to require that at least one independent investor be either an asset

management firm of at least HK\$1 billion or a fund with a fund size of at least HK\$1 billion. The investments made by these firms must result in them beneficially owning at least 5% of the issued shares of the Successor Company as at the date of its listing. To determine the independence of an investor, the HKEX proposes to apply the same criteria it uses to determine the independence of an independent financial adviser (the “IFA”) under rule 13.84 of the HKEX Listing Rules.

IV. SPAC Dilution cap

Jurisdictional comparison – dilution cap

U.S.	UK	Singapore (under consultation)
<p>No cap on the dilution value of a SPAC investor’s shareholding which results from the conversion of Promoter Shares and Promoter Warrants.</p> <p>Promoter Shares generally represent 20% of the SPAC’s outstanding shares at the close of its IPO.</p> <p>In the U.S., Promoter Warrants are issued to the SPAC Promoters in a private placement in conjunction with an IPO either on a standalone basis or ‘stapled together’ in a particular share to warrant ratio. Where Promoter Warrants are issued on a standalone basis and no new shares are issued in respect of these, the dilution is greater.</p>	<p>The SPAC is required to disclose the dilution effect on ordinary shareholders which may arise from a De-SPAC Transaction.</p>	<p>Dilution cap of no more than 50% on the SPAC post-invitation issued share capital which includes Promoter Shares, with respect to the conversion of warrants issued by the SPAC in connection with the SPAC IPO, while retaining the detachability of SPAC Warrants.</p> <p>The limit and the dilutive effect to shareholders must be disclosed in the SPAC IPO prospectus and the circular in respect of the De-SPAC Transaction.</p> <p>There is also a limit on Promoter Shares of up to 20% of the SPAC’s total issued share as the time of listing.</p>

HKEX proposals on dilution cap

Currently under the Hong Kong listing rules, securities issuable upon the exercise of warrants, must not exceed 20% of the number of the listed company’s shares in issue. In addition, there is a cap on the value of shareholdings following a rights issue, open offer or specific mandate placing. A listed company on the HKEX may not undertake any of these corporate actions where such action would result in a theoretical dilution effect of 25% or more.

Disclosure requirements

The HKEX proposes that the SPAC will have to disclose the dilution in number and value to non-redeeming SPAC shareholders that may occur if the transaction is approved and completed. In addition, the listing document issued for the De-SPAC Transaction must contain the dilution effect of the De-SPAC Transaction (whether resulting from the conversion or exercise of the Promoter Shares, Promoter Warrants and SPAC Warrants, or any other issue of securities as part of the De-SPAC Transaction) to the number and value of the holdings of non-redeeming SPAC shareholders.

Possible dilution cap

The HKEX seeks views on whether in addition to the disclosure requirements mentioned above, it is appropriate to impose a cap on the maximum dilution possible from the conversion of Promoter Shares and the exercise of warrants. If yes, the HKEX proposes to prohibit a SPAC from issuing:

- a) Promoter Shares to SPAC investors which represent more than 20% of the total number of shares the SPAC has in issue at the date of its listing and the Promoter Shares are convertible into SPAC Shares, such conversion will be on a one-to-one basis only;
- b) SPAC Warrants and Promoter Warrants which entitle the holder thereof to more than a third of a share upon their exercise;
- c) warrants in aggregate, that if immediately exercised (whether or not such exercise is permissible), result in the issue of shares, a number that is greater than 30% of the number of shares that are in issue at the time that such warrants are issued; and
- d) Promoter Warrants that, if they were immediately exercised (whether or not such exercise is permissible), result in the issue of shares of a number that is greater than 10% of the number of shares in issue at the time that the warrants are issued.

The HKEX have stated that they would be willing to accept requests to issue additional Promoter Shares to SPAC Promoters after completion of the De-SPAC Transaction (the “**Earn Out Portion**”) subject to the following conditions:

- a) the total number of Promoter Shares including the Earn Out Portion, should represent an amount of not more than 30% of the total number of shares that are in issue at the time of the SPAC’s listing;

- b) the Earn Out Portion must be linked to an objective performance target(s) which targets should not be determined by changes in the price or trading volume of the Successor Company's shares;
- c) at the general meeting to approve the De-SPAC Transaction, the SPAC shareholders, the Earn Out Portion is approved; and
- d) the Earn Out Portion must be included in the resolution approving the De-SPAC Transaction.

In addition, a SPAC must not grant any anti-dilution rights to a SPAC Promoter that would result in the SPAC Promoter holding more than the number of Promoter Shares that they held as at the date of the listing of the SPAC.

Where any sub-division or consolidation of shares results in an adjustment to the number of Promoter Shares and the SPAC Shares to which they are convertible into, this will only be accepted where the HKEX is satisfied that such adjustment is made on a fair and reasonable basis and will not result in the SPAC Promoter being entitled to an increase in the proportion of Promoter Shares or SPAC Shares than it was entitled to at the date of listing.

V. Shareholder vote on De-SPAC Transaction

Jurisdictional comparison - shareholder vote on De-SPAC Transaction

U.S.	UK	Singapore (under consultation)
The U.S. exchanges do not mandate shareholders' approval for a De-SPAC Transaction unless it involves share issuances which require approval. Having said that, it is common practice for shareholder approval to be obtained.	A De-SPAC Transaction must be approved by a majority of the SPAC's public shareholders which excludes SPAC Promoters and directors. This is a condition for relaxing the current stance on suspension of trading prior to the completion of the De-SPAC Transaction.	All SPAC shareholders (other than SPAC Promoters) are allowed to vote on De-SPAC Transaction in respect of their holdings of SPAC Shares (excluding Promoter Shares) to provide sufficient deal certainty.

HKEX proposals concerning shareholder vote on De-SPAC Transaction

The HKEX proposes that a De-SPAC Transaction should be made conditional on receiving approval from the independent

shareholders at a duly convened general meeting (the "Independent Shareholder Approval").

Where a shareholder has a material interest in the relevant resolution, it is proposed that the shareholder (including the shareholder's close associates) abstain from voting. As a result:

- a) the SPAC Promoter(s) and their close associates will be unable to vote; and
- b) where any De-SPAC Transaction will result in a change in control, any outgoing controlling shareholder(s) (and their close associates), must not vote in favour of the resolutions.

In addition, the terms of any outside investment (including the PIPE investment) which has been obtained for the purpose of completing a De-SPAC Transaction, must be included in the relevant resolution(s) that are the subject of the shareholder vote at the general meeting.

VI. De-SPAC Transactions which involve connected De-SPAC Targets

Jurisdictional Comparison - De-SPAC Transactions which involve connected De-SPAC Targets

U.S.	UK	Singapore (under consultation)
Under the guidance of U.S. regulators, SPACs are required to consider disclosing in their prospectus and proxy statements interests which its directors, officer or their affiliates have in De-SPAC Targets. In addition, related party transaction rules require the audit committee or independent directors of the SPAC to conduct a review and oversight of these transactions.	Where any of the directors of a SPAC have a conflict of interest in relation to a De-SPAC Target, the SPAC is required to publish a statement that the proposed transactions are "fair and reasonable" insofar as the shareholders are concerned. The statement must reflect the advice of an independent adviser and must be published to shareholders of the SPAC with sufficient lead time ahead of the shareholders' meeting.	A De-SPAC Transaction that is considered an "interested person transaction" under the Singapore Exchange rules will be subject to the existing regime in relation to such a transaction. Potential conflicts of interest of SPAC Promoters, SPAC directors (including their respective associates) and measures to mitigate such conflicts should be disclosed in the listing document and the shareholder circular.

HKEX proposals concerning De-SPAC Transactions which involve connected De-SPAC Targets

The HKEX perceives there to be a high risk that the valuation of a De-SPAC Target and the Successor Company is not genuine and

may be manufactured to meet new listing requirements where the De-SPAC Transactions involves connected targets. Having said that, the HKEX acknowledges that a complete prohibition on connected transactions is unnecessarily restrictive and proposes to allow such transactions where certain conditions, described below, are met.

Definition of “connected person”

Chapter 14A of the HKEX Listing Rules concerning connected transactions will apply with an expanded definition of ‘*connected person*’ to cover:

- a) a SPAC Promoter;
- b) the SPAC’s trustee/custodian;
- c) the SPAC directors; and
- d) an associate of any of the persons in (a) – (c) above.

A De-SPAC Transaction will be considered a “*connected transaction*” if it may confer benefits on any of the parties set out in (a) – (d) above, through their interests in the entities which are involved in the transaction.

Existing connected transaction requirements under the HKEX Listing Rules

In addition to receiving the Independent Shareholder Approval, the SPAC will be required to comply with the provisions under HKEX Listing Rules 14A.32 – 14A.48 which are applicable to connected transactions. These include:

- a) establishing an independent board committee to advise the SPAC’s shareholders as to:
 - i) whether the terms of the connected transaction are fair and reasonable;
 - ii) whether the connected transaction is on normal commercial terms or better;
 - iii) whether the connected transaction is in the interests of the SPAC and its shareholders as a whole; and
 - iv) how to vote on the connected transaction;

- b) appoint an IFA, acceptable to the HKEX, to make recommendations to the independent board and the shareholders on the aforementioned matters in (a) above.

In addition, the circular sent to shareholders in respect of the De-SPAC Transaction must include:

- a) a letter from the independent board committee containing its opinion on the matters set out in (a) above and conforming with relevant HKEX Listing Rule requirements; and
- b) a letter from the IFA containing its opinion and recommendation.

The IFA is required to meet all the applicable HKEX Listing Rules.

Additional requirements

In addition to the requirements listed above, a SPAC must also:

- a) demonstrate that minimal conflicts of interest exist in relation to the proposed acquisition; and
- b) demonstrate with support that the proposed transaction will be concluded at arm’s length. Evidence in support may include:
 - i) demonstrating that the SPAC and its connected persons are *not* controlling shareholders of the De-SPAC Target (for example, they must exercise, or control the exercise of, not more than 30% of its voting rights and must not have control over composition of the board of directors);
 - ii) demonstrating that no cash consideration are being paid to connected persons, and that any consideration shares issued to connected persons would be made subject to a lock-up period of 12 months; and
- c) in all cases, an independent valuation will be required which must be included in the circular to the shareholders.

VII. Alignment of voting and redemption

Jurisdictional comparison - alignment of voting and redemption

U.S.	UK	Singapore (under consultation)
Public shareholders who either vote <i>against</i> or <i>in favour</i> of the De-SPAC Transaction are entitled to redeem their SPAC Shares. Where a general meeting is not held, shareholders must be entitled to a redemption right.	Public shareholders who either vote <i>against</i> or <i>in favour</i> of the De-SPAC Transaction are entitled to redeem their SPAC Shares.	Public shareholders who either vote <i>against</i> or <i>in favour</i> of the De-SPAC Transaction are entitled to redeem their SPAC Shares.

HKEX proposals concerning alignment of voting and redemption

The HKEX proposes that only those shareholders who vote against one of the below mentioned matters will have a right of redemption. The matters (“**Redemption Events**”) are:

- a) a material change in the SPAC Promoter managing a SPAC or the eligibility and/or suitability of a SPAC Promoter;
- b) a De-SPAC Transaction; and
- c) a proposal to extend the De-SPAC Announcement deadline or the De-SPAC Transaction deadline.

The HKEX is of the view that such mechanism will provide a meaningful check on reasonableness of the terms of a proposed transaction and will assist to curb abusive market practices such as over-valuation. However, shareholders who vote in favour of the De-SPAC Transaction would not have a redemption right as the HKEX considers that this will help to ensure that interests of non-redeeming shareholders are not prejudiced by votes cast by persons whose interests are not aligned with their own.

SPAC shareholders who redeem its SPAC Shares will still be entitled to keep the associated SPAC Warrants they hold to compensate them for the lack of return on their investment held in trust prior to completion of the De-SPAC Transaction.

VIII. SPAC Share redemptions

Jurisdictional comparison - share redemptions

U.S.	UK	Singapore (under consultation)
SPACs must provide shareholders with an option to redeem their shares and to receive a pro rata share of the aggregate amount then held in trust (net of any taxes payable and amounts distributed to management for working capital purposes). Some U.S. listed SPACs have placed threshold restrictions on the redemption of publicly held shares that can be redeemed (to mitigate threats against SPAC to redeem large blocks shares held at a significant premium to market price). Generally, the limit is between 10% - 20%.	Shareholders are provided with a redemption option that may be exercised prior to the De-SPAC Transaction. The option will specify a fixed amount or fixed pro-rata share of the ring-fenced proceeds, less the SPAC’s pre-agreed running costs.	Independent shareholders are given the right to redeem their shares and be entitled to a pro-rata portion of the amount held in trust at the time of the De-SPAC Transaction, provided that the De-SPAC Transaction is approved and completed within the permitted time frame. Interest and income earned by the SPAC from the funds held in trust does not need to be ring-fenced for investors’ full redemption of their initial investment. Drawdown of funds in escrow may only be done in exceptional circumstances and is subject to a special majority approval of all SPAC shareholders and the Singapore Exchange. SPACs may impose a redemption limit of no lower than 10% of all issued shares at the time of listing.

HKEX proposals on share redemptions

The HKEX proposes to make it mandatory for SPACs to provide a redemption option. It is proposed that redeeming shareholders be entitled to receive a pro-rata amount of 100% of the funds raised at the initial offering, to be redeemed at the price the shares were issued **plus** accrued interest (the “**Redemption Price**”).

Expenses incurred by the SPAC Promoter for its establishment and maintenance will not be recoverable if the De-SPAC Transaction is not completed. The HKEX believes this will better align the interests of the SPAC Promoters and the SPAC shareholders who do not redeem their shares.

Shareholders who purchased their SPAC Shares on the secondary market at a premium to the listing price will not be able to recover their investment in full.

Election of redemption

The HKEX proposes that SPACs will be required to give

shareholders the opportunity to elect to redeem their shares at the Redemption Price in the circumstances where a shareholder votes against one of the Redemption Events.

Prohibition on redemption limits

It is proposed that SPACs will be prevented from imposing a limit on the number of shares a SPAC shareholder can redeem. The HKEX states that this is aimed at ensuring that a SPAC shareholder can recover their initial investment (i.e. at the price the SPAC Shares were initially offered), where the shareholder votes against the resolutions in respect of a Redemption Event. This will ensure that voting is not influenced by redemption requests.

Where a general offer obligation is triggered under the SFC's Codes on Takeovers and Mergers and Share Buy-backs (the "Takeovers Code"), the SPAC will be prevented from offering a premium to some shareholders, but not all.

Redemption procedures

The period within which shareholders will be allowed to make an election for a redemption, will run from the date on which the SPAC gives notice of one or more of the Redemption Events (the "Notice") to and ending on the date of the relevant general meeting.

The Notice must:

- a) be issued in conformity with the SPAC's constitutional documents and the HKEX Listing Rules; and
- b) inform shareholders that only shares voted against the Redemption Event can be redeemed (shares voted in favour, abstaining or failing to vote would not be eligible to be redeemed).

With respect to redemptions in relation to a De-SPAC Transaction, the redemptions will be subject to the completion of such De-SPAC Transaction. These redemption and return of the relevant funds will have to be completed within five (5) business days of the completion of the De-SPAC Transaction.

Where the De-SPAC Transaction is not completed, the funds will remain in trust for the purposes of listing an alternative De-SPAC Target at a later date.

In the case of a vote in respect of either (i) a material change in the SPAC Promoter managing a SPAC or the eligibility and/or suitability of a SPAC Promoter; or (ii) a proposal to extend the

De-SPAC Announcement deadline or the De-SPAC Transaction deadline, the redemption and the return of funds must happen within one month of the date of the relevant general meeting.

IX. Forward looking information

Jurisdictional comparison – forward looking information

U.S.	UK	Singapore (under consultation)
SPACs can take advantage of a "safe harbour" provided under existing legislation in respect of forward looking statements which protects them from subsequent private litigation liability for any misstatements unless they knew the statements were false when making them.	Profit forecasts that are stated in a shareholder circular must meet existing UK listing rule requirements which require, <i>inter alia</i> , that the forecast has been properly compiled on the basis of the stated assumptions and the accounting is consistent with the SPAC's accounting policies.	Profit forecasts and/or projections must fully comply with statutory and existing listing rules of the Singapore Exchange.

HKEX proposals on forward looking information

The HKEX proposes that the current requirements in respect of forward looking statements should not be lowered for disclosures concerning SPACs IPOs and De-SPAC Transactions and that these statements should be formulated on a reasonable basis and be verified by independent persons to the extent required for an IPO. Therefore, a listing document in respect of a De-SPAC Transaction, may only refer to future profits or contain dividend forecasts based on an assumed future level of profits, where these are supported by a formal profit forecast.

These forward looking statements that are included in a listing document must comply with the HKEX Listing Rules which requires that they must:

- a) be clear, unambiguous and presented in an explicit manner and the principal assumptions, including commercial assumptions, upon which they are based must be stated;
- b) be prepared on a basis that is consistent with the accounting policies normally adopted by the listed company and be reviewed and reported on by the reporting accountants and such report must be set out;

- c) include a report from the IPO Sponsor appointed for the purpose of the transaction that they have satisfied themselves that the forecast has been made by the directors after due and careful enquiry and such report must be set out;
- d) cover a period which is coterminous with the issuer's financial year end; and
- e) provide the assumptions upon which the profit forecast is based.

X. Open market for shares of the Successor Company

Jurisdictional comparison - open market for shares of the Successor Company

U.S.	UK	Singapore (under consultation)
The Successor Company will inherit the SPAC shareholder base where the SPAC has not been restricted to marketing only to professional investors.		
The share distribution must meet the initial stock exchange's initial listing criteria. This means that at least 1 million or 1.1 million publicly held shares with a minimum of 300 or 400 round lot shareholders.	The Successor Company must have a 25% public float. However, there is no shareholder distribution requirements.	The Successor Company must have a public float of between 12% and 25% (depending on its market capitalisation) and must have a minimum of 500 shareholders.

HKEX proposals concerning open market for shares of the Successor Company

Unlike restrictions on the marketing and trading of SPAC Shares, the trading of the Successor Company's shares will not be limited to professional investors. However, because the offer of SPAC Shares will be limited to professional investors only, SPACs are likely to have a smaller shareholder base and therefore, the HKEX proposes that the minimum shareholder base threshold should be lowered to at least 100 (rather than the usual minimum of 300 under the HKEX Listing Rules).

The HKEX proposes that the Successor Company must raise at least HK\$1 billion in its initial offering and attract independent investment of up to 25% of the Successor Company's market capitalisation. The HKEX is of the view that these requirements will assist in ensuring that the Successor Company is a relatively large listed company whose size may mitigate against the risk of substantial market volatility in the trading of its shares upon listing.

HKEX existing open market requirements to apply

The HKEX proposes that to mitigate against price volatility and liquidity that is associated with a smaller shareholder base, the following HKEX Listing Rule requirements will also apply:

- a) a 25% public float requirement must at all times be met; and
- b) not more than 50% of the securities of a Successor Company in public hands can be beneficially owned by the three largest public shareholders, as at the date of the Successor Company's listing.

There is no proposal to require the Successor Company to make a public offer of its shares as part of a De-SPAC Transaction.

The HKEX is seeking the views of the market as to whether the aforementioned requirements will provide sufficient liquidity to ensure an open market of the Successor Company's securities to offset potential volatility immediately upon its listing. The HKEX is also specifically seeking the views of the market on any other measures that it may be adopted to ensure an open market of the Successor Company's securities.

XI. Lock-up periods

Jurisdictional comparison - lock-up periods

U.S.	UK	Singapore (under consultation)
No lock-up period stipulated under rules for SPACs. SPACs generally voluntarily impose a lock-up period on the securities held by SPAC Promoters and controlling shareholders of a Successor Company of 12 months from the completion of the De-SPAC Transaction.	No lock-up period provisions under its consultation proposals.	Lock-up period under traditional IPO shall apply and is dependent on the quantitative criteria a Successor Company is able to meet. Lock-up period of between 6 months and 12 months from completion date of De-SPAC Transaction for: <ul style="list-style-type: none"> a. founding shareholders and management of a SPAC; and b. the controlling shareholder of the Successor Company; c. executive directors with 5% or more interest in the Successor Company.

HKEX proposals on lock-up periods

SPAC Promoter lock-up

The HKEX proposes that SPAC Promoters be subject to a lock-up period of 12 months in respect of their holdings in the Successor Company from the date of the completion of the De-SPAC Transaction. In addition, Promoter Warrants will not be exercisable during this period.

Controlling shareholder lock-up

It is proposed that the restrictions imposed on controlling shareholders under existing HKEX Listing Rules be imposed on the controlling shareholders of a Successor Company. This means that a controlling shareholder of a Successor Company will not:

- a) be allowed to dispose of its holdings in the Successor Company within the first 6 months of the listing of the Successor Company; and
- b) be allowed to dispose of its holdings in the Successor Company within the 6 months following the listing of the Successor Company if such disposal would result in the controlling shareholder ceasing to be a controlling shareholder.

(E) APPLICATION OF THE TAKEOVER CODE TO SPACS

The Takeovers Code applies to takeovers, mergers and share buy-backs affecting companies with a primary listing of their equity securities on the HKEX (or in the case of REITs, their units). The Takeovers Code applies irrespective of the country of incorporation, location of management or place of business and assets.

It is expected that all SPACs listed on the HKEX will be primary listed and therefore, prima facie the Takeovers Code will apply.

I. Prior to Completion of the De-SPAC Transaction

As SPACs will have a primary listing on the HKEX, they will not be subject to the laws and regulations of any other jurisdiction save for their jurisdiction of incorporation. The HKEX states that, on this basis, they propose that the Takeovers Code apply to SPACs listed on the HKEX to ensure that during a change in control, prior to completion of the De-SPAC Transaction, shareholders will be afforded the same treatment and provided with an exit.

HKEX proposals on applicability of the Takeovers Code

The HKEX consulted with the Takeovers Panel of the SFC and concluded that the Takeovers Code should apply to SPACs in the period before the completion of the De-SPAC Transaction. The HKEX cited the following key reasons:

- a) despite that offers prior to the completion of the De-SPAC Transaction are unlikely, to have a period of up to 36 months without the application of the Takeovers Code would not be satisfactory and opportunistic behaviour may be prevalent if unregulated offers are permitted during this period;
- b) as SPACs will have a primary listing on the HKEX, they should be subject to the Takeovers Code and a broad waiver from the application of the Takeovers Code during this period will not be appropriate; and
- c) while the redemption of shares by SPAC Investors under the HKEX proposals may fall under the definition of an “*exempt share buy-back*” under the Code on Share Buy-backs, the Code on Share Buy-backs will provide protection to the SPAC Investors if a SPAC wishes to conduct buy-back transactions outside the redemption regime.

II. The De-SPAC Transaction

Upon completion of the De-SPAC Transaction, the controlling shareholder of the De-SPAC Target will become the new controlling shareholder of the Successor Company. In these circumstances, if the Takeovers Code applied in full, the controlling shareholder in this instance will be required to make a mandatory general offer under Rule 26.1 of the Takeovers Code. Alternatively, the controlling shareholder would have to apply for a whitewash waiver pursuant to the Notes on Dispensations under Rule 26 of the Takeovers Code.

The Takeovers Code is a key mechanism which protects shareholders’ interests by providing them with an exit in a fair manner where there has been a change in control. Unlike traditional companies listed on the HKEX, a SPAC has the following features which traditional companies do not:

- a) SPAC Investors will be professional investors;
- b) SPAC Investors will rely on the ability and experience of the SPAC Promoters to identify suitable De-SPAC Targets and the potential value and return that may result from a De-SPAC Transaction;

- c) there is already an expectation of a change in control in that at the outset, SPAC Investors are investing in a vehicle that has the intention to acquire a De-SPAC Target with a high expectation that a change of control may take place upon the completion of a De-SPAC Transaction. Consideration shares are likely to be issued to the owner of the De-SPAC Target to ensure that such owner will continue to have significant influence over the Successor Company to manage it after completion of the De-SPAC Transaction.

The HKEX acknowledges that the above differences of a SPAC to a typical listed issuer are important and justify a departure in respect of the application of the Takeovers Code to a De-SPAC Transaction. It was considered unreasonable to expect the owner of a De-SPAC Target to make a mandatory general offer and illogical to expect the seller of the De-SPAC Target to “buy out” SPAC Investors.

In addition, it was also considered that the whitewash regime would not be appropriate in the circumstances of a De-SPAC Transaction.

HKEX proposals concerning De-SPAC Transaction

The HKEX proposes that, where a De-SPAC Transaction results in the owner of the De-SPAC Target obtaining 30% or more of the voting rights, the application of Rule 26.1 of the Takeovers Code would normally be waived. The owner of the De-SPAC Target would need to make a formal application to the Executive Director of the Corporate Division of the SFC for application of such waiver. In granting the waiver, factors that will be taken into account by the SFC include:

- a) the holdings of the owner of the De-SPAC Target and parties acting in concert with it in the shares of the SPAC and any dealings by such persons during the SPAC Period prior to the announcement of the De-SPAC Transaction; and
- b) any relationship(s) between the owner of the De-SPAC Target and the SPAC Promoters and parties acting in concert with any of them.

Following completion of the De-SPAC Transaction, where a third party obtains “control” over the Successor Company (i.e. 30% or more of the voting rights), or otherwise consolidates control by crossing the 2% creeper threshold of the Successor Company, the SFC would *not* normally grant a waiver under Rule 26.1 of Takeovers Code.

The HKEX has explained that the difference in approaches

between granting a waiver to the owner of the De-SPAC Target and the refusal to grant a waiver to a third party, is because while it can be said that there is a general expectation that the owner of the De-SPAC Target will become the controlling shareholder of the Successor Company, the same cannot be said in respect of a third party gaining control of the Successor Company.

III. The Successor Company

The SFC is of the view that the Takeovers Code should apply in full to the Successor Company.

(F) DE-LISTING CONDITIONS

I. Deadlines for completing De-SPAC Transactions

Jurisdictional comparison – deadlines for completing De-SPAC Transactions

U.S.	UK	Singapore (under consultation)
Generally the U.S. stock exchange rules require a SPAC to complete a De-SPAC Transaction within 36 months from its IPO with no extension.	Deadline is 24 months, subject to an extension of 12 months which must be approved by the public shareholders.	Deadline is 24 months, which may be extended by a period of up to 12 months subject to the fulfilment of certain conditions.
Having said that, many SPACs voluntarily set a shorter timeframe of 24 months.	Limited exceptions whereby the 24 months (or 36 months as the case may be) can be extended by a maximum of 6 months without the need for shareholder approval.	

HKEX proposals concerning deadlines for completing De-SPAC Transactions

The HKEX proposes the following deadlines for completing at De-SPAC Transaction, with the option of extension:

- a) the De-SPAC Announcement must be made within 24 months of the date of its listing (the “**Announcement Deadline**”); and
- b) the De-SPAC Transaction must be completed within 36 months of the date of its listing (the “**De-SPAC Transaction Deadline**”).

Failure to meet either the Announcement Deadline or the Transaction Deadline will result in an immediate suspension of the trading in the SPAC’s securities. During the trade suspension,

the SPAC must return the funds raised from its listing to its shareholders, liquidate and de-list.

The HKEX proposes that the SPAC may apply for an extension of the Announcement Deadline or the Transaction Deadline. The SPAC must in the opinion of the HKEX have a valid reason for such request and must include confirmation that the SPAC has received the approval for the extension by an ordinary resolution of the shareholders at general meeting. The SPAC Promoters and their respective close associates may not vote. A six (6) month extension is proposed by the HKEX.

Redemption opportunity

In addition to the above, the HKEX proposes that prior to a vote on the extension of deadline, shareholders of the SPAC must be given an opportunity to redeem their shares at the Redemption Price. The redemption procedures set out under sub-heading “*The HKEX Proposals - share redemptions*” above must be followed.

II. Liquidation and de-listing

Jurisdictional comparison – liquidation and de-listing where De-SPAC Transaction is not completed

U.S.	UK	Singapore (under consultation)
Where a SPAC fails to complete the De-SPAC transaction within the specified time period, the SPAC must be delisted. After delisting, the SPAC must liquidate. The SPAC Promoters may not participate in the liquidation distribution in respect of ordinary shares it held prior to the IPO or in respect of ordinary shares purchased in a private placement in the conjunction with the IPO. This also includes shares underlying the Promoter Warrants.	Where the SPAC has not completed the De-SPAC Transaction within the specified time period, the gross proceeds of the initial offering (excl. pre-agreed proceeds to fund its running costs) must be returned to the SPAC shareholders as soon as possible.	Where the SPAC has not completed the De-SPAC Transaction within the specified time period or it has not received the requisite shareholder approval as required (i) in respect of a material change to the profile of the founding shareholders and/or the management team; or (ii) in respect of extending the time period within which the De-SPAC Transaction may be completed, the SPAC must be liquidated and delisted.

HKEX proposals on liquidation and de-listing where De-SPAC Transaction is not completed

The HKEX proposes that:

- a) if a SPAC fails to meet either the Announcement Deadline or the De-SPAC Transaction Deadline (including any extension); or
- b) if the SPAC fails to get the requisite shareholder approval in respect of a material change in SPAC Promoters within one month from the said material change,

the HKEX will suspend the trading in the securities of the SPAC and the SPAC must within one (1) month of such suspension, return to its shareholders (excluding the holders of the Promoter Shares), on a pro rata basis, 100% of the funds it raised at its initial offering at the Redemption Price. Thereafter, the SPAC must liquidate and upon liquidation publish an announcement regarding the liquidation and the cancellation of its listing. The HKEX will automatically cancel the SPAC’s listing.

(G) CONSEQUENTIAL MODIFICATIONS AND EXEMPTIONS

HKEX proposals concerning consequential modification and exemptions

Acknowledging that SPACs are newly formed cash companies, the HKEX proposes to exempt (or impose modified requirements on) SPACs in respect of the following:

- a) the profit, revenue, cash flow, and track record requirements for a new listing on the HKEX under HKEX Listing Rules 8.05 and 8.09;
- b) the requirement that the share capital of a new applicant must not include shares of which the proposed voting power does not bear a reasonable relationship to the equity interest of such shares. This is only to the extent that a SPAC is permitted to issue Promoter Shares at a nominal value to a SPAC Promoter that carry the right to vote at general meetings and may carry a special right to nominate and/or appoint persons to the board of a SPAC;
- c) inclusion of historical financial results in the accountants’ report under HKEX Listing Rule 4.04(1);
- d) the carrying out of a business with sufficient levels of operations, assets and value as required by HKEX Listing Rules 13.24 and 6.01(3);
- e) the suitability of listing a group with assets which consist wholly or substantially of cash and/or short-term investments under HKEX Listing Rule 8.05C;

- f) the suitability for listing cash companies under HKEX Listing Rule 14.82; and
- g) the prohibition on certain transactions which will within 12 months of the date of listing result in a fundamental change in the principal business activities of the listed company under HKEX Listing Rules 14.89 and 14.90.

In addition to the above, the HKEX proposes that a listing application submitted on behalf of a listing applicant that is a SPAC be submitted no earlier than one month (reduced from two months in a typical IPO) after the formal appointment of the IPO Sponsor.

In respect of financial reporting, the HKEX proposes that SPACs be subject to the same periodic financial reporting requirements as other listed companies on the HKEX. Having said that, the HKEX seeks the view of the market as to whether or not it is appropriate to either exempt SPACs prior to completion of a De-SPAC Transaction from disclosure requirements such as the Corporate Governance Code contained in the HKEX Listing Rules, and the ESG reporting requirements or to modify these requirements taking into account that the SPAC will not have any business operations.

VI. QUESTIONS THE HKEX WISHES TO SOLICIT MARKET FEEDBACK

The questions which the HKEX wishes to solicit market feedback on proposals to amend the HKEX Listing Rules to create a listing regime for SPACs in Hong Kong are summarised in the Annex to this newsletter.

ANNEX

This annex contains questions (extracted from the HKEX SPAC Consultation, with modifications) which the HKEX wishes to solicit market feedback on proposals to amend the HKEX Listing Rules to create a listing regime for SPACs in Hong Kong. For corresponding paragraphs of the HKEX SPAC Consultation referred to in the questions, please refer to the full HKEX SPAC Consultation at: <https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/September-2021-Special-Purpose-Acquisition-Co/Consultation-Paper/cp202109.pdf?la=en>¹⁵

¹⁵ <https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/September-2021-Special-Purpose-Acquisition-Co/Consultation-Paper/cp202109.pdf?la=en>

Question 1

Do you agree that the subscription and trading of SPAC securities prior to a De-SPAC Transaction should be limited to professional investors only? Please give reasons for your views.

Question 2

If your answer to Question 1 is “Yes”, do you agree with the measures proposed in paragraphs 151 to 159 of the Consultation Paper to ensure SPAC’s securities are not marketed to and traded by the public in Hong Kong (excluding professional investors)? Please give reasons for your views.

Question 3

Do you consider it appropriate for SPAC Shares and SPAC Warrants to be permitted to trade separately from the date of initial listing to a De-SPAC Transaction? If not, do you have any alternative suggestions? Please give reasons for your views.

Question 4

If your answer to Question 3 is “Yes”, would either Option 1 (as set out in paragraph 170 of the HKEX SPAC Consultation) or Option 2 as set out in paragraph 171 to 174 of the Consultation Paper) be adequate to mitigate the risks of extraordinary volatility in SPAC Warrants and a disorderly market? Do you have any other suggestions to address the risks regarding trading arrangements we set out in the HKEX SPAC Consultation? Please give reasons for your views. Please provide further technical details if you suggest a different option.

Question 5

Do you agree that, at its initial offering, a SPAC must distribute each of SPAC Shares and SPAC Warrants to a minimum of 75 professional investors in total (of either type) of which 30 must be institutional professional Investors? Please give reasons for your views.

Question 6

Do you agree that, at its initial offering, a SPAC must distribute at least 75% of each SPAC Shares and SPAC Warrants to institutional professional investors? Please give reasons for your views.

Question 7

Do you agree that not more than 50% of the securities in public

hands at the time of a SPAC's listing should be beneficially owned by the three largest public shareholders? Please give reasons for your views.

Question 8

Do you agree that at least 25% of the SPAC's total number of issued shares and at least 25% of the SPAC's total number of issued warrants must be held by the public at listing and on an ongoing basis? Please give reasons for your views.

Question 9

Do you agree that the shareholder distribution proposals set out in paragraphs 181 and 182 of the HKEX SPAC Consultation will provide sufficient liquidity to ensure an open market in the securities of a SPAC prior to completion of a De-SPAC Transaction or are there other measures that the HKEX should use to help ensure an open and liquid market in SPAC securities? Please give reasons for your views.

Question 10

Do you agree that, due to the imposition of restricted marketing, a SPAC should not have to meet the requirements set out in paragraph 184 of the HKEX SPAC Consultation regarding public interest, transferability (save for transferability between Professional Investors) and allocation to the public? Please give reasons for your views.

Question 11

Do you agree that SPACs should be required to issue their SPAC Shares at an issue price of HK\$10 or above? Please give reasons for your views.

Question 12

Do you agree that the funds expected to be raised by a SPAC from its initial offering must be at least HK\$1 billion? Please give reasons for your views.

Question 13

Do you agree with the application of existing requirements relating to warrants with the proposed modifications set out in paragraph 202 of the HKEX SPAC Consultation? Please give reasons for your views.

Question 14

Do you agree that Promoter Warrants and SPAC Warrants should be exercisable only after the completion of a De-SPAC Transaction? Please give reasons for your views.

Question 15

Do you agree that a SPAC must not issue Promoter Warrants at less than fair value and must not issue Promoter Warrants that contain more favourable terms than that of SPAC Warrants? Please give reasons for your views.

Question 16

Do you agree that the HKEX must be satisfied as to the character, experience and integrity of a SPAC Promoter and that each SPAC Promoter should be capable of meeting a standard of competence commensurate with their position? Please give reasons for your views.

Question 17

Do you agree that the HKEX should publish guidance setting out the information that a SPAC should provide to the HKEX on each of its SPAC Promoter's character, experience and integrity (and disclose this information in the listing document it publishes for its initial offering), including the information set out in Box 1 of the HKEX SPAC Consultation, or is there additional information that should be provided or information that should not be required regarding each SPAC Promoter's character, experience and integrity? Please give reasons for your views.

Question 18

Do you agree that the HKEX, for the purpose of determining the suitability of a SPAC Promoter, should view favourably those that meet the criteria set out in paragraph 216 of the HKEX SPAC Consultation? Please give reasons for your views.

Question 19

Do you agree that at least one SPAC Promoter must be a firm that holds: (i) a type 6 (advising on corporate finance) and/or a type 9 (asset management) license issued by the SFC; and (ii) at least 10% of the Promoter Shares? Please give reasons for your views.

Question 20

Do you agree that, in the event of a material change in the SPAC

Promoter or the suitability and/or eligibility of a SPAC Promoter, such a material change must be approved by a special resolution of shareholders at a general meeting (on which the SPAC Promoters and their respective close associates must abstain from voting) and if it fails to obtain the requisite shareholder approval within one month of the material change, the trading of a SPAC's securities will be suspended and the SPAC must return the funds it raised from its initial offering to its shareholders, liquidate and de-list (in accordance with the process set out in paragraphs 435 and 436 of the HKEX SPAC Consultation)? Please give reasons for your views.

Question 21

Do you agree that the majority of directors on the board of a SPAC must be officers (as defined under the SFO) of the SPAC Promoters (both licensed and non-licensed) representing the respective SPAC Promoters who nominate them? Please give reasons for your views.

Question 22

Do you agree that 100% of the gross proceeds of a SPAC's initial offering must be held in a ring-fenced trust account located in Hong Kong? Please give reasons for your views.

Question 23

Do you agree that the trust account must be operated by a trustee/custodian whose qualifications and obligations should be consistent with the requirements set out in Chapter 4 of the Code on Unit Trusts and Mutual Funds? Please give reasons for your views.

Question 24

Do you agree that the gross proceeds of the SPAC's initial offering must be held in the form of cash or cash equivalents such as bank deposits or short-term securities issued by governments with a minimum credit rating of (a) A-1 by S&P; (b) P-1 by Moody's Investors Service; (c) F1 by Fitch Ratings; or (d) an equivalent rating by a credit rating agency acceptable to the HKEX? Please give reasons for your views.

Question 25

Do you agree that the gross proceeds of the SPAC's initial offering held in trust (including interest accrued on those funds) must not be released other than in the circumstances described in

paragraph 231 of the HKEX SPAC Consultation? Please give reasons for your views.

Question 26

Do you agree that only the SPAC Promoter should be able to beneficially hold Promoter Shares and Promoter Warrants at listing and thereafter? Please give reasons for your views.

Question 27

If your answer to Question 26 is "Yes", do you agree with the restrictions on the listing and transfer of Promoter Shares and Promoter Warrants set out in paragraphs 241 to 242 of the Consultation Paper? Please give reasons for your views.

Question 28

Do you agree with our proposal to prohibit a SPAC Promoter (including its directors and employees), SPAC directors and SPAC employees, and their respective close associates, from dealing in the SPAC's securities prior to the completion of a De-SPAC Transaction? Please give reasons for your views.

Question 29

Do you agree that the HKEX should apply its existing trading halt and suspension policy to SPACs (see paragraphs 249 to 251)? Please give reasons for your views.

Question 30

Do you agree that the HKEX should apply new listing requirements to a De-SPAC Transaction as set out in paragraphs 259 to 281 of the HKEX SPAC Consultation? Please give reasons for your views.

Question 31

Do you agree that investment companies (as defined by Chapter 21 of the Listing Rules) should not be eligible De-SPAC Targets? Please give reasons for your view.

Question 32

Do you agree that the fair market value of a De-SPAC Target should represent at least 80% of all the funds raised by the SPAC from its initial offering (prior to any redemptions)? Please give reasons for your views.

Question 33

Should the HKEX impose a requirement on the amount of funds raised by a SPAC (funds raised from the SPAC's initial offering plus PIPE investments, less redemptions) that the SPAC must use for the purposes of a De-SPAC Transaction? Please give reasons for your views.

Question 34

If your answer to Question 33 is "Yes", should a SPAC be required to use at least 80% of the net proceeds it raises (i.e. funds raised from the SPAC's initial offering plus PIPE investments, less redemptions) to fund a De-SPAC Transaction? Please give reasons for your views.

Question 35

Do you agree that the HKEX should mandate that a SPAC obtain funds from outside independent PIPE investors for the purpose of completing a De-SPAC Transaction? Please give reasons for your views.

Question 36

If your answer to Question 35 is "Yes", do you agree that the HKEX should mandate that this outside independent PIPE investment must constitute at least 25% of the expected market capitalisation of the Successor Company, with a lower percentage of between 15% and 25% being acceptable if the Successor Company is expected to have a market capitalisation at listing of over HK\$1.5 billion? Please give reasons for your views.

Question 37

If your answer to Question 35 is "Yes", do you agree that at least one independent PIPE investor in a De-SPAC Transaction must be an asset management firm with assets under management of at least HK\$1 billion or a fund of a fund size of at least HK\$1 billion and that its investment must result in it beneficially owning at least 5% of the issued shares of the Successor Company as at the date of the Successor Company's listing? Please give reasons for your views.

Question 38

If your answer to Question 35 is "Yes", do you agree with the application of IFA requirements to determine the independence of outside PIPE investors? Please give reasons for your views.

Question 39

Do you prefer that the HKEX impose a cap on the maximum dilution possible from the conversion of Promoter Shares or exercise of warrants issued by a SPAC? Please give reasons for your views.

Question 40

If your answer to Question 39 is "Yes", do you agree with the anti-dilution mechanisms proposed in paragraph 311 of the HKEX SPAC Consultation? Please give reasons for your views and provide any suggestions for alternative dilution cap mechanisms that could be considered.

Question 41

If your answer to Question 39 is "Yes", do you agree that the HKEX should be willing to accept requests from a SPAC to issue additional Promoter Shares if the conditions set out in paragraph 312 are met? Please give reasons for your views.

Question 42

Do you agree that any anti-dilution rights granted to a SPAC Promoter should not result in them holding more than the number of Promoter Shares that they held at the time of the SPAC's initial offering? Please give reasons for your views.

Question 43

Do you agree that a De-SPAC Transaction must be made conditional on approval by the SPAC's shareholders at a general meeting as set out in paragraph 320 of the HKEX SPAC Consultation? Please give reasons for your views.

Question 44

If your answer to Question 43 is "Yes", do you agree that a shareholder and its close associates must abstain from voting at the relevant general meeting on the relevant resolution(s) to approve a De-SPAC Transaction if such a shareholder has a material interest in the transaction as set out in paragraph 321 of the HKEX SPAC Consultation? Please give reasons for your views.

Question 45

If your answer to Question 43 is "Yes", do you agree that the terms of any outside investment obtained for the purpose of completing a De-SPAC Transaction must be included in the

relevant resolution(s) that are the subject of the shareholders vote at the general meeting? Please give reasons for your views.

Question 46

Do you agree that the HKEX should apply its connected transaction Rules (including the additional requirements set out in paragraph 334) to De-SPAC Transactions involving targets connected to the SPAC; the SPAC Promoter; the SPAC's trustee/custodian; any of the SPAC directors; or an associate of any of these parties as set out in paragraphs 327 to 334 of the HKEX SPAC Consultation? Please give reasons for your views.

Question 47

Do you agree that SPAC shareholders should only be able to redeem SPAC Shares they vote against one of the matters set out in paragraph 352? Please give reasons for your views.

Question 48

Do you agree a SPAC should be required to provide holders of its shares with the opportunity to elect to redeem all or part of the shares they hold (for full compensation of the price at which such shares were issued at the SPAC's initial offering plus accrued interest) in the three scenarios set out in paragraph 352 of the HKEX SPAC Consultation? Please give reasons for your views.

Question 49

Do you agree a SPAC should be prohibited from limiting the amount of shares a SPAC shareholder (alone or together with their close associates) may redeem? Please give reasons for your views.

Question 50

Do you agree with the proposed redemption procedure described in paragraphs 355 to 362 of the HKEX SPAC Consultation? Please give reasons for your views.

Question 51

Do you agree that SPACs should be required to comply with existing requirements with regards to forward looking statements (see paragraphs 371 and 372 of the HKEX SPAC Consultation) included in a listing document produced for a De-SPAC Transaction? Please give reasons for your view.

Question 52

Do you agree that a Successor Company must ensure that its shares are held by at least 100 shareholders (rather than the 300 shareholders normally required) to ensure an adequate spread of holders in its shares? Please give reasons for your views.

Question 53

Do you agree that the Successor Company must meet the current requirements that (a) at least 25% of its total number of issued shares are at all times held by the public and (b) not more than 50% of its securities in public hands are beneficially owned by the three largest public shareholders, as at the date of the Successor Company's listing? Please give reasons for your views.

Question 54

Are the shareholder distribution proposals set out in paragraphs 380 and 382 of the HKEX SPAC Consultation sufficient to ensure an open market in the securities of a Successor Company or are there other measures that the HKEX should use to help ensure an open market? Please give reasons for your views.

Question 55

Do you agree that SPAC Promoters should be subject to a restriction on the disposal of their holdings in the Successor Company after the completion of a De-SPAC Transaction? Please give reasons for your views.

Question 56

If your answer to Question 55 is "Yes", do you agree that:

- a) the HKEX should impose a lock-up on disposals, by the SPAC Promoter, of its holdings in the Successor Company during the period ending 12 months from the date of the completion of a De-SPAC Transaction; and
- b) Promoter Warrants should not be exercisable during the period ending 12 months from the date of the completion of a De-SPAC Transaction?

Please give reasons for your views.

Question 57

Do you agree that the controlling shareholders of a Successor Company should be subject to a restriction on the disposal of

their shareholdings in the Successor Company after the De-SPAC Transaction? Please give reasons for your views.

Question 58

If your answer to Question 57 is “Yes”, do you agree that these restrictions should follow the current requirements of the Listing Rules on the disposal of shares by controlling shareholders following a new listing (see paragraph 394 of the HKEX SPAC Consultation)? Please give reasons for your views.

Question 59

Do you agree that the Takeovers Code should apply to a SPAC prior to the completion of a De-SPAC Transaction? Please give reasons for your views.

Question 60

Do you agree that the Takeovers Executive should normally waive the application of Rule 26.1 of the Takeovers Code in relation to a De-SPAC Transaction, the completion of which would result in the owner of the De-SPAC Target obtaining 30% or more of the voting rights in a Successor Company, subject to the exceptions and conditions set out in paragraphs 411 to 415 of the HKEX SPAC Consultation? Please give reasons for your views.

Question 61

Do you agree that the HKEX should set a time limit of 24 months for the publication of a De-SPAC Announcement and 36 months for the completion of a De-SPAC Transaction (see paragraph 423 of the Consultation Paper)? Please give reasons for your views.

Question 62

Do you agree that the HKEX should suspend a SPAC’s listing if it fails to meet either the De-SPAC Announcement Deadline or the De-SPAC Transaction Deadline (see paragraphs 424 and 425 of the HKEX SPAC Consultation)? Please give reasons for your views.

Question 63

Do you agree that a SPAC should be able to make a request to the HKEX for an extension of either a De-SPAC Announcement Deadline or a De-SPAC Transaction Deadline if it has obtained the approval of its shareholders for the extension at a general

meeting (on which the SPAC Promoters and their respective close associates must abstain from voting) (see paragraphs 426 and 427 of the HKEX SPAC Consultation)? Please give reasons for your views.

Question 64

Do you agree that, if a SPAC fails to (a) announce / complete a De-SPAC Transaction within the applicable deadlines (including any extensions granted to those deadlines) (see paragraphs 423 to 428 of the HKEX SPAC Consultation-); or (b) obtain the requisite shareholder approval for a material change in SPAC Promoters (see paragraphs 218 and 219) within one month of the material change, the HKEX will suspend the trading of a SPAC’s shares and the SPAC must, within one month of such suspension return to its shareholders (excluding holders of the Promoter Shares) 100% of the funds it raised from its initial offering, on a pro rata basis, plus accrued interest? Please give reasons for your views.

Question 65

If your answer to Question 64 is “Yes”, do you agree that (a) a SPAC must liquidate after returning its funds to its shareholders and (b) the HKEX should automatically cancel the listing of a SPAC upon completion of its liquidation? Please give reasons for your views.

Question 66

Do you agree that SPACs, due to their nature, should be exempt from the requirements set out in paragraph 437 of the HKEX SPAC Consultation? Please give reasons for your views.

Question 67

Do you agree with our proposal to require that a listing application for or on behalf of a SPAC be submitted no earlier than one month (rather than two months ordinarily required) after the date of the IPO Sponsor’s formal appointment? Please give reasons for your views.

Question 68

Should the HKEX exempt SPACs from any Listing Rule disclosure requirement prior to a De-SPAC Transaction, or modify those requirements for SPACs, on the basis that the SPAC does not have any business operations during that period? Please give reasons for your views.

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