**Q32: Do you agree to our approach for the shell companies category and the detailed drafting in UKLR, including the proposed approach to redemption rights? If not, please explain why and suggest any alternative approach or transitional provisions.**

As we have discussed with you, we have some significant concerns with your approach for the shell company category. If the rules were brought in without amendment, we would expect that issuers would take the difficult decision to delist from London (the so-called "flight risk") or list on another market, most likely one of the Euronext markets. That would seem to run contrary to the broader policy objectives of these reforms.

For the reasons we will explain below, we believe our concerns are best addressed by maintaining a shell companies category that encompasses both shell companies and SPACs but incorporating the existing rules for SPACs as a subset of those rules. **We believe that issuing redeemable shares or shares with a right to be repurchased by the issuer should be the dividing line to categorise a cash shell as a SPAC and that the subset of rules which apply to SPACs should impose additional eligibility requirements for a SPAC based on the foundations already established.**

Our proposal is, broadly, to retain the status quo. We are also proposing some changes we think would be enhancements to the existing regime. Given the changes we are proposing are different to those you have consulted upon, we would understand if you wanted a further period of consultation in relation to them. That could be achieved by deferring the adoption of the new chapter of the Listing Rules dealing with cash shells until after a further consultation and by enabling existing SPACs and cash shells to remain in the transitional category until the new rules were adopted. We would note that in doing so the market for the launch of new cash shells or SPACs would effectively be closed due to uncertainty until those new rules were adopted unless cash shells and SPACs were treated as a special category and were allowed to continue to apply for a listing under the transitional category whilst the consultation was underway.

We would note that the number of active participants in the cash shell and SPAC market is limited and consulting with those stakeholders could be achieved in a much shorter timeframe than the wider Listing Rule reforms. Alternatively, we would be happy to propose (and help arrange) a private roundtable of stakeholders to give you comfort on the desirability of any proposed amendments.

**Background**

By way of background, we would note that SPACs have existed on the London markets for twenty years. In 2005 and 2006, a number of SPACs were admitted to trading on what is now the AIM Market with redeemable shares, escrow accounts and warrants (typically then 2 warrants per share). Rather than 100% of gross proceeds being placed into escrow account, those SPACs placed only a specified portion (over 90%) into escrow. Those SPACs also required the de-SPACing transaction to utilise at least 50% of the funds held in escrow (and so the very large proportion of redemptions alongside a completed de-SPACing transaction that we have seen in the more recent SPAC market was not possible). Those SPACs typically had shorter initial timeframes to complete a deal than those who listed in the 2020s.

In the mid-2000s, SPACs undertaking to complete a deal within 12 months was common, but, equally, it was common that the timeframe could be extended on multiple occasions by a shareholder vote. It should be noted that the London Stock Exchange proposed in January 2005 a rule change that would have required SPACs to make a reverse takeover within 12 months of being admitted to trading on AIM, failing which their shares would be suspended from AIM and then cancelled if no acquisition had been completed within 18 months. That rule was not brought into force and, instead, on 18 March 2005, the London Stock Exchange instead stated that SPACs should seek annual approval from shareholders to continue their business.

As in the recent SPAC market, London followed New York on the trend, with only about half a dozen issuers being admitted to AIM before the market close (a fraction of the number of issuers in New York). If our collective memory is correct, all of the London issuers managed to complete a de-SPACing transaction but, with the benefit of hindsight, we would not remember any of those companies as being particularly successful. Nor, it is interesting to note, were any memorably disastrous.

In the most recent cluster of SPAC IPOs, London did not initially have a market structure capable of admitting to trading the form of SPAC which the market in New York had by then developed. It was crucial at that point for investors who sought finance to leverage their investment in a SPAC IPO that the SPAC shares would not be suspended upon the announcement of the de-SPACing transaction.

Whilst we appreciate that the FCA moved very quickly to bring in a new rule to avoid SPAC shares being suspended, by the time the rule could be implemented, the vast demand to create new SPAC issuers had subsided. In the gap, over twenty SPACs had joined a queue in Amsterdam to seek a listing on Euronext Amsterdam. Whilst the market dynamics changed and many of those SPACs were not successfully launched, we would highlight that only a couple of those SPACs had any nexus with the Netherlands. The others were being raised by London-based investment banks, targeting investors based in the UK with their primary legal advice being provided in the City of London. The United Kingdom would have been their natural home state for listing. We welcome all opportunities to improve the competitiveness of the UK and avoid a similar situation in the future.

**The difference between a SPAC and a cash shell**

There are two unique characteristics of a SPAC which a cash shell does not have:

(i) it has issued redeemable shares or shares which have a right to be repurchased by the issuer (which we will refer to throughout as redeemable shares for simplicity); and

(ii) the proceeds from the issue of those shares are held in an escrow or trust account (which we will refer to as an escrow account for simplicity).

In addition, typically (and, in our experience, invariably), a SPAC issues listed warrants to the subscribers to its redeemable shares. This is also a feature of some, but not all, cash shells.

The economic model of a SPAC is designed to provide investors with:

* protection of their cash (and often the interest received on their cash);
* a potential opportunity to invest (using that cash) in a transaction; and
* a potential equity upside if a transaction is completed delivered by warrants.

The offer of warrants to investors is, effectively, compensation to investors for the loss of other equity returns while a deal is being sought. Investors can sell their redeemable shares and keep their warrants.

Behind the scenes, hedge fund investors in a typical SPAC will borrow money from an investment bank to invest in a SPAC thereby significantly leveraging their investment. It is the existence of that financing structure behind the scenes which determines the requirements of the SPAC structure. That is what drives:

* the need for certainty as to when, and how much, cash will be returned if no deal is done;
* the need for certainty as to what the cash is invested in (typically US treasuries) and whether the investors will receive interest on the cash; and
* the need for the SPAC shares and warrants to not be suspended (as the investment bank holds the securities as collateral for its loan and treats listed securities differently from suspended ones).

These features are not per se market requirements for acquisition companies or other cash shells, but very specific features of the SPAC market.

In contrast, cash shells have existed on the London market for decades without these features.

**Examples of successful cash shells on the London Stock Exchange**

There has been a number of successful and large acquisitions undertaken by cash shells which would not have been possible if the proposed additional eligibility and continuing obligations rules set out in CP23-31 had been in place at the time such acquisitions were completed. Some examples are set out below. Many of these examples would also be hindered by the increase to the minimum market capitalisation requirement to £30 million which came into effect in December 2021 (replacing the prior minimum of £700,000) subject to a transitional period for existing cash shells.

For the avoidance of doubt, although we have provided some comments below on certain aspects of specific rules relating to reverse takeovers, we have no objection in principle to a cash shell or SPAC that does a significant acquisition being treated as doing a reverse takeover, and therefore having to publish a prospectus covering the enlarged group and re-applying for its shares to be admitted to its chosen listing category.

Zegona Communications PLC ("Zegona")

At its IPO on AIM on 19 March 2015, Zegona raised £30 million through a placing. On 14 August 2015, Zegona raised a further c.£250 million through a placing and acquired Telecable, a cable telecommunications operator in Spain.

Zegona moved to a standard listing in September 2015 and sold Telecable to Euskaltel in a profitable cash and share transaction on 26 July 2017. Zegona maintained, and subsequently increased,  its holding in Euskaltel to approximately 21 per cent. Zegona then leveraged its track record and initiated consolidation discussions with MásMóvil, which led to MásMóvil acquiring Euskaltel on 30 July 2021. As a result of the acquisition by MásMóvil, Zegona received €421 million from the disposal of Euskaltel in August 2021 and returned £329 million to its shareholders via a return of capital on 15 October 2021.

As at 15 October 2021,  Zegona returned to being a cash shell as defined in the Listing Rules. Its market capitalisation was less than £20 million and it had only £10 million of cash.

Over two years later Zegona announced its proposed acquisition of Vodafone Spain for c. €5 billion on 31 October 2023. The transaction was announced without any committed equity funding (and, in theory, could have completed using only vendor financing and bank debt), but immediately post announcement a €300 million equity fundraising was completed.

Had the proposed new rules been in place at that time, not only would this have breached the FCA's proposed UKLR 13.2.1R(1)(a) (due to the 24 month time limit), the FCA's proposals regarding potential extensions of this 24 month time limit would have hindered, rather than, helped, the signing of the sale and purchase agreement.  This is because the proposals allow for the timeframe to be extended by 12 months with shareholder approval, and by an additional 6 months without the need to get shareholder approval where a deal has been announced or is very near to being completed.  Vodafone would have terminated negotiations with Zegona as the 24 month deadline approached due to the uncertainty of whether shareholder approval for an extension would be obtained or not.    Further, Vodafone would not have provided consent to being named in any documents sent to Zegona shareholders to seek consent to an extension.  This would have resulted in Zegona being forced to seek shareholder consent for an extension to a potential acquisition in respect of which it could not provide any details relating to the target or the seller.

Prior to its announcement to acquire Vodafone Spain, and a suspension of its shares, Zegona had a market capitalisation of approximately £2 million as at 22 September 2023.  Had the current minimum market capitalisation requirement of £30 million been applicable to Zegona at that time, Zegona would not have met this requirement.

**The proposed acquisition of Vodafone Spain by Zegona was shortlisted as a Transaction of the Year at the recent PLC Awards and is the largest reverse takeover ever concluded on the London Stock Exchange. It demonstrates the appetite for using a reverse takeover by a small cash shell as an alternative to an IPO as a form of financing and access to the UK public markets**.

**AdvancedAdvT Limited ("AdvT")**

At its IPO on 4 December 2020, AdvT raised the then minimum market capitalisation of £700,000.    Had the current minimum market capitalisation requirement of £30 million been applicable to AdvT at that time, AdvT would not have been able to meet this requirement.  Further, the FCA's proposed UKLR 13.2.2 (requiring adequate binding arrangements that monies raised from public shareholders be ring-fenced) would have prevented AdvT from being able to utilise such proceeds to conduct necessary due diligence on potential acquisitions or to fund the costs or a larger capital raise (which it went on to do, raising £130 million of equity on 23 March 2021.

On 5 January 2022, AdvT made its first acquisition, an on-market acquisition of shares in AIM-quoted M&C Saatchi, purchasing a c.10 per cent. stake in contemplation of a takeover.  That transaction was a reverse takeover, but represented a small proportion of the £130 million of investable cash and so any further stake acquisitions would also have ben reverse takeovers requiring the publication of a further (albeit very similar) prospectus. The cost of producing such prospectuses prevented AdvT from pursuing a stake-building strategy to conclude a takeover of M&C Saatchi.

On 31 July 2023, AdvT completed the acquisition of various entities from Capita plc for a combined enterprise value of approximately £33 million.   Were this acquisition, rather than its investment in M&C Saatchi, to have been its first acquisition AdvT would not have met the FCA's proposed initial transaction provisions at UKLR 13.2.1R(1)(a) if they had been in place at that time (due to it being more than 24 months since its IPO).

**S4 Capital plc ("S4")**

At its IPO on 29 December 2016, S4 (then named Derriston Capital plc) raised c.£2 million via a placing. Had the current minimum market capitalisation requirement of £30 million been applicable to S4 at that time, S4 would not have met this requirement

S4 grew through over 30 acquisitions to have a market capitalisation in excess of £8 billion as at 31 December 2022.

**Melrose Industries plc ("Melrose")**

At its IPO on 28 October 2003, Melrose raised approximately £13 million (c.£22 million in today's money).  Had the current minimum market capitalisation requirement of £30 million been applicable to, Melrose at that time, Melrose would not have met this requirement.

On 26 May 2005, Melrose PLC made its first two acquisitions (of McKechnie Plastics and Dynacast for a combined consideration of £429 million and raised £244 million of equity.

More recently, Melrose acquired GKN plc in a hostile takeover valued at c.£8 billion in 2018. Between 2003 and March 2018, Melrose acquired several business and, utilising its "buy-improve-sell" strategy, raised approximately £3.6 billion from shareholders and returned in cash approximately £4.3 billion to shareholders (£5.5 billion to shareholders as at May 2023).

Melrose would be considered by market participants as a typical acquisition company as it has acquired and disposed of businesses a number of times since its IPO .  We would note, however, that it no longer falls within the current definition of a shell company as it has retained a previously acquired business before acquiring each subsequent business.

**BCA Marketplace Limited ("BCA")**

BCA (then Haversham Holdings plc) raised £30 million in its IPO on 10 November 2014.

On 2 April 2015, Haversham raised £1 billion of equity to acquire the BCA Group in a reverse takeover valued at £1.2 billion .  Following its transfer in 2017 from a standard to a premium listing, on 6 October 2019, BCA was sold and taken private in a deal valued at £1.9 billion.

**Comment on the proposal to extend the Sponsor regime to the new shell companies category**

We note that, in respect of each example issuer above, save for those listed on AIM at certain periods (where a Nomad was appointed in accordance with the AIM Rules) no sponsor was appointed to either advise on the eligibility of the IPO, nor on a continuing basis  (although in some instances the issuer was promoted by an FCA authorised investment manager/investment adviser).

CP 23-31 sets out the benefits of the sponsor regime (para 17.10) as follows; "*The sponsor regime supports well-functioning markets, through ensuring that a company is supported and receives high-quality expert advice during the preparation and submission of an application to list, or at other key points once listed.*" We agree with that statement, but note that high quality advice is also available outside of the sponsor regime.

We note that the success shown by the above example issuers was achieved without sponsor involvement (save for Melrose which we note is not a cash shell and did not have a sponsor for its first acquisition).

**The UK as a competitive jurisdiction for attracting SPACs and cash shell companies**

The approach taken by stakeholders in considering where to list a cash shell or SPAC will generally depend on:

* the location/time zone of the promoters of the SPAC/cash shell company;
* the location of potential investors;
* the costs of launching a vehicle in that market; and
* the framework for listing a cash shell / SPAC in that market.

Promoters will seek an IPO on the market which has the most industry-friendly framework for them and a pool of potential investors.

When the AIM Rules for Companies increased the minimum market capitalisation requirement for cash shells from £3 million to £6 million, there was a shift from AIM to the Standard List.   When it was not commercially possible to list a SPAC in London due to the FCA's position on suspension of securities following the announcement of a de-SPACing transaction, Euronext Amsterdam became the favoured venue.

It is imperative to maintaining the UK's position as a leading market for the launch of cash shells that rule changes do not result in issuers taking the difficult decision to delist from London (the so-called "flight risk") or list from the outset on another market. That would seem to run contrary to the broader policy objectives of these reforms.

A further example is the 2021 change to LR 5.6.18A G - requiring the SPAC to meet certain requirements in order to avoid a listing suspension (and which the FCA proposes to carry over into the UKLR) , following which the market saw a wave of IPOs of high profile SPACs on various European markets.

**The definition of a cash shell**

The existing definition of a cash shell encompasses SPACs but, perhaps inadvertently, also includes:

(i) a trading company REIT in managed wind-down which has either sold all or the predominant share of its assets;

(ii) a closed-ended investment company in managed wind-down which has either sold all or the predominant share of its assets; and

(iii) a commercial company which has sold substantially all of its assets.

In each case, such issuers would satisfy the "whose assets consist solely or predominantly of cash..." criterion.

It is submitted that this is not the intention of the definition.

Example (i) should remain classified as a commercial company and example (ii) should remain classified as a closed‑ended investment company.

Example (iii) might properly remain classified as a commercial company if the board of directors decided to then wind the company up, or it might be properly classified as a cash shell if the board decided to pursue an acquisition strategy with the cash.

If we create an example (ii)(a) where the commercial company had retained one small business and returned some of its free cash to investors, it could have remained a commercial company again (if its small business to cash ratio meant its assets did not predominantly consist of cash), or be a cash shell (if such assets were predominantly cash).

In any event, in none of these examples could the board of directors, in deciding upon their legitimate strategies, ensure that their company was capable of complying with the proposed eligibility rules for cash shells as the board would be unable to amend the constitution of the issuer as required by UKLR13.2.1 to build in acquisition deadlines - for a company incorporated in the United Kingdom, that would require a special resolution and shareholders may refuse to vote in favour of it.

We agree with the assumption behind the new rules that becoming a cash shell should be a positive choice for an issuer, not a result of other circumstances.

We propose that the definition in existing LR 5.6.5AR (new UKLA 13.1.3R) is amended only by changing the "or" between (1) and (2) to an "and". By making that change, a cash shell within the definition of limb (2) would automatically cease to be a cash shell once it had invested enough of its cash in an acquisition to cease to have its assets predominantly in cash.

That change would also ensure that any cash shell which proposed to complete multiple acquisitions could continue to be a cash shell following its initial transaction (provided the initial transaction did not utilise the majority of its cash).

**Sponsor regime**

We do not agree with the FCA’s proposed extension of the sponsor regime to the listing category for equity shares in SPACs and other shell companies at the admission to listing gateway. The requirement to extend the sponsor regime to the new listing category would have the effect of adding a further disincentive to choose London as an issuer's listing venue over other markets (primarily Amsterdam and New York). It would appear to tun contrary to one of the purposes raised in CP21/1, which was to enhance the UK's regime on SPACs and cash shells in a way that promotes the UK as a competitive listing venue with those other markets.

At the time of an IPO of a SPAC or shell company, the issuer does not have trading operations and its assets are underpinned by a limited number of contractual agreements. The oversight of a sponsor at IPO should not, therefore, be required. There should also not be a need for further detailed testing of the issuer’s systems and controls – this is appropriate in the context of the enlarged business at the time of re-admission where a SPAC or cash shell successfully completes an acquisition and re-lists on the single segment of equity shares in commercial companies (ESCC).

We believe that the FCA's proposed introduction of a definition of an initial transaction (if supplemented as we suggest below) will make clear which transactions conducted by a SPAC or cash shell will amount to a reverse takeover. With that additional clarity, it will be apparent to issuers at what point during the process of considering an acquisition it will need to appoint a sponsor.

**The importance of timing**

In the negotiation of any transaction, pressure on one party to a transaction is likely to lead to the party under pressure making concessions which a party not under pressure might not. Those concessions might be on what is considered a minor detail, but they might also be on a material detail such as the price to be paid.

If a cash shell has to do a deal within 24 or 30 months of being established that puts an element of pressure on the issuer, particularly as the deadline approaches. There is a point before the deadline is hit where the issuer runs out of time to consummate a transaction and an earlier point where potential counterparties choose not to negotiate with the issuer as they do not believe the issuer will be able to consummate the transaction.

There is therefore a potentially significant cost to investors in imposing a deadline on a cash shell. For that reason, many cash shells have not imposed a deadline or have enabled any deadline to be perpetually extended with shareholder approval. We do not consider that the Listing Rules should impose a deadline on cash shells (including SPACs).

For SPACs, but not other cash shells, the financing structure available at the time will require a SPAC to impose its own deadline, but we recommend that is left to the market to decide, rather than the Listing Rules.

We agree that any deadline proposed by a SPAC should be constitutionally hard-wired and disclosed when it issues its redeemable shares.

We would propose that UKLR13.2.1 applies only to SPACs and is amended to enable the deadlines established in the relevant prospectus to be binding under the Listing Rules.

We understand that the FCA may be concerned that there are a number of cash shells with a small market capitalisation which have stayed on the Official List for a number of years having not raised significant funds to finance activities.

We believe that, to remain competitive with other markets, the FCA should not specify a period within which a cash shell must complete a deal and should let the market decide.

For SPACs, there is a structural requirement for a deadline. We therefore propose that there is an additional rule for SPACs, "Upon an issue of redeemable shares or shares with a right to be repurchased a SPAC must state the period of time within which an acquisition must be completed and any circumstances in which that may be extended and for how long. Such time period must be set out in the issuer's constitutional documents and stated in the Prospectus in the first paragraph describing the issuer and prominently in any document or website which describes the issuer."

The reason that putting a timeframe on a SPAC doing an acquisition is important is that investors in the redeemable shares will typically have financing arrangements which need to match the potential maturity of the redeemable shares. It is an important investor protection for a properly functioning SPAC market that the time frames are established and enforceable by those investors. For cash shells, that is not the case.

Investors in non-redeemable shares issued by cash shells do not typically have any financing arrangements behind their investment. Their goal in investing is purely to (a) ensure that they have the optionality to further invest when the cash shell makes an acquisition requiring further funding, and (b) make a return from the investment by the promoter of the cash shell completing an acquisition. Investors have made an investment decision on the understanding that the promoter will seek a suitable investment opportunity at an opportune time. Not completing an acquisition for a number of years does not mean, to its investors, that the issuer no longer has a purpose. Investors have made an investment decision primarily on the basis that the issuer is managed by personnel with the experience, contacts and intimate market knowledge required to identify and complete transactions with attractive targets. To place a time limit on finding a suitable investment opportunity conflicts with the commercial objective of finding a suitable investment and may indeed place promoters under pressure to complete a sub-optimal acquisition, on sub-optimal terms, prior to the time limit coming to an end. Where the FCA has determined that an entity is eligible for listing, and that entity continues to meet the requirements of the applicable listing category, we do not agree that there should be any regulatory provisions to truncate its life.

**Escrow requirements**

As explained above, the use of escrow accounts for SPACs is driven by the financing structures put in place by hedge fund investors in SPACs. The establishment of an escrow account which can invest in US treasuries or UK gilts is an expensive and time-consuming process which results in the costs of establishing and maintaining a SPAC being significantly more expensive than the same costs for establishing a typical UK cash shell.

Investors in all of the cash shells of which we are aware have not requested escrow mechanisms. They were certainly not provided in any of the successful examples included above.

Commercial companies often have significant cash balances far exceeding the amounts held by cash shells. We therefore do not see the requirement for an escrow account as a required or desirable investor protection.

If the rules were to require all cash shells to hold cash in escrow, then we would expect that issuers would take the difficult decision to delist from London (the so-called "flight risk") or list on another market. That would seem to run contrary to the broader policy objectives of these reforms.

In the existing London cash shell market, the principal purpose of the cash raised is to fund due diligence costs for the acquisition or acquisitions to be made. As is evident from the examples given above, the cash balance is not necessarily indicative of the size of transaction the issuer will be able to complete. If an escrow requirement were placed on those cash shells, they would likely propose that amounts held in escrow could be used to cover due diligence costs and ongoing costs. Effectively, the escrow would just become a third party custodian validating every payment made from a cash account.

We would also note that permitted payments from any escrow account would need to include the costs of aborted transactions, not just the "initial transaction".

**Avoiding suspension of listing of securities if a deal leaks**

We considered the introduction of LR5.6.18.AG to be a welcome improvement to the Listing Rules enabling certain qualifying SPACs to avoid the presumption of suspension.

However, we have never been able to rationalize why the structure of a cash shell or SPAC should necessarily have any impact on whether or not its shares should be suspended if you compared a £100 million SPAC with a £100 million cash shell, for example. The information which the market would have to make an informed investment assessment would be comparable. In the case of a cash shell which might not require shareholder approval for a reverse takeover, the certainty of a transaction approved by the board of directors being completed would be higher than for a SPAC where both shareholder approval would be required and potentially, shares with a minimum value not being redeemed by shareholders.

We think consideration should be given to extending LR5.6.18.AG to other cash shells.

**Reducing the burden from conditional suspension applications**

The draft rules require a sponsor to approach the FCA (1) before the announcement of an initial transaction which has been agreed or is in contemplation, to discuss whether a suspension of listing is appropriate; or (2) where details of the initial transaction have leaked, to request a suspension. This reflects the existing rules with the addition of the involvement of a sponsor.

We would note that for many cash shells with active promoters seeking transactions, they may make numerous conditional suspension requests for different potential acquisitions before alighting on the transaction which is finally agreed. Those management teams are continuously carrying out activities which are referred to in the Listing Rules as an initial transaction 'in contemplation', e.g. the issuer has been given access to begin due diligence work (whether or not on a limited basis).

For sponsors to approach the FCA under these circumstances will, we believe, take up a disproportionate amount of their and the FCA's time (as it currently does for active management teams of cash shells). In addition, the sponsors will require to be remunerated for their time and this might become a cost burden to issuers, especially those involved in a large number of transactions which do not ultimately complete.

We think there is a less burdensome approach which would significantly reduce the workload of the FCA and issuers whilst enabling rapid responses to leaks and sufficient planning before a planned announcement.

Our preferred approach: the draft rules at 13.4.4-13.4.7 be deleted in respect of both scenarios (1) and (2) above and replaced with a requirement for the issuer to maintain with the FCA a generic conditional suspension announcement into which the details of any transaction can be inserted and an additional requirement for the FCA to be approached a short time (e.g. three business days) prior to the announcement of an acquisition (to cater for planned announcements).

If details of an initial transaction have leaked, the UK's market abuse regime already requires an issuer to make an announcement.

Further, the draft rules where the potential target of the cash shell is admitted to a regulated market, subject to the disclosure regime of another market or not subject to a public disclosure regime presume that the cash shell is in a position to confirm that sufficient information has been disclosed by the target company: if information is withheld by such a target company, the cash shell would have no way of knowing this and so may not be in a position to make this declaration.

The draft rules at 13.4.8-13.4.13 (where the target is admitted to a regulated market, subject to the disclosure regime of another market or not subject to a public disclosure regime) should be reconsidered.

We also suggest allowing cash shells which have a stated strategy of making multiple acquisitions to make multiple acquisitions without the requirement to approach the FCA/suspend shares where such acquisitions are in accordance with the issuer's publicly stated investment strategy, sufficient information in relation to those acquisitions is included in the announcement of the acquisition, and the acquisition when combined with any prior acquisitions (and including cash in the issuer's gross assets) would not amount to a reverse takeover. This would be akin to a Chapter 15 listed closed-ended investment entity, such as an infrastructure fund, making a number of acquisitions and disposals over its lifetime and announcing each one, but not being readmitted to listing each time. In addition, the FCA and investors would have the protection that once the cash shell ceased to be a cash shell, a reverse takeover would have occurred and the issuer would need to seek readmission to another listing category.

We can see the benefit of a standalone definition of initial transaction, but as explained above, we consider that there should be certain categories of initial transactions which do not trigger a suspension and requirement to seek readmission to another listing category. We would consider the following to be those categories:

* stake building of up to 29.9% of a listed issuer as a precursor to a potential takeover offer;
* acquiring an option or agreeing to pay a break fee where the consideration or amount to potentially be paid is less than 20% of the issuer's gross assets; and
* completing a transaction which does not amount to a reverse takeover (and including cash in the issuer's gross assets for the purposes of that calculation.)

Each of such initial transactions would require detailed disclosure in an announcements, but the issuer would remain a cash shell following such a transaction and its next transaction would also be considered an "initial transaction".

**Shareholder approval**

Requiring shareholder approval adds an additional (and, in our view, unnecessary) barrier to cash shells completing transactions by introducing uncertainty for sellers as to whether a transaction will complete (in addition for a small cash shell to the potential commercial uncertainty of ensuring that the issuer will have access to sufficient funds to meet the costs of the transaction).

Any requirement for shareholder approval results in cash shells appearing to be a less attractive counterparty than other potential buyers of a business or company. If the rules were to require all cash shells to require a shareholder vote, then we would expect that issuers would take the difficult decision to delist from London (the so-called "flight risk") or list on another market. As we have noted before, that would seem to run contrary to the broader policy objectives of these reforms.

We would note that investors in cash shells are backing a management team to find a transaction and execute it. If the management team does not have a sufficiently impressive track record then investors may not invest unless the issuer undertakes to make any acquisition subject to shareholder approval. If, however, the investors know the management team, or are willing to accept its track record, then investors have shown themselves to be happy to invest historically without any acquisition being subject to shareholder approval.

Whether or not there is a shareholder vote can be prominently disclosed to prospective investors in a prospectus and/or embedded in constitutional documentation, allowing investors to then make an informed investment decision.

Investors do not need to be afforded protection by the Listing Rules for what is essentially a commercial decision and the basis upon which they have made their investment decision. The position is comparable to existing closed ended investment companies under Chapter 15 of the Listing Rules – where a manager makes investments in accordance with its stated investment objective and policy it is not required to seek shareholder consent to acquire or dispose of investments within the remit of the investment policy.

We would further note that shareholder approval is required in respect of deSPACing transactions by US SPACs and is seen by promoters as a key disadvantage of the US model: if the FCA were to remove this requirement, we would expect this to be seen as a key advantage of the UK model within the industry. Again, we would not consider this a significant investor risk if the lack of a vote was a prominent disclosure in a SPAC's prospectus.

Our preferred approach: the Shareholder approval requirement (at rule 13.3.4: Shareholder approval of any initial transaction) be deleted at both UKLR 13.3.4R(1)(a) and (b). The corresponding sponsor requirements relating to where shareholder consent is to be sought for an initial transaction should also be deleted.

If the requirement for a shareholder vote on a deSPACing transaction is retained, we would recommend that the requirement that any founding shareholder, SPAC sponsor or director is excluded from voting is removed. This requirement is, to our knowledge, unique to the UK market and we think would place the UK at a competitive disadvantage to other listing venues were the SPAC market to reopen in future.

We recognise that our preferred approach above removes some protections that are clearly designed to protect investors' interests. We would suggest to the FCA that the better venue for adding in protections for (particularly retail) investors would be at the level of the obligations attaching to financial advice. Perhaps, for example, the FCA Handbook could be amended to provide that authorised firms should not be allowed to permit their retail clients to invest in cash shells or SPACs without highlighting to them that there will be no shareholder vote (if that is the case).

**Redemption**

We note the discussion at paragraphs 13.50 and 13.51 of CP 23/31 about considering a redemption option for shareholders being an eligibility requirement for both SPACs and cash shells.

As explained above, redemption or a right to have shares repurchased is a foundational feature of any SPAC and, without it, a vehicle should be considered a cash shell, not a SPAC.

Our preferred approach: We believe that the most workable approach is to introduce two separate definitions, with SPACs being subject to additional tailored and appropriate rules:

A special purpose acquisition company or SPAC is a cash shell which (1) has been incorporated solely to identify and acquire or merge with a suitable business opportunity or opportunities; and (2) has issued or proposes upon listing to issue redeemable shares or shares which have a right to be repurchased.

We do not consider that the definition of a SPAC should require net cash proceeds from the issue of redeemable shares to be held in escrow. Instead, we would propose a separate eligibility requirement for a SPAC to be that, "Upon an issue of redeemable shares or shares which have a right to be repurchased a SPAC must hold a proportion of the net proceeds from such an issue in accordance with UKLR13.2.2. The proportion (and whether returns will include interest) must be set out in the issuer's constitutional documents, stated in the first paragraph of the Prospectus which describes the issuer and prominently in any document, website or other media which describes the issuer."

We would propose that UKLR13.2.1R is amended to delete the requirement for a shareholder vote.

We would propose further minor (but important) drafting changes to UKLR 13.2.2R, as follows. It appears to us that, taken together, the drafting of the proposed UKLR13.2.2R(2) and (3) is intended to allow a cash shell to withhold amounts from being placed in escrow or similar (pursuant to UKLR 13.2.2R(1)), provided they are used for legitimate purposes (which are set out in UKLR13.2.2R(3)), and that such withholding is described in the relevant admission prospectus. Whilst we do not object to this principle, we note that the references to "legitimate purposes" in UKLR 13.2.2R(3) relate to amounts spent prior to completion of an "initial transaction". For the purposes of the proposed UKLRs, a transaction is not an "initial transaction" as defined in UKLR 13.4.2R(1), unless it is a completed transaction. In other words, an aborted transaction is not an "initial transaction" (as defined). On one reading therefore, amounts spent on due diligence from an aborted transaction (which as defined cannot be an initial transaction) cannot constitute a legitimate purpose (within the meaning of UKLR 13.2.2R(3), and therefore cannot be withheld from escrow. This is clearly not the FCA's intention, and to resolve our concern here we would propose that:

* references to "an initial transaction" in UKLR 13.2.2R(2) and the introductory text in UKLR 13.2.2R(3) be replaced with "any proposed initial transaction"; and
* references to "the initial transaction" in UKLR 13.2.2R(3)(a) and (d) be replaced with "the proposed initial transaction".

**Q33: Do you agree with the proposed approach that issuers in commercial companies category and the transition category should transfer to the shell companies category if they become eligible for the shell companies category? Do you foresee any problems with this proposed approach?**

Please see above under the heading "The definition of a cash shell".

**Q46: Do you agree with our proposed transitional arrangements and specific transitional provisions for ‘mapped’ existing issuers and conversion of ‘in-flight’ applications at the time the UKLR is implemented? If not, please explain why.**

In relation to specific transitional provisions for the shell companies category, we make the following comments:

Where you refer in paragraph 16.43 to a significant majority of existing listed shell companies being "SPACs" you are not using terminology that is generally accepted in the market. That significant majority is what the market would refer to as cash shell companies. As explained above, a definitional requirement of a SPAC is that it must have redeemable shares or shares with a right to be repurchased at the request of the shareholder. What your proposed rules for shell companies are doing when combined with the transitional provisions is forcing all cash shells to become SPACs or complete an acquisition.

If the proposed new rules for shell companies are not amended:

* The vast majority of cash shells will map to the transition category.
* We would expect all such cash shells to have a desire to stay in the transition category rather than submit to the more onerous obligations in the new shell companies category.
* We would expect that if the transition category were to cease to be available at some point in the future issuers would take the difficult decision to delist from London (the so-called "flight risk"). As we have noted before, that would seem to run contrary to the broader policy objectives of these reforms.
* Cash shells in the transition category would have increased value (due to their structural flexibility) over new cash shells set up in the shell companies category.
* There may be participants in the market who rush to commence listing applications for cash shells so that they can be in-flight when the Policy Statement is published.

Whilst we appreciate that cash shells which do not have a time limit on their operations do not constitute the majority of the market, they do constitute some of the more successful companies on the market or cash shells with promoters with a track record of historic success.

Zegona Communications plc, for example, was incorporated with an incentive scheme which has already incentivised management for two transactions and will continue to incentive management for a further three transactions (two more if Vodafone Spain were to be bought and then sold). That scheme has imbedded tax characteristics which are extremely valuable to management. If the acquisition of Vodafone Spain were to not complete before the agreed long stop date, it would remain as a cash shell in the transition category. Neither retail shareholders nor management (who are also major shareholders) would be likely to consider that the FCA was protecting their interests by forcibly delisting Zegona if it failed to complete another transaction within three years.

Perhaps consideration could be given to only cancelling the listing of companies which did not have a demonstrable track record (either of themselves or through their management team) of successfully completing acquisitions.

An alternative could also be to extend the transitional period to 5 years or more. If market conditions remain as they were in 2023 for the next two years, then a three year transition period will not be seen as a long time within which to complete a deal. We would note that were our proposed changes to the shell companies category adopted, the proposed 3-year transitional period would be sufficient as the shell companies category would be able to accommodate existing issuers.