

Primary Market Technical Note

Shell companies (cash shells and special purpose acquisition companies (SPACs))

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

Rules

UKLR 13

The Equity shares (shell companies) category in UKLR 13 is targeted at shell companies. The definition of “shell company” set out in UKLR 13.1.2 R is designed to encompass what are generally known as “cash shells” and “SPACs”.

These terms are not defined in the UK Listing Rules, but UKLR 13.1.2 R provides a general description for cash shells in UKLR 13.1.2R(1) and SPACs in UKLR 13.1.2R(2). In the following technical note, we further discuss how these terms are broadly understood, how these types of issuers meet the eligibility requirements for listing shares and when

the listing may be suspended if an initial transaction is announced or leaked.

The terms 'cash shell' and 'SPAC'

Cash shells

'Cash shell' is a term often used for companies whose assets consist solely or predominantly of cash or short-dated securities. A listed issuer may be a cash shell because it has been admitted to the Official List as a commercial company but has subsequently disposed of all or a majority of its assets and currently operates only residual business activities, if any. These types of issuers may have had their equity shares mapped to Chapter 5, 14 or 22 of the UK Listing Rules. Cash shells may or may not have a strategy to seek an acquisition opportunity or to develop a business as a start-up. So there is some overlap between cash shells and SPACs.

SPACs

We understand the term special purpose acquisition company or 'SPAC' to mean a new company whose predominant purpose or objective is to undertake an acquisition or merger, or a series of acquisitions or mergers. Its initial funds are usually raised through an IPO on a stock market or through a fundraising undertaken before the IPO. After IPO, its cash resources are used to identify acquisition opportunities, finance the due diligence costs and potentially fund or part fund the acquisition of a suitable business to invest in.

Eligibility for listing

Shell companies are listed under Chapter 13 of the UK Listing Rules which sets out requirements for the listing of equity shares of such types of issuer.

An applicant which is a shell company seeking a listing of its equity shares does not meet the admission requirements for a commercial company. UKLR 5.1.1R(3) states that Chapter 5 applies to an applicant for admission of equity shares other than those of a shell company. A shell company would also not normally invest and manage its assets in a way which is consistent with its object of spreading

investment risk in accordance with the requirements of UKLR 11.2.3R (closed-ended investment funds category). A shell company can list under UKLR 13 provided it is not an 'investment entity' as defined in the UK Listing Rules (Glossary).

Minimum market cap

A shell company needs to demonstrate that the expected aggregate market value of all securities to be listed must be at least £30 million for shares (UKLR 3.2.7R). To satisfy us that a shell company meets this eligibility requirement, it will need to demonstrate that the net proceeds of any pre-admission fundraise is £30 million or more. This is because a shell company does not have any other assets apart from the net proceeds of any such fundraise.

Shell companies listed in categories other than the equity shares (shell companies) category

Issuers that are admitted to a category other than the equity shares (shell companies) category, but that have become a shell company should note UKLR 21.5.19G in relation to transfer as an alternative to cancellation of listing. This states that there may be situations where an issuer's business has changed over a period of time so that it no longer meets the requirements of the applicable listing category against which it was initially assessed for listing. In those situations, we may consider cancelling the listing of the equity shares or suggest to the issuer that, as an alternative, it applies for a transfer of its listing category.

Initial transactions

When a shell company enters into an initial transaction, as defined in UKLR 13.4.2R, it must, amongst other things, notify a RIS as soon as possible after the terms of an initial transaction are agreed (UKLR 13.4.22R).

It is important to note that the definition of 'initial transaction' captures a wider range of transactions than reverse takeover transactions, a concept used elsewhere in the UK Listing Rules, and therefore not limited to acquisitions of a company for example. It also does not apply a size threshold. This means that the first transaction that a shell company enters into (either post listing or post an existing

listed company becoming a shell company) will generally constitute an initial transaction.

The classification of the transaction as an initial transaction under the UK Listing Rules is important because a shell company will be subject to the rebuttable presumption that, where an initial transaction is announced or leaked, there will be insufficient publicly available information about the transaction in the market. This will often lead to the suspension of listing in the context of an initial transaction. We refer to this as the 'rebuttable presumption of suspension'. In this case the sponsor must contact us as early as possible to discuss whether a suspension is appropriate (before announcing an initial transaction which has been agreed or is in contemplation) or to request a suspension (where details of the initial transaction have leaked) (UKLR 13.4.4R).

A shell company that has completed an initial transaction will generally no longer meet the definition of shell company and as a result will not be eligible for listing in the equity shares (shell companies) category.

We will therefore generally seek to cancel the listing of a shell company's equity shares and, where relevant, the shell company's other listed securities when it completes an initial transaction (UKLR 13.4.26G) and accordingly a sponsor must contact us on behalf of the shell company as early as possible (before an initial transaction which has been agreed or is in contemplation is announced; or where details of the initial transaction have leaked) to discuss whether a cancellation of the issuer's listing is appropriate on completion of the initial transaction (UKLR13.4.24 R)

We discuss these points further below.

Suspending listing

We may suspend, with effect from such time as we may determine, the listing of any securities if the smooth operation of the market is, or may be, temporarily jeopardised or it is necessary to protect investors (UKLR 21.1.1R(1)).

Rebuttable presumption of suspension

The UK Listing Rules create a rebuttable presumption that a shell company will be suspended upon announcement or leak of an initial transaction as there will generally be insufficient publicly available information in the market.

Early engagement on initial transaction

UKLR 13.4.6G highlights that, in the case of an initial transaction by a shell company, we will often consider that a suspension will be appropriate, unless we are satisfied that:

- i. there is sufficient publicly available information about the proposed transaction, or
- ii. where the issuer falls within UKLR 13.1.2 R(2)R, it has sufficient measures in place to protect investors and so that the smooth operation of the market is not temporarily jeopardised

This is subject to no other situations occurring at the same time where we would usually suspend pursuant to UKLR 21.1.1R.

Although UKLR 21.1.2G(4) refers only to a 'proposed transaction', we would consider this to refer to situations where information has been announced or leaked in relation to transactions under contemplation, as well as those where the terms have been agreed.

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

Early engagement with us is particularly important in circumstances where the issuer intends to pursue the transaction or has reached a stage where the transaction can be described as being in contemplation (UKLR 13.4.5G). A decision to suspend can have a significant market impact and so early engagement, preferably before the point where an initial transaction can be considered in contemplation, is essential.

Timing of the announcement

UKLR 13.4.5.G sets out examples of when we will generally consider a potential initial transaction sufficiently advanced to trigger suspension in the event that details of the transaction leak may be appropriate. However, we know that at times the situation may not be as clear cut

as set out in these examples. There may be situations where there has been a purely speculative leak and a potential suspension would be inappropriate.

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

Timing of suspension

When an initial transaction is announced or has leaked, we may suspend listing if we believe, having considered the information in the market on the target at the time, that the smooth operation of the market is or may be temporarily jeopardised or it is necessary to protect investors. We will follow this approach in the case of an initial transaction by shell companies because our experience is that share prices in these types of issuers can experience a lot of volatility and price spikes around the time of a proposed transaction. An exception will be where a shell company confirms that it meets certain conditions and makes certain disclosures such that we are satisfied that the shell company has sufficient measures in place to protect investors and so that the smooth operation of the market is not temporarily jeopardised (UKLR 13.4.17G).

Restoration

Where discussions between parties terminate and/or the initial transaction falls away, we will generally seek to restore the listing. Given that the grounds for the suspension no longer exist, the shell company should contact us as soon as possible to apply for restoration under UKLR 21.4.3G.

Subsequently, should the shell company wish to pursue another initial transaction, it should once again consider the guidelines on suspension

of listing set out within this Technical Note and contact us as soon as possible.

Cancellation and re-admission

As noted above, UKLR 13.4.26G makes it clear that we will generally seek to cancel the listing of a company's equity shares when it completes an initial transaction. UK-regulated markets follow suit and will cancel the admission to trading. So, if the issuer wants to remain listed and admitted to trading, it will need to apply to us to be re-admitted to listing as well as making appropriate arrangements with the operator of the relevant market about its readmission to trading.

The application for re-admission to a regulated market is most likely to trigger the requirement for the issuer to publish a further prospectus. We may suspend listing pending publication of that prospectus if we believe, having considered the information in the market on the initial transaction at the time and considered whether UKLR 13.4.17G have been complied with, that the smooth operation of the market is or may be temporarily jeopardised or it is necessary to protect investors.

The shell company may apply for its enlarged share capital to be listed under a suitable category (for example the equity shares (commercial companies category) other than the equity shares (shell companies) category, assuming that it can meet the applicable eligibility requirements for that category. We will assess eligibility in the usual way.