



The UK Opens the Door to SPACs

March 4, 2021

On November 3 2020 Baker Botts [highlighted](#) the main key differences in the treatment of SPACs (Special Purpose Acquisition Companies) under London's "Listing Rules" and under the US listing regime. The marked trend we had seen in 2020 (248 US SPAC listings; 4 UK SPAC listings) has continued in 2021 - whilst around 180 SPACs have launched in the US in 2021 to date, there have been none on the London Stock Exchange. In addition to this trans-Atlantic competition, London's status as the preeminent capital market in the European geography is being challenged by Amsterdam, including with respect to SPAC listings.

To recap, a SPAC is a newly formed cash shell company that raises its cash from investors based on a stated specific, or generic, acquisition strategy and the reputation of its founders or sponsors and is listed pending that acquisition, upon completion of which it "de-SPACs". The benefits of a SPAC structure include that the process for listing a SPAC and then "reversing" a target operating business into it is speedier and less-restrictive than taking the target itself through the IPO process.

On 3 March 2021 Lord Jonathan Hill published his report following the review of the UK's listing regime. His wide-ranging recommendations to increase the attractiveness of London as a market include a focus on many of the relative disadvantages of the London market as regards SPACs in the US markets that were highlighted in our previous thought leadership.

In the report Lord Hill stated its aim:

"was not about opening up a gap between us and other global centres by proposing radical new departures to try to seize a competitive advantage. It is about closing a gap which has opened up"

Set out below is a comparison of the key differences between the current London regime as it would apply to a UK-main market listed SPAC today and under the proposed changes recommended in the report:

Current position in London (in the US)

- No shareholder approval required for acquisition by SPAC (No formal requirement in the US, but with it being typical for a US SPAC to do so)

Report recommendations (our comments)

- A shareholder vote on the acquisition (This would bring the UK regime into line with that in the US)

- Any rights of redemption commonly waived (Ability of shareholders in a US SPAC to redeem their shares in the SPAC - with or without their warrants - if they disagree with the acquisition)
- Shareholder redemption rights over initial investment prior to completion of the acquisition (This would also bring the UK regime into line with that in the US)
- The de-SPAC will be a "reverse takeover". The presumption is that there will be insufficient public information on the target, following the announcement of the acquisition, so trading in the SPAC's shares should be suspended. The result being that a shareholder who disagrees with the proposed acquisition will be locked in and unable to sell its shares. (In the US a shareholder may sell its shares - with or without its warrants - ahead of the acquisition)
- Remove the presumption that a SPAC's shares should be suspended on announcement of the acquisition, with new guidance on the information which SPACs must disclose to the market upon the announcement of the acquisition (This would increase the likelihood of a shareholder being permitted to trade shares immediately after the acquisition's announcement)
- For a "premium" listing, three years of backward-looking information, required but limited forward-looking information permitted and with the same level of director and issuer liability for both (In the US the restrictions on forward-looking information are less onerous for a SPAC listing than for a "conventional" IPO)
- Facilitate the provision of forward-looking information by amending the liability regime for issuers (including SPACs) and their directors for forward-looking information (Whilst not without risk, this would seem appropriate given the high growth-nature of many SPAC targets)

The report's recommendations in relation to UK SPACs will now be subject to a consultation led by the UK's Financial Conduct Authority (FCA) on the required changes to the UK's Listing Rules. Against the background of the UK Government's stated intention for London to remain one of the leading financial centres in the World, we can anticipate any changes to be implemented quickly and, in the FCA's response to the report today, it stated its intention to make the relevant rule changes by late 2021.

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