

HKEx Feedback to Queries from CHFT Advisory and Appraisal Limited

CHFT believes that the HKEx SPAC consultation paper shows that HKEx maintains a prudent approach to the SPAC listing regime, reflecting a paternalistic approach to investors. It is clear from the terms of the SPAC's investor limitations, minimum fundraising requirements, and succession company eligibility requirements that HKEx is committed to building a sound risk framework to minimise the potential investment risks of SPACs, but will also be less flexible overall than other jurisdictions.

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 (see paragraph 149 of the Consultation Paper)? Please give reasons for your views.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

Question 4 If your answer to Question 3 is “Yes”, would either Option 1 (as set out in paragraph 170 of the Consultation Paper) 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 Consultation Paper? Please give reasons for your views. Please provide further technical details if you suggest a different option.

We believe that Option 1 can better reduce the risk of extreme volatility in SPAC warrants. As pre-trade quotes and order records are not publicly available, it is difficult for the market to have a clear understanding of the actual price of SPAC warrants, which makes it difficult to generate extreme emotions such as panic, which is conducive to market stability. Although the market adjustment mechanism under Option 2 can also serve to protect the integrity of the market, the price of SPAC warrants is open and transparent, and investors are more likely to be emotionally volatile in the face of price movements, making it difficult for a short-term adjustment mechanism to truly maintain market stability.

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.

CHFT Response:

➤ Agree.

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.

CHFT Response:

➤ Agree.

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.

CHFT Response:

➤ Agree.

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.

CHFT Response:

➤ Agree.

Question 9 Do you agree that the shareholder distribution proposals set out in paragraphs 181 and 182 of the Consultation Paper 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 Exchange should use to help ensure an open and liquid market in SPAC securities? Please give reasons for your views.

CHFT Response:

➤ Agree.

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 Consultation Paper regarding public interest, transferability (save for transferability between Professional Investors) and allocation to the public? Please give reasons for your views.

CHFT Response:

➤ Agree.

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.

CHFT Response:

➤ Agree.

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.

CHFT Response:

➤ Agree.

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 Consultation Paper? Please give reasons for your views.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

Question 16 Do you agree that the Exchange 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.

CHFT Response:

- Agree.

Question 17 Do you agree that the Exchange should publish guidance setting out the information that a SPAC should provide to the Exchange 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 Consultation Paper, 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.

CHFT Response:

- Agree.

Question 18 Do you agree that the Exchange, 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 Consultation Paper? Please give reasons for your views.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

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 Consultation Paper)? Please give reasons for your views.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

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 Exchange? Please give reasons for your views.

CHFT Response:

- Agree.

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 Consultation Paper? Please give reasons for your views.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

Question 29 Do you agree that the Exchange should apply its existing trading halt and suspension policy to SPACs (see paragraphs 249 to 251)? Please give reasons for your views.

CHFT Response:

- Agree.

Question 30 Do you agree that the Exchange should apply new listing requirements to a De-SPAC Transaction as set out in paragraphs 259 to 281 of the Consultation Paper? Please give reasons for your views.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

Question 33 Should the Exchange 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.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

Question 35 Do you agree that the Exchange 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.

CHFT Response:

- Agree.
 - SPAC's minimum funding size already ensures that it is able to source suitable quality bids. There is no need to bring in additional investment from PIPE investors if they are already well funded. In addition, PIPE valuations are difficult to justify for companies in certain sectors (particularly in the minerals, natural resources and real estate sectors, which require specialist valuation knowledge and skills).
 - For the identification of valuation reasonableness risks, the SGX specifically mandates independent third party valuations of target companies (particularly in relation to the minerals, natural resources and real estate sectors). If the target company is not one of these types of companies, an independent third party valuation may not be required if there is a PIPE investment.
 - We therefore recommend that HKEx's requirements for the appointment of independent valuers at the De-SPAC stage be aligned with those of the SGX requirements. As regards the requirements for appraisal firms, HKEx may issue appropriate guidelines taking into account the Hong Kong market's own characteristics, such as stipulating the qualifications of appraisal firms and appraisal report requirements.

Question 36 If your answer to Question 35 is "Yes", do you agree that the Exchange 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.

CHFT Response:

- N/A

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.

CHFT Response:

➤ N/A

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.

CHFT Response:

➤ N/A

Question 39 Do you prefer that the Exchange 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.

CHFT Response:

➤ Agree.

Question 40 If your answer to Question 39 is “Yes”, do you agree with the anti-dilution mechanisms proposed in paragraph 311 of the Consultation Paper? Please give reasons for your views and provide any suggestions for alternative dilution cap mechanisms that could be considered.

CHFT Response:

➤ Agree.

Question 41 If your answer to Question 39 is “Yes”, do you agree that the Exchange 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.

CHFT Response:

➤ Agree.

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.

CHFT Response:

- Agree.

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 Consultation Paper? Please give reasons for your views.

CHFT Response:

- Agree.

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 Consultation Paper? Please give reasons for your views.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

Question 46 Do you agree that the Exchange 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 Consultation Paper? Please give reasons for your views.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

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 Consultation Paper? Please give reasons for your views.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

Question 50 Do you agree with the proposed redemption procedure described in paragraphs 355 to 362 of the Consultation Paper? Please give reasons for your views.

CHFT Response:

- Agree.

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 Consultation Paper) included in a Listing Document produced for a De-SPAC Transaction? Please give reasons for your view.

CHFT Response:

- Agree.
 - This ensures that earnings forecasts have maximum reasonableness, providing investors with a more reasonable financial forecast and reducing the corresponding risk.
 - In addition, most of the current SPAC target companies are involved in industries such as internet, biomedical, technology and new energy. These industries are relatively new to most ordinary investors. Therefore, we recommend that an "industry analysis" section be included in the M&A documentation, which will provide information on the macroeconomic conditions, as well as the latest market conditions (e.g. market size, expected growth rate and market competition) of the industry so that investors can have a clearer picture of the target company's business prospects (opportunities and threats). This provides investors with a clearer understanding of the business prospects (opportunities and threats, etc.) of the target company and plays an important role in protecting the interests of investors, as well as supporting the projections in the forward-looking statements.
 - The industry analysis disclosed needs to ensure that the sources of information are reliable, that the data is presented in a reasonably fair manner and that it does not contain market information that is not relevant to the target company and that would distract investors from lengthy information. The information disclosed needs to be the most up-to-date market information and the statements about market weightings and rankings need to be fair and objective.

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.

CHFT Response:

- Agree.

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.

CHFT Response:

➤ Agree.

Question 54 Are the shareholder distribution proposals set out in paragraphs 380 and 382 of the Consultation Paper sufficient to ensure an open market in the securities of a Successor Company or are there other measures that the Exchange should use to help ensure an open market? Please give reasons for your views.

CHFT Response:

➤ Agree.

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.

CHFT Response:

➤ Agree.

Question 56 If your answer to Question 55 is "Yes", do you agree that: (a) the Exchange 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.

CHFT Response:

➤ Agree.

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.

CHFT Response:

➤ Agree.

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 Consultation Paper)? Please give reasons for your views.

CHFT Response:

- Agree.

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.

CHFT Response:

- Agree.

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 Consultation Paper? Please give reasons for your views.

CHFT Response:

- Agree.

Question 61 Do you agree that the Exchange 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.

CHFT Response:

- Agree.

Question 62 Do you agree that the Exchange 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 Consultation Paper)? Please give reasons for your views.

CHFT Response:

- Agree.

Question 63 Do you agree that a SPAC should be able to make a request to the Exchange 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 Consultation Paper)? Please give reasons for your views.

CHFT Response:

➤ Agree.

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 Consultation Paper); 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 Exchange 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.

CHFT Response:

➤ Agree.

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 Exchange should automatically cancel the listing of a SPAC upon completion of its liquidation? Please give reasons for your views.

CHFT Response:

➤ Agree.

Question 66 Do you agree that SPACs, due to their nature, should be exempt from the requirements set out in paragraph 437 of the Consultation Paper? Please give reasons for your views.

CHFT Response:

➤ Agree.

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.

CHFT Response:

- Agree.

Question 68 Should the Exchange 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.

CHFT Response:

- Agree.