



HKEX Consults on New Listing Regime for Specialist Technology Companies

The Hong Kong Stock Exchange (**HKEX**) has issued a consultation paper on a new listing regime for Specialist Technology Companies on the Main Board of the HKEX soliciting market feedback on its proposed amendments to the HKEX Listing Rules. The consultation period will end on 18 December 2022.

The [consultation paper](#) is available on the Hong Kong Exchange website.

New HKEX Listing Regime for Specialist Technology Companies

The HKEX's 2018 listing reforms have enabled it to successfully diversify the Hong Kong stock market into the Healthcare and Information Technology industries. The Information Technology industry, as of 31 December 2021, represented 30% of the total market capitalisation of the Hong Kong market, up from 15% before 2018, and the Healthcare sector now represents 7% of total market capitalisation compared to a negligible amount pre-2018.

Nonetheless, the HKEX notes that Hong Kong still lags behind the US and Mainland China markets in the number and market capitalisation of listed companies in five Specialist Technology Industries: next-generation information technology; advanced hardware; advanced materials; new energy and environmental protection; and new food and agriculture technologies. As at September 2022, Specialist Technology companies listed in the US and Mainland China had a market capitalisation of HK\$ 85.4 trillion and HK\$ 15.3 trillion, respectively, while the market capitalisation of Hong Kong-listed Specialist Technology companies was a meagre HK\$ 3 trillion.

Specialist Technology companies face difficulties in meeting the HKEX's financial eligibility tests for listing. While some have valuations significantly higher than the minimum market capitalisation threshold for listing, they are typically unable to meet the revenue or cash flow requirements. 42% of 507 Specialist Technology companies listed in the US and Mainland China analysed by the HKEX would not have met the Main Board's financial eligibility tests despite many of them having high growth potential. The HKEX identifies the main challenges for Specialist Technology companies as high R&D costs to bring products or services to commercialisation and business models requiring more time to acquire customers. The HKEX concludes from this that its financial eligibility tests are not appropriate for the listing of Specialist Technology companies.

HKEX's discussions with market participants indicated that Specialist Technology companies' high growth potential means that there is likely to be strong investor appetite for their listing in Hong Kong. The HKEX therefore proposes a new listing regime for Specialist Technology companies which, in addition to setting alternative eligibility criteria, will address the various risks associated particularly with Specialist Technology companies in the pre-commercial stage of development.

Defining Specialist Technology Companies

Given the difficulties of formulating an exhaustive definition of “Specialist Technology” that will remain up-to-date and identify companies with strong growth potential, the HKEX proposes to adopt a broad definition in the HKEX Listing Rules and issue a guidance letter on the industries and sectors falling within the definition.

To be eligible for listing under the proposed regime, a listing applicant must be a Specialist Technology Company which will be defined as “a company primarily engaged (whether directly or through its subsidiaries) in the research and development of, and the commercialisation and/or sales of, Specialist Technology Products within an acceptable sector of a Specialist Technology Industry”.

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Specialist Technology Products

Specialist Technology Products will be defined as “a product and/or service (alone or together with other products or services) that applies specialist technology”.

Specialist Technology Industries and Sectors

The Specialist Technology Industries and acceptable sectors are listed in the draft guidance letter (see Appendix V to the consultation paper) and include (among others):

- Next-generation information technology – (e.g. cloud-based services and AI);
- Advanced hardware – (e.g. robotics and automation, semiconductors, advanced communication and transportation technology, aerospace technology, advanced manufacturing, electric and autonomous vehicles, quantum computing and metaverse technology);
- Advanced materials – (e.g. synthetic biological materials, smart glass and nanomaterials);
- New energy and environmental protection – (e.g. new energy generation, storage and transmission technology and new green technology); and
- New food and agriculture technologies – (e.g. synthetic biology in food technology, agricultural biotechnology and crop efficiency technology, and farming technology).

These industries and sectors are non-exhaustive and the scope may be updated by the HKEX when deemed necessary with the approval of the Securities and Future Commission. In updating the list of Specialist Technology Industries and acceptable sectors, the HKEX must have regard to the following principles:

- Participants in the relevant sector must have high growth potential;
 - The success of participants in the sector can be demonstrated to be attributable to the application, to their core business, of new technologies and/or the application of the relevant science and/or technology within that sector to a new business model, which also serves to differentiate them from traditional market participants serving similar consumers or end users; and
 - Research and development significantly contributes to the expected value and constitutes a major activity and expense of sector participants (Principles for Listing Specialist Technology Companies).
- HKEX’s Right to Reject a Listing Application

The HKEX will have the discretion to reject a listing application from an applicant within an acceptable sector which has features that are inconsistent with the Principles for Listing Specialist Technology Companies.

Companies with Multiple Business Segments

In considering whether a company with multiple business segments is primarily engaged in the relevant Specialist Technology business, the HKEX will look at whether:

- a) a substantial portion of the total operating expenditure of the company and senior management resources (including their time and number of directors and senior management personnel with relevant experience and expertise) was dedicated to the research and development, and commercialisation and/or sales, of Specialist Technology Product(s) in its Specialist Technology business segment(s) for at least three financial years prior to listing;
- b) the basis for investors' valuation and its expected market capitalisation is based primarily on its Specialist Technology business segment(s); and
- c) the proposed use of proceeds for listing would primarily be applied to its Specialist Technology business segment(s).

Commercial and Pre-Commercial Specialist Technology Companies

Specialist Technology Companies will be divided into two categories:

- Commercial Companies - companies that have commercialised their Specialist Technology Products and have generated meaningful revenue; and
- Pre-Commercial Companies - companies that are primarily engaged in R&D and are raising funds to further their R&D to commercialise their Specialist Technology Products, and/or have not yet generated meaningful revenue.

Given the higher risks associated with Pre-Commercial Companies (including inability to commercialise their Specialist Technology Products, corporate failure due to insufficient funding for operations, and share price volatility and trading illiquidity), the proposed requirements for Pre-Commercial Companies are more stringent than for Commercial Companies.

Qualifications for Listing on HKEX

Minimum Expected Market Capitalisation

The expected market capitalisation for Commercial Companies will be at least HK\$ 8 billion at the time of listing. This is the valuation generally associated with 'unicorn' companies. Pre-Commercial Companies will be required to have a market capitalisation of at least HK\$ 15 billion at the time of listing.

Revenue Requirements

Minimum revenue threshold: Commercial Companies will be required to have revenue of at least HK\$ 250 million for the most recent audited financial year. There will be no revenue requirement for Pre-Commercial Companies.

Source of revenue: In determining whether a company meets the minimum revenue threshold, only revenue arising from the company's Specialist Technology business segment(s) (and not any inter-segmental revenue from its other business segments) will be recognised. Revenue arising from "book" transactions, such as banner barter transactions, the writing back of accounting provisions and other similar activities resulting from mere book entries, must also be disregarded.

Revenue growth: Commercial companies will be required to demonstrate year-on-year growth of revenue derived from the sales of Specialist Technology Product(s) throughout the track record period, although allowance will be made for temporary declines in revenue due to economic, market or industry-wide conditions. Commercial company applicants will be required to explain to the HKEX's satisfaction, and disclose in their listing documents, the reasons for, and the remedial steps taken (or to be taken) to address, a downward trend in their annual revenue

R&D Investment

All Specialist Technology Companies will be required to have been engaged in R&D to develop their Specialist Technology Product(s) for at least three financial years prior to listing.

In addition, R&D investment must constitute at least 15% (for Commercial Companies) or 50% (for Pre-Commercial Companies) of total operating expenditure for each of the three financial years prior to listing.

The amount of R&D investment will include costs that are directly attributable to the Specialist Technology Companies' R&D activities including development costs that have been capitalised as intangible assets for accounting purposes, but excluding administrative and general costs not clearly related to R&D. The HKEX expects the amount of R&D investment to consist primarily of the following costs: (i) the costs of personnel engaged

in R&D activities; (ii) the costs of R&D conducted by others on the company's behalf; (iii) depreciation, service fees or other costs directly attributable to the equipment or facilities used in R&D activities; (iv) amortisation of intangibles used in R&D activities; and (v) the costs of materials consumed in R&D activities.

Track Record, Management and Ownership Continuity

Consistent with the requirements for other Main Board listing applicants, Specialist Technology Companies will need to have been in operation in their current line of business for at least three financial years prior to listing under substantially the same management. As with other issuers, the HKEX may accept a shorter trading period of at least two financial years in exceptional circumstances. Specialist Technology Companies will also require ownership continuity and control for at least the 12 months before listing.

Requirement for Third Party Investment

In terms of third party investment, the general requirement is that a Specialist Technology Company must have received meaningful investment from at least two Sophisticated Independent Investors (**Pathfinder SII**s) at least 12 months prior to the date of the listing application.

Each Pathfinder SII must hold shares or securities convertible into shares equivalent to 5% or more of the issued share capital of the listing applicant as at the date of listing application, and continue to hold such shares or securities throughout the pre-application 12 month period.

The Specialist Technology Company must also have an aggregate investment from all Sophisticated Independent Investors meeting a prescribed minimum percentage of the applicant's issued share capital at the time of listing. Depending on the Specialist Technology Company's expected market capitalisation at listing, the minimum percentage ranges from 10% to 20% for Commercial Companies and 15% to 25% for Pre-Commercial Companies.

Sophisticated Independent Investors

A core connected person of the listing applicant cannot be a Sophisticated Independent Investor. A substantial shareholder may qualify as a Sophisticated Independent Investor if it is a core connected person only by virtue of the size of its shareholding in the Specialist Technology Company, but a controlling shareholder of the listing applicant cannot be a Sophisticated Independent Investor. The HKEX will consider whether an investor qualifies as a Sophisticated Independent Investor on a case-by-case basis by reference to its relevant investment experience, knowledge and expertise in the relevant field which could be demonstrated by its net assets, assets under management (**AUM**), size of its investment portfolio or track record of investments.

The draft guidance letter gives the following illustrative examples of those it would generally consider to be "sophisticated investors":

- a) an asset management firm with AUM of, or a fund with a fund size of, at least HK\$ 15 billion;
- b) a company with a diverse investment portfolio¹ of at least HK\$ 15 billion;
- c) an investor within a) or b) with an AUM, fund size or investment portfolio size of at least HK\$ 5 billion derived primarily from Specialist Technology investments; and
- d) a key participant in the relevant upstream or downstream industry with substantial market share and size, as supported by appropriate independent market or operational data.

The aim of the requirement for minimum investment from Pathfinder SII is to ensure the Specialist Technology Company has been subjected to extensive due diligence checks before listing by investors who have taken significant investment risks. The third party investment requirement is also intended to help provide independent third-party validation in the absence of a Competent Authority.

Additional Qualification Requirements for Pre-Commercial Companies

Path to Achieving the Commercialisation Revenue Threshold

Pre-Commercial Companies will be required to demonstrate to the HKEX, and disclose in their listing documents, a credible path to achieving the Commercialisation Revenue Threshold which means a credible path to achieving the commercialisation of their Specialist Technology Product(s) such that they achieve revenue of at least HK\$ 250 million from their Specialist Technology business segment for the relevant audited financial year.

They will also be required to have available working capital (inclusive of expected IPO proceeds) to cover at least 125% of their group costs (which should substantially consist of general, administrative and operating costs, and R&D costs) for at least the next 12 months to mitigate the risk of insufficient funding for operations.

A credible path to achieving the Commercialisation Revenue Threshold may be demonstrated, for example, by binding contracts or non-binding framework agreements, and details of the timeframe and milestones for

commercialisation of the applicant's Specialist Technology Product(s). These binding contracts or non-binding framework agreements should have as counterparties a reasonable number of independent customers and should relate to the development, testing or sales of the applicant's Specialist Technology Product(s), with a substantial potential aggregate contract value realisable within 24 months from the date of listing. A binding contract or non-binding framework agreement with an expected timeframe of more than 24 months may be accepted by the HKEX in exceptional circumstances where the counterparty is an independent, highly reputable customer. The independence of a customer will be assessed in the same way as for Sophisticated Independent Investors. A "highly reputable customer" means: (i) a key market participant in the relevant upstream or downstream industry with substantial market share, as supported by appropriate independent market or operational data; or (ii) a State or State corporation as defined in the HKEX Listing Rules.

Specialist Technology Companies with a WVR Structure

The HKEX sees no new or exceptional circumstances arising from the Specialist Technology Company regime that would require any changes to the existing WVR Listing Rule requirements. This means a Specialist Technology Company listing with a WVR structure will have to meet the HK\$ 40 billion or HK\$10 billion (if it has revenue of at least HK\$ 1 billion in its most recent audited financial year) market capitalisation requirement. Since applicants will be either Pre-Commercial Companies with less than HK\$ 250 million in annual revenue or Commercial Companies that are unable to meet the HK\$ 500 million annual revenue requirement of the Market Capitalisation/Revenue and Market Capitalisation/Revenue/Cash Flow Tests, it is likely they will need to meet the HK\$ 40 billion market capitalisation threshold to list with WVR.

The existing WVR Listing Rule requirements for each WVR beneficiary to have been materially responsible for the growth of the business of a company listing with a WVR structure, and for the company to demonstrate a track record of high business growth which is expected to continue, will also apply to Specialist Technology Companies listing with a WVR structure.

IPO Requirements

Specialist Technology Companies will be required to:

- allocate at least 50% of the total number of shares offered in the IPO (excluding shares to be issued on the exercise of any over-allotment option) to Independent Institutional Investors, that is Institutional Professional Investors² that participate in the placing tranche of an IPO (whether as cornerstone investors or otherwise) excluding existing shareholders and their close associates, and core connected persons of the Specialist Technology Company. This requirement will also apply to a Specialist Technology Company listing by way of a De-SPAC Transaction.
- have a free float (i.e. shares not subject to any restrictions on disposal) of at least HK\$ 600 million upon listing;
- make an offer (including the placing tranche and the public subscription tranche) of a meaningful size, with the HKEX reserving the right to withhold approval of the listing if the offer size is not significant enough to facilitate post-listing liquidity, or otherwise gives rise to orderly market concerns; and
- to include additional disclosures in their listing documents on pre-IPO investments and cash flows (including burn rates and cash operating costs), products and commercialisation status and prospects, R&D, industry specific information and intellectual property, as well as a specified warning statement.

A modified initial allocation and clawback mechanism will apply to Specialist Technology Companies as summarised in the table below:

	Initial	No. of times (x) of over-subscription in the public placing tranche	
		≥ 10x to < 50x	≥ 50x
Minimum allocation to retail investors as % of total shares offered in IPO	5%	10%	20%

Additional Disclosure Requirements for Pre-Commercial Companies

Pre-Commercial Companies will be required to make the following additional disclosures in their listing documents:

- the stage of research and development for each Specialist Technology Product;
- development details by key stages and milestones for their Specialist Technology Product(s) to achieve the Commercialisation Revenue Threshold;
- all relevant risks associated with the commercialisation of each Specialist Technology Product; and

- an additional warning statement must draw investors' attention to the risk that the company may not generate sufficient revenue to sustain its operations after listing and that it may fail due to a lack of available funds.

Subscription of IPO Shares by Existing Shareholders

The HKEX proposes to allow existing shareholders of Specialist Technology Companies to subscribe for their IPO shares provided that the company meets the public float requirement, the requirement for a minimum allocation to Independent Institutional Investors and the minimum free float requirement. The "Existing Shareholder Conditions" set out at paragraph 4.20 of [HKEX Guidance Letter HKEX-GL85-16](#) will not apply to Specialist Technology Companies. Accordingly, it is proposed that:

- an existing shareholder holding less than 10% of the applicant's shares before listing will be permitted to participate in its IPO as either a cornerstone investor or as a placee.

Where an existing shareholder subscribes as a placee, the applicant and its sponsor must confirm that no allocation preference was made. Where an existing shareholder subscribes as a cornerstone investor, confirmation must be given by the applicant and its sponsor that no preference was given to the existing shareholder other than an ensured entitlement at the IPO price and the terms of subscription must be substantially the same as those of any other cornerstone investors;

- an existing shareholder holding 10% or more of the shares in a Specialist Technology Company will be able to participate in the IPO as a cornerstone investor.

If shares will be allocated to core connected persons, the Specialist Technology Company will need to apply for, and the HKEX will typically grant, a waiver from Main Board Listing Rule 9.09. Existing shareholders with contractual anti-dilution rights will also be allowed to subscribe for IPO shares in accordance with paragraph 3.10 of [Guidance Letter HKEX-GL43-12](#).

Specialist Technology Company shares subscribed by existing shareholders will not count towards the required allocation of 50% of IPO shares to Independent Institutional Investors.

Post-IPO Lock-ups

The proposed listing regime will impose post-IPO lock-ups on:

- a) controlling shareholders;
- b) key persons (including the founders, the beneficiaries of weighted voting rights, executive directors and senior management, and key personnel responsible for the technical operations and/or R&D of the Specialist Technology Company) (Key Persons); and
- c) the Pathfinder SII.

It is proposed that:

- Controlling shareholders of a Commercial Company will be subject to a 12-month lock-up period, while the controlling shareholders of a Pre-Commercial Company will be subject to a 24-month lock-up period;
- Key Persons of a Commercial Company and their associates will be subject to a 12-month lock-up period, while Key Persons of a Pre-Commercial Company will be subject to a 24-month lock-up period. The HKEX will reserve the right to deem any person to be a Key Person depending on the facts and circumstances. As an anti-avoidance provision, the lock-up on shares held by Key Persons will continue despite the person changing their position at the company or resigning from the company;
- Pathfinder SII will be subject to a 6-month lock-up period (for a Commercial Company) or a 12-month lock-up period (for a Pre-Commercial Company).

Securities Subject to Lock-ups

Shareholders subject to lock-up requirements will only need to comply with the restrictions on disposal in relation to the securities which the listing document shows to be beneficially owned by them. They will not be prevented from disposing of their shares before listing or from offering them for sale as part of the IPO. Only the securities held by relevant shareholders after listing will be subject to the lock-up requirements.

Shareholders subject to lock-up requirements will also be allowed to purchase additional shares in the IPO and to dispose of them during the lock-up period, provided that the company will continue to comply with the requirements of HKEX Listing Rule 8.08 to maintain an open market in the shares and a sufficient public float.

An existing shareholder holding 10% or more of the shares of a Specialist Technology Company (before the listing) should subscribe as a cornerstone investor if they wish to acquire shares in the IPO. The existing shareholder will

then be subject to the usual 6-month lock-up period applicable to cornerstone investors under paragraph 2.2(b) of [Guidance Letter HKEx-GL51-13](#).

Deemed Disposals of Securities

The HKEX is proposing that a deemed disposal of securities by a person subject to the lock-up restrictions which results from the allotment, grant or issue of new securities by a Specialist Technology Company during a lock-up period, will not be regarded as a breach of the lock-up restrictions. The proposal recognises that Specialist Technology Companies have significant funding needs and that they may want to raise funds through the issue of new securities once the Listing Rule prohibition on doing so expires six months after listing.³

Lock-ups to Continue upon Removal of Designation as a Pre-Commercial Company

Any lock-up period that is still in force at the time the Pre-Commercial Company designation is removed, will continue to apply unchanged.

Disclosure of Persons Subject to Lock-ups

Specialist Technology Companies will be required to disclose in their listing documents, and interim and annual reports, the total number of securities held by persons subject to the Listing Rules' lock-up requirements. The obligation will continue for as long as the relevant persons are shareholders, irrespective of whether the person has ceased to hold the relevant position (i.e. as a Key Person).

Additional Continuing Obligations for Pre-Commercial Companies

Pre-Commercial Companies will have the following additional continuing obligations until they reach the Commercialisation Revenue Threshold:

- Additional disclosure in their interim and annual reports on the timeframe for, and progress made towards, reaching the Commercialisation Revenue Threshold;
- A 12-month (rather than the typical 18-month) remedial period for re-compliance with the sufficiency of operations requirement before delisting;
- A restriction on effecting any transaction that would constitute a material change of business without the HKEX's prior consent; and
- Identification through a "PC" stock marker at the end of their stock names.

Removal of Pre-Commercial Company Designation

The additional continuing obligations for Pre-Commercial Companies will cease to apply once a Pre-Commercial Company is able to demonstrate to the HKEX that it meets the Commercialisation Revenue Threshold or at least one of the Main Board's financial eligibility tests. The Pre-Commercial Company will need to apply to the HKEX for the removal of its designation as a Pre-Commercial Company and must submit its published audited financial statements in support of the application. It must publish an announcement when it receives confirmation from the HKEX that it will no longer be regarded as a Pre-Commercial Company. The HKEX will remove the "PC" stock marker at the same time.

Responding to the Consultation

Interested parties can respond to the consultation by completing and submitting the questionnaire available on the HKEX website at: https://surveys.hkex.com.hk/jfe/form/SV_41SjbQrjgDz54qO.

[1] "investment portfolio" will be defined as "the aggregate value of investments in investee companies as determined under the prevailing accounting standards".

[2] Institutional professional investors are those within paragraphs (a) to (i) of the definition of "professional investor" in section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance

[3] Main Board Listing Rule 10.08

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CHARLTONS
易周律師行

Hong Kong Office

Dominion Centre 12th Floor
43-59 Queen's Road East Hong Kong

enquiries@charltonslaw.com

www.charltonslaw.com
Tel: + (852) 2905 7888
Fax: + (852) 2854 9596