



Aquila Acquisition
Corporation 在 **新特殊目的
收購公司** 機制下於
香港交易所 上市

In September 2021, Hong Kong Stock Exchange (HKEX) issued the consultation paper to consult the market on the proposal to introduce the new regime for the listing and trading of Special Purpose Acquisition Companies (SPACs) (SPAC regime) on HKEX. The proposal was favourably received by the market. The consultation conclusions were issued by HKEX and the Listing Rules (LR) were amended to introduce the new SPAC regime. Aquila Acquisition Corporation (Aquila), a company incorporated in the Cayman Islands, is the first SPAC that is listed on HKEX under the new SPAC regime. This article will review the initial public offering (IPO) of Aquila based on the prospectus (Prospectus) dated 14 March 2022 issued by Aquila and the documents that are on display. Terms or expressions defined or used in the Prospectus and the LR will have the same meaning when used in this article unless the context otherwise requires or permits.

Restrictions as regards Offering and Trading

Under LR18B.03, the marketing to and trading by the public under the new SPAC regime are restricted and the following restrictions under Aquila IPO are implemented:

- (a) the offering is conducted by way of placing to professional investors only and does not involve any offering to the public who are not professional investors; professional investors are defined under the Securities and Futures Ordinance (SFO);
- (b) trading after IPO is limited to professional investors only; and
- (c) the lot size of shares must have a value at least HK\$1 million. Accordingly, the lot size is 105,000 shares with a value of HK\$1,050,000 based on the issue price of HK\$10 per share (LR18B.07); if the trading value of a board lot is less than HK\$1 million after IPO, Aquila will immediately take appropriate steps to restore the minimum value of each board lot by increasing the lot size.

Shares and Warrants

Under the IPO, Aquila will issue (a) 125,081,250 ordinary shares, comprising 100,065,000 Class A Shares and 25,016,250 Class B Shares and (b) 89,032,500 warrants, comprising 50,032,500 Listed Warrants and 39,000,000 Promoter Warrants. Class A Shares and Listed Warrants will be offered as Offer Securities for subscription by the professional investors under the IPO raising HK\$1,000,650,000 before expense (LR18B.08). Class A Shares and Listed Warrants will be traded separately on HKEX after listing under stock code nos. 7836 and 4836 respectively (LR18B.06). Class B Shares and Promoter Warrants will be issued to the Promoters and will not be listed at any time (LR18B.25). At the time of writing, Class A Shares were traded at HK\$9.6 per share and Listed Warrants were traded at HK\$0.011 per warrant representing a discount to the IPO price.

Promoters

The Promoters are (a) CMB International Asset Management Limited (CMBI AM) as corporate Promoter and (b) four individuals who are associated with CMBI AM as individual Promoters. CMBI AM is an asset management company and a subsidiary of China Merchants Bank and is licensed by the Securities and Futures Commission (SFC) to conduct type 1 (dealing in securities), type 4 (advising on securities) and type 9 (asset management) regulated activities under the SFO (LR18B.10). All four individual Promoters are licensed by

2021年9月，香港交易所（港交所）刊發諮詢文件，就在港交所引入特殊目的收購公司上市交易新機制（特殊目的收購公司機制）的建議，諮詢市場意見。建議得到市場的積極響應。港交所刊發諮詢總結，《上市規則》獲修訂以引入新特殊目的收購公司機制。Aquila Acquisition Corporation (Aquila) 是一家在開曼群島註冊成立的公司，是在新特殊目的收購公司機制下，首家於港交所上市的特殊目的收購公司。本文將根據 Aquila 於 2022 年 3 月 14 日刊發的招股章程及可供查閱的文件，檢討 Aquila 的首次公開發售（IPO）。除非文意另有要求或許可，招股章程及《上市規則》所界定或使用的詞語或表達，於本文使用時將具有相同的涵義。

關於發售及交易的限制

根據《上市規則》第18B.03條，在新特殊目的收購公司機制下，向公眾進行營銷或買賣受到了限制，而 Aquila IPO 實施了以下限制：

- (a) 發售僅以配售方式向專業投資者進行，不涉及向不屬於專業投資者的公眾作出任何發售；專業投資者的定義見《證券及期貨條例》；
- (b) IPO後僅限由專業投資者進行買賣；及
- (c) 股份的交易單位金額至少為100萬港元。因此，按發行價每股10港元計算，交易單位為105,000股，金額為1,050,000港元（《上市規則》第18B.07條）；若IPO後的一手交易額低於100萬港元，Aquila將立即採取適當措施，透過增加交易單位恢復每手的最低金額。

股份及權證

根據 IPO，Aquila 將發行 (a) 125,081,250 股普通股，包括 100,065,000 股 A 類股份及 25,016,250 股 B 類股份；及 (b) 89,032,500 股權證，包括 50,032,500 股上市權證及 39,000,000 股發行人權證。A 類股份及上市權證根據 IPO 將作為發售證券發售，以供專業投資者認購，籌集的資金為 1,000,650,000 港元（扣除開支前）（《上市規則》第 18B.08 條）。A 類股份及上市權證將於上市後在港交所分開買賣，股份代號分別為 7836 及 4836（《上市規則》第 18B.06 條）。B 類股份及發行人權證將向發行人發行，並在任何時候均不會上市（《上市規則》第 18B.25 條）。在撰寫本文之時，A 類股份的交易價格為每股 9.6 港元，上市權證的交易價格為每份權證 0.011 港元，較 IPO 價格有所折讓。

發起人

發起人是 (a) 作為企業發起人的招銀國際資產管理有限公司（招銀國際資產管理）；及 (b) 作為個人發起人與招銀國際資產管理有關聯的四名個人。招銀國際資產管理是一家資產管理公司，為招商銀行的附屬公司，獲證券及期貨事務監察委員會（證監會）發牌根據《證券及期貨條例》從事第 1 類（證券交易）、第 4 類（就證券提供意見）及第 9 類（提供資產管理）受規管活動（《上市規則》第 18B.10 條）。全部四名個人發起人均獲證監會發牌根據《證券及期貨條例》為招銀國際資產管理從事第 1 類、第 4 類及第 9 類受規管活動，並已



SFC to conduct types 1, 4 and 9 regulated activities under the SFO for CMBI AM and have been nominated to the board of directors of Aquila by CMBI AM (LR18B.12-14).

De-SPAC Target and De-SPAC Transaction

Under the LR, Aquila must announce a De-SPAC Transaction within 24 months after listing (LR18B.69) and must complete the same within 36 months after listing (LR18B.70). Subject to approval by shareholders and HKEX, the time limits may be extended up to six months (LR18B.71-72). At the time of IPO, no De-SPAC Target is identified and no De-SPAC Transaction is contemplated.

As regards De-SPAC Targets, Aquila intends to concentrate on technology-enabled companies in new economy sectors (such as green energy, life sciences and advanced technology and manufacturing) in Asia, with a focus on China although other sectors will also be considered. In evaluating prospective De-SPAC Targets, the following guidelines will be adopted, namely,

- (a) a leading position in a new economy sector;
- (b) favourable long-term growth prospects;
- (c) differentiated value proposition and technology barriers; and
- (d) traceable financial track record with an ethical, professional and responsible management holding strong environmental, social and governance values.

De-SPAC Transaction

The De-SPAC Target, the De-SPAC Transaction and the Successor Company (to be listed) must meet and satisfy all listing requirements under the LR (LR18B.36). Completion and consummation of the De-SPAC Transaction is subject to the listing of the Successor Company being approved by HKEX (LR18B.35). In addition, the De-SPAC Target must have a fair market value (to be determined by the board of directors of Aquila) equal to at least 80% of the funds raised under the IPO (LR18B.39).

The terms of the De-SPAC Transaction must include investment in the shares of the Successor Company by third party investors who (a) are

獲招銀國際資產管理提名為Aquila的董事會成員（《上市規則》第18B.12-14條）。

特殊目的收購公司併購目標及特殊目的收購公司併購交易

根據《上市規則》，Aquila 必須在上市後 24 個月內宣佈一項特殊目的收購公司併購交易（《上市規則》第 18B.69 條），且必須在上市後 36 個月內完成該併購交易（《上市規則》第 18B.70 條）。經股東及港交所批准，期限可延長最多六個月（《上市規則》第 18B.71-72 條）。在 IPO 時，並無確定特殊目的收購公司併購目標，亦無考慮進行特殊目的收購公司併購交易。

對於特殊目的收購公司併購目標，Aquila 計劃重點關注亞洲，特別是中國，有科技賦能的新經濟領域（例如綠色能源、生命科學及先進科技與製造）的公司，但亦會考慮其他行業。在評估潛在特殊目的收購公司併購目標時，以下指引將獲採納，即：

- (a) 在新經濟領域處於領先地位；
- (b) 理想的長期增長前景；
- (c) 差異化的價值主張及技術壁壘；及
- (d) 可追溯的財務往績記錄，以及堅守環境、社會及管治（ESG）價值觀的品行端正、專業及負責任的管理層。

特殊目的收購公司併購交易

特殊目的收購公司併購目標、特殊目的收購公司併購交易及繼承公司（待上市）必須符合及滿足《上市規則》下的所有上市規定（《上市規則》第 18B.36 條）。特殊目的收購公司併購交易須待港交所就繼承公司授予上市批准後方告完成（《上市規則》第 18B.35 條）。此外，特殊目的收購公司併購目標的公平市值（由 Aquila 董事會釐定）須達 IPO 所籌得資金的至少 80%（《上市規則》第 18B.39 條）。

特殊目的收購公司併購交易的條款須包括第三方投資者投資繼承公司的股份，而該等投資者（a）為專業投資

professional investors and (b) meet certain independence requirements as stipulated in the LR including significant investment from sophisticated investors (as defined by HKEX from time to time). The minimum independent third party investment must constitute at least 7.5% depending on the size and value of the De-SPAC Target (LR18B.40-43).

The De-SPAC Transaction must be approved by shareholders at the general meeting (LR18B.53). The Promoters and their close associates will abstain from voting (LR18B.54). If the De-SPAC Transaction constitutes a connected transaction under the LR, the applicable connected connection requirements under chapter 14A of the LR must be complied with (LR18B.56). If the De-SPAC Transaction will result in a change of control, an application may be made to the SFC for a waiver to make a mandatory general offer under the Takeovers Code.

Upon the completion of the De-SPAC Transaction and listing of the Successor Companies, listed securities of Aquila will be withdrawn and delisted.

Redemption Rights and Escrow Account

Prior to the general meeting to approve a De-SPAC Transaction or an extension of time, public shareholders are entitled to redeem all or part of their Class A Shares at a price not less than HK\$10 per share to be paid out of the monies held in the Escrow Account. The election period will start on the date of the notice of such general meeting and end on the date and time of commencement of that general meeting. The redemption and refund must be completed (a) for a De-SPAC Transaction within five business days following the completion of the De-SPAC Transaction or (b) for extension of time, within one month after the approval of the extension (LR18B.57-63).

If the De-SPAC Transaction is not completed within the deadlines (as extended), HKEX may suspend the trading of securities. Following such suspension, Aquila must, within one month, return the monies raised by the IPO and held in the Escrow Account on a pro rata basis to the public shareholders at an amount not less than HK\$10 per share. Upon return of such funds, the listing of the shares and warrants will be cancelled (LR18B.73-75).

Under LR18B.16-20, the proceeds of the IPO will be held in the Escrow Account on trust for the benefit of Aquila and the public shareholders. The Escrow Account will be operated by CCB (Asia)

者及 (b) 符合《上市規則》規定的若干獨立性規定，包括來自資深投資者（見港交所不時的定義）的重大投資。最低獨立第三方投資必須至少佔 7.5%，具體取決於特殊目的收購公司併購目標的規模及估值（《上市規則》第18B.40-43條）。

特殊目的收購公司併購交易必須在股東大會上獲得股東批准（《上市規則》第18B.53條）。發起人及其緊密聯繫人將放棄表決權（《上市規則》第18B.54條）。若特殊目的收購公司併購交易屬《上市規則》下的關連交易，則特殊目的收購公司須遵守《上市規則》第14A章有關關連交易的適用規定（《上市規則》第18B.56條）。若特殊目的收購公司併購交易將導致控制權變更，可向證監會申請豁免根據《收購守則》作出強制性全面收購要約。

在特殊目的收購公司併購交易完成及繼承公司上市後，Aquila的上市證券將被撤回及除牌。

贖回權及託管賬戶

在舉行股東大會以批准特殊目的收購公司併購交易或延長期限之前，公眾股東有權贖回其所有或部分 A 類股份（以不低於每股 10 港元的價格贖回，並由託管賬戶中的款項支付）。選擇期限將由該股東大會的通告日期開始，至該股東大會的舉行日期及時間結束。贖回及退回資金的程序須於以下期限內完成：(a) 特殊目的收購公司併購交易完成後的五個營業日內（適用於特殊目的收購公司併購交易）；或 (b) 延長期限獲批准起計一個月內（適用於延長期限）（《上市規則》第18B.57-63條）。

若特殊目的收購公司併購交易未在截止期限（經延期）內完成，港交所可能暫停證券交易。Aquila 必須在停牌後一個月內，以不低於每股10港元的金額，按比例



Trustee Company Limited (Trustee) as trustee subject to a trust deed entered into between Aquila and the Trustee. Under the trust deed, the funds under the Escrow Account will be ring-fenced and will only be released to:

- (a) meet the redemption by the public shareholders of their shares;
- (b) complete the De-SPAC Transaction;
- (c) refund to the public shareholders if no De-SPAC Transaction is completed within the deadlines (as extended); and
- (d) refund to the public shareholders upon the liquidation or winding up of Aquila.

Risks

There are many risks associated with investing in Aquila which are fully disclosed in the Prospectus as risk factors which constitute the longest part of disclosure in the Prospectus. The following risks are highlighted in this article, namely,

- (a) Aquila is a special purpose company newly incorporated to identify the De-SPAC Target and to consummate the De-SPAC Transaction and has no trading record;
- (b) Aquila is a shell company with no asset before the IPO and is a cash company after the IPO holding only the net proceeds of IPO (with no other assets or businesses);
- (c) all Class B Shares are issued to the Promoters at a net nominal price of HK\$6,000 in aggregate and rank pari passu with Class A Shares in all material respects;
- (d) Promoter Warrants are issued at a price of HK\$1 per Promoter Warrant to the Promoters amounting in aggregate to HK\$39,000,000 representing the total initial investment by the Promoters in Aquila;
- (e) the issue of Class B Shares and Promoter Warrants as aforesaid to the Promoters will have an immediate dilution effect on the public shareholders;
- (f) at the time of IPO, no De-SPAC Target is identified and no De-SPAC Transaction is contemplated;
- (g) the scope and guidelines for the selection of De-SPAC Target are broad and not specific and are subject to wide discretion by the Promoters;
- (h) the De-SPAC Target and the De-SPAC Transaction may be connected with the Promoters and their connected persons;
- (i) upon completion of the De-SPAC Transaction and upon exercise of the Promoter Warrants by the Promoters, the public shareholders will be further diluted (LR 18B.23); and
- (j) upon completion of the De-SPAC Transaction, the Promoters are entitled to additional Class A Shares by way of Earn-out Shares set out in the Promoter Agreement further diluting the public shareholders. **M**

— Vincent P C Kwan

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— Corinna HT Kwan

LLB, PCLL

向公眾股東退回在 IPO 中籌集並存放於託管賬戶中的資金。退回資金後，股份及權證的上市將被取消（《上市規則》第18B.73-75條）。

根據《上市規則》第18B.16-20條，IPO 所得款項將以惠及 Aquila 及公眾股東的信託形式存入託管賬戶。託管賬戶將由建行亞洲信託有限公司（受託人）作為受託人，並根據 Aquila 與受託人訂立的信託契據的規限運作。根據信託契據，託管賬戶下的資金將被分隔，不得發放給任何人士，除非是為了：

- (a) 滿足公眾股東的股份贖回要求；
- (b) 完成特殊目的收購公司併購交易；
- (c) 若特殊目的收購公司併購交易未在截止期限（經延期）內完成，將資金退回公眾股東；及
- (d) 在 Aquila 清盤或結業後將資金退回公眾股東。

風險

招股章程的風險因素一節已完整披露與投資 Aquila 相關的許多風險，並構成招股章程中篇幅最長的披露部分。本文重點報告以下風險，即：

- (a) Aquila 是一家新註冊成立的特殊目的公司，用於確定特殊目的收購公司併購目標及完成特殊目的收購公司併購交易，目前並無交易記錄；
- (b) Aquila 在 IPO 前是一家沒有資產的空殼公司，在 IPO 後是一家現金公司，僅持有 IPO 的所得款項淨額（並無其他資產或業務）；
- (c) 所有 B 類股份以合共 6,000 港元的淨名義價格向發起人發行，並於所有重大方面與 A 類股份享有同等地位；
- (d) 發起人權證以每份發起人權證 1 港元的價格向發起人發行，共計 39,000,000 港元，為發起人在 Aquila 的初始投資總額；
- (e) 向發起人發行上述 B 類股份及發起人權證將對公眾股東造成即時攤薄效應；
- (f) 在 IPO 時，並無確定特殊目的收購公司併購目標，亦無考慮進行特殊目的收購公司併購交易；
- (g) 特殊目的收購公司併購目標的選擇範圍及指引寬泛而不具體，而發起人對此具有廣泛的酌情權；
- (h) 特殊目的收購公司併購目標及特殊目的收購公司併購交易可能與發起人及其關連人士有關連；
- (i) 在特殊目的收購公司併購交易完成及發行人行使發起人權證後，公眾股東將被進一步攤薄（《上市規則》第18B.23條）；及
- (j) 在特殊目的收購公司併購交易完成後，發起人有權以發起人協議載列的提成股份形式獲得額外的 A 類股份，對公眾股東造成進一步攤薄。 **M**

— 關保銓

律師 / 資深會計師（非執業）
財經事務及監管政策委員會委員（前任主席）
香港上市公司商會

— 關曉彤

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