

# Overview of HKEX Listing Regime of Specialist Technology Companies

## 港交所特專科技公司 上市制度之概覽

In order to provide a versatile listing regime, many special companies are permitted to be listed and traded on HKEX under the Listing Rules including:

- overseas companies under chapter 19 of the Listing Rules;
- PRC companies (with H shares listed on HKEX and A shares listed on Shanghai or Shenzhen stock exchange) under chapter 19A;
- authorised collective investment schemes (including real estate investment trusts (REITs)) under chapter 20;
- investment companies under chapter 21;
- mineral companies under chapter 18;
- companies with weighted voting rights under chapter 8A;
- biotech companies under chapter 18A; and
- special purpose acquisition companies under chapter 18B.

The listing and trading of these companies and each of which are subject to specific disclosure and compliance requirements as therein contained, in addition to, and/or in substitution for, the general obligations under the Listing Rules applicable to all companies that are listed on HKEX.

In October 2022, HKEX issued a consultation paper to consult the market on the new regime for the listing and trading of Specialist Technology Companies (as hereinafter defined). The consultation was well received by the market. In March 2023, HKEX issued the consultation conclusions implementing the new regime with effect from 31 March 2023. On 30 June 2023, HKEX published the first IPO application under this new regime from Black Sesame International Holding Limited, an automotive-grade computing SoC and SoC-based intelligent vehicle solution provider. This FRA column gives a brief overview of the new regime for the listing and trading of Specialist Technology Companies.

### Definition of Specialist Technology Companies

Under LR 18C.01, a Specialist Technology Company is defined as a company primarily engaged in the research and development of, and commercialisation and/or sales of, Specialist Technology Products within an acceptable sector of a Specialist Technology Industry and maybe a Commercial Company (meeting certain revenue requirement set out in LR 18C.03(4)) or Pre-Commercial Company (not meeting such revenue requirement). Specialist Technology Industries or acceptable sectors thereof are set out in paragraph 7 of the Guidance Letter issued by HKEX and include:

- (a) next generation information technology including cloud-based services and artificial intelligence;
- (b) advanced hardware and software including robotic and automation, semiconductors, advanced communication technology, electric and autonomous vehicles, advanced transportation technology, aerospace technology, advanced manufacturing, quantum information technology and computing, and metaverse technology;
- (c) advanced materials including synthetic biological materials, advanced inorganic materials, advanced composite materials and nanomaterials;

為提供靈活的上市制度，根據《上市規則》，許多特殊公司獲准在聯交所上市及交易，包括：

- 根據《上市規則》第19章規定的海外公司；
- 第19A章規定的中國公司（H股在聯交所上市，A股在上海或深圳證券交易所上市）；
- 第20章規定的認可集體投資計劃（包括房地產投資信託基金）；
- 第21章規定的投資公司；
- 第18章規定的礦業公司；
- 第8A章規定的具有不同投票權架構的公司；
- 第18A章規定的生物科技公司；及
- 第18B章規定的特殊目的收購公司。

該等公司的上市及交易以及每間公司均須遵守其中所載的具體披露及合規要求，以補充及 / 或替代《上市規則》規定的適用於聯交所所有上市公司的一般義務。

2022年10月，聯交所刊發諮詢文件，以就特專科技公司（定義見下文）上市及交易的新機制向市場進行諮詢。此次諮詢受到市場好評。2023年3月，聯交所發佈其諮詢總結，新機制的實施於2023年3月31日生效。而於6月30日，港交所刊發了此新機制下首份上市申請，來自「黑芝麻智能」——一家車規級智能汽車計算SoC及基於SoC的解決方案供應商。本期《財經事務及監管政策委員會專欄》簡要概述了特專科技公司上市及交易的新機制。

### 特專科技公司的定義

根據《上市規則》第18C.01條，特專科技公司指主要從事應用於特專科技行業可接納領域內的特專科技產品的研發，以及其商業化及 / 或銷售的公司，可能是已商業化公司（符合《上市規則》第18C.03(4)條載列的若干收益要求）或未商業化公司（不符合收益要求）。特專科技行業或可接納領域載列於聯交所刊發的指引信第7段，包括：

- (a) 新一代信息技術，包括雲端服務及人工智能；
- (b) 先進硬件及軟件，包括機器人及自動化、半導體、先進通信技術、電動及自動駕駛汽車、先進運輸技術、航天科技、先進製造業、量子信息技術及計算，以及元宇宙技術；
- (c) 先進材料，包括合成生物材料、先進無機材料、先進複合材料及納米材料；
- (d) 新能源及節能環保，包括新能源生產、新能源儲存及傳輸技術、新綠色技術；及
- (e) 新食品及農業技術，包括新食品技術及新農業技術。

若申請人能夠證明指引信中所載事項，聯交所可能接受某行業（上述行業除外），並可能根據指引信拒絕申請。聯交所可能更新有關特專科技行業及可接納領域的指引。

(d) new energy and environmental protection including new energy generation, new energy storage and transmission technology, and new green technology; and

(e) new food and agriculture technologies including new food technology and new agriculture technology.

HKEX may accept an industry (other than the above) if the applicant can demonstrate the matters contained in, and may reject an application under, Guidance Letter. HKEX may update the guidance on Specialist Technology Industries and acceptable sectors.

Specialist Technology is defined as science and/or technology applied to products and/or services within an acceptable sector of a Specialist Technology Industry. Specialist Technology Products are products or services that apply Specialist Technology.

### Qualifications for Listing

Under LR 18C.03-05, an applicant for listing under the Specialist Technology Company regime must:

- (a) be a Specialist Technology Company as defined;
- (b) have been in operation in its current line of business for at least three financial years prior to listing under substantially the same management;
- (c) have an initial market capitalisation at the time of listing of at least HK\$6 billion (for Commercial Company) or HK\$10 billion (for Pre-Commercial Company) respectively;
- (d) have revenue of at least HK\$250 million for its most recent audited financial year (for Commercial Company);
- (e) have engaged in research and development (R&D) of its Specialist Technology Products for at least three financial years prior to listing;
- (f) have incurred expenditure on R&D amounting to (i) at least 15% of its total operating expenditure (for Commercial Company); (ii) at least 30% of its total operating expenditure (for Pre-Commercial Company with revenue of at least HK\$150 million but less than HK\$250 million for its most recent audited financial year); and (iii) at least 50% of its total expenditure (for Pre-Commercial Company with revenue of less than HK\$150 million for its most recent audited financial year), in each case (1) on a yearly basis for at least two of the three financial years prior to listing; and (2) on an aggregate basis over all three financial years prior to listing; and
- (g) must have received meaningful investment from sophisticated independent investors (LR 18C.05).

R&D Expenditure is set out in paragraph nos. 21-26 of the Guidance Letter issued by HKEX with illustrative sample calculations set out in Appendix thereto.

特專科技被定義為應用於特專科技行業可接納領域內的产品及 / 或服務的科學及 / 或技術。特專科技產品是應用特專科技的产品或服務。

### 上市資格

根據《上市規則》第18C.03至05條，特專科技公司機制下的上市申請人必須：

- (a) 為所定義的特專科技公司；
- (b) 於上市前在管理層成員大致不變的情況下經營其現有業務至少三個會計年度；
- (c) 於上市初始市值分別至少達60億港元（如為已商業化公司）或100億港元（如為未商業化公司）；
- (d) 經審計的最近一個會計年度的收益至少達2.5億港元（如為已商業化公司）；
- (e) 上市前已從事特專科技產品的研發至少三個會計年度；
- (f) 就研發已產生的開支：(i)（就已商業化公司而言）佔總營運開支至少15%；(ii)（就經審計的最近一個會計年度的收益至少達1.5億港元但少於2.5億港元的未商業化公司而言）佔總營運開支至少30%；及(iii)（就經審計的最近一個會計年度的收益少於1.5億港元的未商業化公司而言）佔總營運開支至少50%。上述適用百分比門檻須於以下情況下達成：(1) 上市前三個會計年度中有至少兩個會計年度的每一年達到適用的百分比門檻；及(2) 上市前三個會計年度合併計算達到適用的百分比門檻；及
- (g) 必須已獲得資深獨立投資者相當數額的投資（《上市規則》第18C.05條）。

研發開支載於聯交所刊發的指引信第21至26段，其附錄載有示例說明計算樣本。

《上市規則》第18C.05條規定的資深獨立投資者相當數額投資載於指引信第28至30段（有關獨立性規定）、第31至36段（有關資深投資者）及第37至45段（有關相當數額投資）。

根據《上市規則》第18C.06及07條，未商業化公司還必須：

- (a) 向聯交所證明並在其上市文件（招股章程）中披露其特專科技產品商業化的可信路徑，可令其達到《上市規則》第18C.03(4)條所述的收益規定。有關可信路徑的進一步指引載於指引信第46至53段；及

As regards meaningful investment from sophisticated independent investors under LR 18C.05, it is set out in paragraph nos. 28-30 (relating to independence requirement), 31-36 (relating to sophisticated investors), and 37-45 (relating to meaningful investment) of the Guidance Letter.

Under LR 18C.06 and 07, a Pre-Commercial Company must in addition:

- (a) demonstrate to HKEX and disclose in its listing document (prospectus) a credit path to the commercialisation of its Specialist Technology Products that will result in meeting the revenue requirement under LR 18C.03(4), further guidance on credit path is set out in paragraph nos. 46-53 of the Guidance Letter; and
- (b) ensure that it has available sufficient working capital to cover at least 125% of its group's costs for at least 12 months from the date of application (after taking into account the proceeds of new listing).

Under LR 18C.22-24, a Pre-Commercial Company may apply to HKEX for removal of such designation if it meets the requirements of a Commercial Company after listing.

### IPO of Specialist Technology Companies

As regards allocation of shares, at least 50% of the offered shares must be taken up by independent price setting investors in the placing tranche (whether as Cornerstone Investors (as defined in LR 18A.01) or otherwise) under LR 18C.08. Independent price setting investors and their allocations are set out in paragraph nos. 54-60 of the Guidance Letter.

Under LR 18C.09, where the IPO includes both a placing tranche and a public subscription tranche, the minimum shares allocated to the public subscription tranche shall be:

- (a) an initial allocation of 5% of total shares under IPO; and
- (b) a clawback mechanism that increases the number of shares to
  - (i) 10% (when the demand for public subscription tranche is 10 times more but less than 50 times of the initial allocation); and
  - (ii) 20% (when the demand for public subscription tranche is 50 times or more of the initial allocation).



- (b) 確保其擁有充足的營運資金（包括計入新上市的所得款項），足可應付集團由上市日期起計至少十二個月所需開支的至少125%。

根據《上市規則》第18C.22至24條，未商業化公司如在上市後符合商業化公司的要求，可向聯交所申請除去未商業化公司的身份。

### 特專科技公司首次公開招股

就股份分配而言，必須至少有50%由《上市規則》第18C.08條規定的參與配售部分的獨立定價投資者（不論以基石投資者（定義見《上市規則》第18A.01條）身份與否）認購。獨立定價投資者及其分配載於指引信第54至60段。

根據《上市規則》第18C.09條，若首次公開招股活動同時包括配售部份與公開認購部份，則應按下列準則釐定公開認購部份的股份分配最低份額：

- (a) 初步分配招股事項所發售股份總數的5%；及
- (b)
  - (i) 當市場對公開認購部份的股份總需求量達到初訂份額的10倍或以上（但不超過50倍）時，運用回補機制，以便增加股份數目至10%；及
  - (ii) 當市場對公開認購部份的股份總需求量達到初訂份額的50倍或以上時，運用回補機制，以便增加股份數目至20%。



On the contrary, shares may be transferred from the subscription tranche to the placing tranche where there is insufficient demand in the subscription tranche to take up the initial allocation.

As regards free or public float, the applicant must ensure that listed shares with a market capitalisation of at least HK\$600 million are not subject to any disposal restrictions (whether under contract, the Listing Rules, applicable laws or otherwise) at the time of listing under LR 18C.10.

As regards offer size, HKEX expects the IPO offer to be of a meaningful size and reserves the right not to approve the listing if the offer size is not sufficient enough to facilitate price discovery or may otherwise give rise to orderly market concerns (under LR 18C.11).

As regards the contents of the listing document (prospectus), additional disclosure is required by HKEX from time to time under LR 18C.12, all of which are now set out in paragraph nos. 65-70 of the Guidance Letter. Paragraph 70 sets out the key areas for additional disclosure including (a) information on pre-IPO investment; (b) burn rate; (c) cash operating cost; (d) Specialist Technology Products; (e) disclosure on commercialisation status and prospects; (f) addressable market, market share and industry overview; (g) business model based disclosures; (h) R&D expenditure and experience and specific risks; (i) industry standards/competent authority requirements; (j) intellectual property; (k) risks; (l) warning statement; and (m) additional disclosures for Pre-Commercial Companies.

### **Restrictions on Disposal (Lock Up Periods)**

Under LR 10.07 as modified by LR 18C.13, controlling shareholders of a Specialist Technology Company must not dispose of any shares for a period of (a) 12 months (for Commercial Company) and (b) 24 months (for Pre-Commercial Company).

若投資者對認購部份的需求低於初訂分配份額，則可將該等認購不足的股份轉撥予配售部份。

就自由流通量或公眾持股量而言，根據《上市規則》第18C.10條，申請人必須確保在上市時，市值至少達6億港元的上市股份不受（無論是合約、《上市規則》、適用法律或其他規定下的）任何禁售規定所限。

就發售規模而言，聯交所預期特專科技公司在上市時會進行有相當規模的發售，若發售規模不足以促進市場定價，或可能引起有關市場秩序的疑慮，則聯交所保留不批准其上市的權利（根據《上市規則》第18C.11條）。

就上市文件（招股章程）的內容而言，根據《上市規則》第18C.12條，聯交所不時要求作出額外披露，所有規定現載於指引信第65至70段。第70段載列額外披露的主要領域，包括（a）首次公開招股前投資的資料；（b）資金消耗率；（c）現金經營成本；（d）特專科技產品；（e）披露商業化狀況及前景；（f）目標市場、市場份額及行業概覽；（g）有關業務模式的披露；（h）研發開支及經驗及特定風險；（i）行業標準/主管當局規定；（j）知識產權；（k）風險；（l）警告聲明；及（m）未商業化公司的額外披露。

### **對出售證券的限制（禁售期）**

根據經《上市規則》第18C.13條修改的《上市規則》第10.07條，特專科技公司的控股股東於（a）12個月（就已商業化公司而言）及（b）24個月（就未商業化公司而言）期間不得出售任何股份。

根據《上市規則》第18C.14條，（a）關鍵人士必須禁售（i）12個月（就已商業化公司而言）及（ii）24

Under LR 18C.14, (a) key persons are required to lock up for (i) 12 months (for Commercial Company) and (ii) 24 months (for Pre-Commercial Company) and (b) existing investors are required to lock up for (i) 6 months (for Commercial Company) and (ii) 12 months (for Pre-Commercial Company). Key persons comprise (a) founders; (b) beneficiaries of weighted voting rights (if any); (c) executive directors and senior management; and (d) key personnel responsible for technical operations and/or R&D of its Specialist Technology Products. Existing Investors are set out in paragraph nos. 80 and 81 of the Guidance Letter and include the sophisticated independent investors under paragraph 37 thereof.

### Amendments to Listing Rules and the Guidance Letter

The amendments to the Listing Rules with mark-ups and changes to those as set out in the Consultation Paper are contained in Appendix IV of the Consultation Conclusions and are also issued by HKEX as Update No. 140 dated March 2023. Guidance Letter for Specialist Technology Companies is contained in Appendix V of the Consultation Conclusions and is issued by HKEX as HKEX-GL115-23 in March 2023. The amendments to the Listing Rules and the Guidance Letter are effective as from 31 March 2023. **M**

#### — Vincent P C Kwan

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個月（就未商業化公司而言）及（b）現有投資者必須禁售（i）6個月（就已商業化公司而言）及（ii）12個月（就未商業化公司而言）。關鍵人士包括（a）創始人；（b）不同投票權受益人（如有）；（c）執行董事及高級管理人員；以及（d）負責特專科技公司技術營運及／或特專科技產品研發的主要人員。現有投資者載於指引信第80及81段，並包括第37段所述的資深獨立投資者。

### 《上市規則》的修訂及指引信

對《上市規則》的修訂以及對諮詢文件所載內容的標註及改動載於諮詢總結附錄四，並由聯交所於2023年3月以第140號更新刊發。《有關特專科技公司的指引信》載於諮詢總結附錄五，並由聯交所於2023年3月以HKEX-GL115-23號刊發。《上市規則》的修訂及指引信於2023年3月31日生效。 **M**

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