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Launch of HKSE's New Listing Regime for Specialist Technology Companies

From 31 March 2023, the listing framework will include innovative companies in frontier industries, creating more opportunities for investors in the Hong Kong capital market.

The Stock Exchange of Hong Kong Limited (the SEHK) has issued the consultation conclusions on the listing regime for Specialist Technology Companies (the Consultation Conclusions), which will include a new Chapter 18C within the Rules Governing the Listing of Securities on the Exchange (the Listing Rules), effective from 31 March 2023. The change will enable innovative and progressive companies (both commercial and pre-commercial) in five frontier industries (next-generation information technology, advanced hardware, advanced materials, new energy and environmental protection, and new food and agriculture technologies) to be listed on the SEHK, further diversifying Hong Kong's capital market with broadened opportunities for investors.

For more details on the consultation paper on the listing regime for Specialist Technology Companies (the Consultation Paper), see this Latham [Client Alert](#).

Comparison of the Proposals and the Final Requirements

The SEHK decided to broadly implement the proposals as set out in the Consultation Paper. The below tables summarise the key differences between the proposed and final listing requirements:

Commercial Companies	Proposed Listing Requirements	Final Listing Requirements
Revenue	HK\$250 million arising from the specialist technology business segment(s) for the most recent audited financial year	Implement the proposal as set out in the Consultation Paper
Minimum market capitalisation upon listing	<u>HK\$8 billion</u>	<u>HK\$6 billion</u>

Commercial Companies	Proposed Listing Requirements	Final Listing Requirements
Research and development (R&D) period and minimum investment amount	<p>Engaged in research and development for at least three financial years prior to listing</p> <p>Total R&D investment as a percentage of total operating expenditure for each of the three financial years prior to listing should be no less than <u>15%</u></p>	<p>Implement the proposal as set out in the Consultation Paper, but 15% threshold needs to be met:</p> <ul style="list-style-type: none"> on a yearly basis for at least two of the three financial years prior to listing; and on an aggregate basis over all three financial years prior to listing
Third party investment	<p>Third party investment from at least <u>two</u> Pathfinder Sophisticated Independent Investors who have invested at least 12 months before the date of the listing application, each holding such amount of 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 the listing application and throughout the pre-application 12-month period</p>	<p>Third party investment from a group of <u>two to five</u> Pathfinder Sophisticated Independent Investors, each having invested at least 12 months before the date of the listing application that satisfy the following:</p> <ul style="list-style-type: none"> in aggregate hold 10% or more of the issued share capital of the listing applicant as at the date of the listing application and throughout the pre-application 12-month period; or having otherwise invested an aggregate sum of at least HK\$1.5 billion in the applicant at least 12 months prior to the date of the listing application <p>Provided that at least <u>two</u> Pathfinder Sophisticated Independent Investors:</p> <ul style="list-style-type: none"> each hold 3% or more of the issued share capital of the listing applicant as at the date of listing application and throughout the pre-application 12-month period; or each have otherwise invested at least HK\$450 million in the listing applicant at least 12 months prior to the date of the listing application
Additional requirements for working capital	N/A	N/A
Operational track record and management continuity	<p>In operation in its current line of business for at least three financial years prior to listing under substantially the same management</p>	<p>Implement the proposal as set out in the Consultation Paper</p>

Commercial Companies	Proposed Listing Requirements	Final Listing Requirements
Ownership continuity	Ownership continuity and control in the 12 months prior to the date of the listing application	Ownership continuity and control in the 12 months prior to the date of the listing application <u>and up to the date of listing</u>
Minimum ratio of institutional investors	Independent institutional professional investors must take up at least <u>50%</u> of the placing in the placing tranche	<p><u>Independent Price Setting Investors</u> must take up at least 50% of the placing</p> <p>Independent Price Setting Investors include:</p> <ul style="list-style-type: none"> independent Institutional Professional Investors; and other types of independent investors with assets under management (AUM), fund size or investment portfolio size of at least HK\$1 billion

Pre-Commercial Companies	Proposed Listing Requirements	Final Listing Requirements
Revenue	N/A	Implement the proposal as set out in the Consultation Paper.
Minimum market capitalization upon listing	<u>HK\$15 billion</u>	<u>HK\$10 billion</u>
Research and development (R&D) period and minimum investment amount	<p>Engaged in research and development for at least three financial years prior to listing</p> <p>Total R&D investment as a percentage of total operating expenditure for each of the three financial years prior to listing should be no less than <u>50%</u></p>	<p>For a company with revenue of at least HK\$150 million but less than HK\$250 million for its most recent audited financial year, total R&D investment should be at least <u>30%</u> of the total operating expenditure</p> <p>For company with revenue of less than HK\$150 million for its most recent audited financial year, total R&D investment should be at least <u>50% of the total operating expenditure</u></p> <p>The applicable percentage ratio needs to be met:</p> <ul style="list-style-type: none"> on a yearly basis for at least two of the three financial years prior to listing; and on an aggregate basis over all three financial years prior to listing

Pre-Commercial Companies	Proposed Listing Requirements	Final Listing Requirements
Third party investment	Third party investment from at least <u>two</u> Pathfinder Sophisticated Independent Investors who have invested at least 12 months before the date of the listing application. Each investor must hold such amount of 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 the listing application and throughout the pre-application 12-month period.	<p>The same requirements for Commercial Companies will apply.</p> <p>Third party investment from a group of <u>two to five</u> Pathfinder Sophisticated Independent Investors, each having invested at least 12 months before the date of the listing application that satisfy the following:</p> <ul style="list-style-type: none"> • in aggregate hold 10% or more of the issued share capital of the listing applicant as at the date of the listing application and throughout the pre-application 12-month period; or • having otherwise invested an aggregate sum of at least HK\$1.5 billion in the applicant at least 12 months prior to the date of the listing application <p>Provided that at least <u>two</u> Pathfinder Sophisticated Independent Investors:</p> <ul style="list-style-type: none"> • each hold 3% or more of the issued share capital of the listing applicant as at the date of listing application and throughout the pre-application 12-month period; or • each have otherwise invested at least HK\$450 million in the listing applicant at least 12 months prior to the date of the listing application
Additional requirements for working capital	Available working capital to cover at least 125% of the group's costs for at least the next 12 months (after taking into account the IPO proceeds)	Implement the proposal as set out in the Consultation Paper
Operational track record and management continuity	In operation in its current line of business for at least three financial years prior to listing under substantially the same management	Implement the proposal as set out in the Consultation Paper, which will be the same requirement for Commercial Companies.
Ownership continuity	Ownership continuity and control in the 12 months prior to the date of the listing application	Ownership continuity and control in the 12 months prior to the date of the listing application <u>and up to the date of listing</u> , which will be the same requirement for Commercial Companies.

Pre-Commercial Companies	Proposed Listing Requirements	Final Listing Requirements
Minimum ratio of institutional investors	Independent institutional professional investors must take up at least <u>50%</u> of the placing in the placing tranche	<p>The same requirements for Commercial Companies will apply.</p> <p><u>Independent Price Setting Investors</u> must take up at least 50% of the placing</p> <p>Independent Price Setting Investors include:</p> <ul style="list-style-type: none"> independent Institutional Professional Investors; and other types of independent investors with AUM, fund size or investment portfolio size of at least HK\$1 billion

Further Guidance and/or Clarification

The SEHK has further provided further guidance and clarification in response to the comments it received. The below table highlights key points:

Applicant outside the scope of the existing list of Specialist Technology Industries and acceptable sectors	<p>Such applicant may still be considered as “within an acceptable sector of a Specialist Technology Industry” if it can demonstrate that</p> <ul style="list-style-type: none"> it has high growth potential; its success can be demonstrated to be attributable to the application, to its 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 differentiates it from traditional market participants serving similar consumers or end users; and R&D significantly contributes to its expected value and constitutes a major activity and expense
Applicant with multiple business segments	<p>The proposal as set out in the Consultation Paper will be implemented. Such applicant would need to demonstrate the company is “primarily engaged” in the relevant business, taking into account the following:</p> <ul style="list-style-type: none"> Whether the company has dedicated a substantial portion of the total operating expenditure and senior management resources (including time; number of directors and senior management personnel with relevant expertise and experience) to the research and development, and the commercialisation and/or sales of Specialist Technology Product(s) in the company’s Specialist Technology business segment(s) for at least three financial years prior to listing; whether the basis for investors’ valuation and the expected market capitalisation of the company is based primarily on the company’s Specialist Technology business segment(s), rather than its other business segments or assets unrelated to its Specialist Technology business segment(s); and

	<ul style="list-style-type: none"> whether the proposed use of proceeds for listing would primarily apply to its Specialist Technology business segment(s).
Biotech industry	A company operating in the biotech industry that does not base its listing application on a Regulated Product (as defined in Chapter 18A of the Listing Rules) may apply to list under Chapter 18C if it meets the definition of a Specialist Technology Company.
Update of Specialist Technology Industries and acceptable sectors	The list of Specialist Technology Industries and acceptable sectors will be updated from time to time, as necessary, after consultation with the SFC and with its approval. One of the circumstances in which it may do so is following, or to accompany, the listing of an applicant from a new industry / sector. However, the Stock Exchange reserves the right not to update the guidance letter in these circumstances if, for example, the applicant has characteristics that are not generally applicable to other companies in its industry / sector.
Disclosure of investor AUM	<p>Applicants must disclose the size (and basis, as well as the basis for determination) of the AUM, the fund or the investment portfolio, and any other information relevant to the sophisticated independent investors in the listing document to substantiate that they have the relevant investment experience, knowledge and expertise to be considered sophisticated.</p> <p>If the actual size of the AUM, fund or investment portfolio and such other relevant information cannot be disclosed with precision for confidentiality reasons, the SEHK will consider accepting alternative disclosures appropriate to the circumstances on a case-by-case basis, taking into account the factors set out in the relevant guidance that the SEHK has published.</p> <p>Such information should be given as of:</p> <ol style="list-style-type: none"> a date which is no more than six months prior to the date of signing of the definitive agreement for the investors' relevant investment in the applicant; and a date which is no more than six months prior to the date of the listing application.
Third-party investment by way of convertible securities	<p>If a sophisticated independent investor is holding securities convertible into shares in an applicant (such as convertible or exchangeable bonds, notes, loans, or convertible preference shares), only the investment in the securities to be converted at or before listing will count when considering whether the meaningful investment requirement is met.</p> <p>The applicant must disclose in the listing document the number of shares to be converted from such convertible securities at or before listing (and the corresponding investment amount) to demonstrate that it has met the meaningful investment requirement.</p>
Dual-listing companies	If the shareholding of sophisticated independent investors of such applicant at the relevant times does not strictly comply with the requirements in the guidance letter, the Stock Exchange will, consider, on a case-by-case basis, the specific circumstances of the applicant, including, without limitation, the shareholding of sophisticated independent investors before and at the time of the applicant's overseas listing and at the time of the Chapter 18C listing application.

In addition, dual listing applicants must stay alert to whether an open market will emerge in the securities for which listing is sought and, if necessary, must make appropriate arrangements to facilitate the liquidity of their shares to meet Hong Kong market demand.

Applicants seeking to list by introduction must continue to comply with existing guidance on liquidity arrangements to meet Hong Kong market demand during the initial period of listing.

Next Steps

Companies and their sponsors considering listing under the new Chapter 18C may now submit pre-IPO enquiries to SEHK regarding the interpretation of the Listing Rules in the Consultation Conclusions and their application based on specific facts and circumstances. In particular, a potential applicant falling outside the list of Specialist Technology Industries or acceptable sectors that would like to apply for listing under Chapter 18C must submit a pre-IPO enquiry to SEHK to seek confidential guidance on the application of Chapter 18C, considering all relevant facts. Applications under the new Chapter 18C can be submitted on or after 31 March 2023.

If you have questions about this Client Alert, please contact one of the authors listed below or the Latham lawyer with whom you normally consult:

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