

December 12, 2022

RE: Consultation Paper on a Listing Regime for Specialist Technology Companies

By email: response@hkex.com.hk

Dear Sir/Madam,

Response to the Exchange’s Consultation Paper on Listing Regime for Specialist Technology Companies

The Hong Kong Venture Capital and Private Equity Association (“**HKVCA**”) is delighted that The Stock Exchange of Hong Kong Limited (the “**Exchange**”) is open to hearing the stakeholders’ feedbacks on the Specialist Technology Regime. Unless otherwise specified, the capitalized terms in this letter have the same meaning as ascribed in the Consultation Paper.

HKVCA generally supports the Exchange’s proposal to provide a listing route for Specialist Technology Companies (the “**STCs**”). We believe a new listing regime under the new Chapter 18C of the Listing Rules that provides alternative listing eligibility requirements that can be distinctively set apart from the existing ones under Chapter 8 of the Listing Rules will encourage and attract innovative science and technology companies to choose Hong Kong as their listing venue. However, we are of the view that various qualification requirements and restrictions as currently proposed would limit prospective STCs that may list under the new Chapter 18C regime to an overly narrow scope.

The details of our responses to select questions in the Consultation Paper are set out as follows.

Qualification Requirements

Minimum Expected Market Capitalization (Questions 5, 6, 8-10)

We believe that the proposed minimum market capitalisation threshold (HK\$8 billion for Commercial Companies and HK\$15 billion for Pre-Commercial Companies) is too high. This is (1) disproportionate to the current market capitalisation requirement of Chapter 18A companies, and (2) limiting the Specialist Technology Regime to a handful of potential issuers which would have other choices of listing venue. In particular, given the current market conditions, a P/S ratio of 32 times¹ does not seem reasonable. While we appreciate that the Exchange has examined 507 Specialist Technology Issuers listed in the US and Mainland China between January 2019 and March 2022 to arrive at the current conclusion, we would suggest examining more recent P/S ratio of such Specialist Technology Issuers as to the number of them that would be able to satisfy the

¹ Calculated based on the minimum expected market capitalisation of HK\$8 billion divided by a minimum revenue threshold of HK\$250 million

proposed qualification requirements under the new listing before implementing new rules.

Furthermore, peer markets provided a more diverse regime while the Specialist Technology Regime sets out only one test for Commercial Companies and one test for Pre-Commercial Companies. By way of example, the STAR Market provided four different tests for a listing applicant to choose from, enabling potential listing applicants to prove an overall qualification with alternatives.

Specialized Technology Industries (Question 2)

In regard to the list of Specialist Technology Industries and the non-exhaustive acceptable sectors that the Exchange considers to fall within each of these industries, further elaborations or examples would be helpful to explain the sort of cloud-based services (which include SaaS, PaaS and IaaS) that the Exchange would regard as innovative enough to apply for a listing under the new Specialist Technology Regime.

Calculation of R&D Investment (Question 15)

While we generally agree with the proposed method for determining the amount of qualifying R&D investment and the total operating expenditure, we would suggest the Exchange elaborate on the rationale for excluding the initial recognition of any fixed assets relating to the company's R&D activities (e.g. capital expenditures for acquiring an R&D centre), considering that fixed assets relating to the company's R&D activities could lay a solid foundation for a company's R&D effort and demonstrate its commitment to conducting R&D. If the concern is whether such fixed assets related expenses are incurred artificially only to meet the R&D investment requirements, we believe the Exchange may reserve the right to reject the inclusion of such expenses where the expenses are not justifiable (with certain examples of unjustifiable instances of fixed assets related expenses).

Third Party Investment Requirements (Questions 20 and 21)

We believe the proposed scope of sophisticated investors (whose investment will be taken into consideration to satisfy the requirements of the minimum third-party investment requirement if also satisfying the independence requirement) is too narrow and suggest the Exchange further examine and expand such scope as appropriate. In particular, based on our experiences over the years, an increasing number of family offices are playing active roles in the investment industry. Many of them are equipped with professional knowledge and years of investment experiences but might not be able to qualify as sophisticated investors, considering the high AUM and investment portfolio size mentioned in the examples of factors the Exchange would consider when assessing whether an investor is a "sophisticated investor".

Additionally, based on our observations of technology companies in the market, we believe that the requirement for two Pathfinder SIIs, each with at least 5% shareholding throughout the pre-application 12-month period, would be challenging for potential listing applicants to satisfy. For instance, Alibaba Group would have failed in meeting this requirement had it applied for listing in Hong Kong under the new 18C regime based on its then shareholding structure in November 2019.

Demonstration of Primary Reason for Listing (Question 23)

The Exchange proposed that a Pre-Commercial Company applicant must have as its primary reason for listing the raising of funds for the R&D of, and the manufacturing and/or sales and marketing of, its Specialist Technology Product(s) to bring them to commercialisation and achieving the Commercialisation Revenue Threshold. While we generally agree with the Exchange's proposal, we believe the current language is overly general and does not provide sufficient guidance to the Pre-Commercial Companies. We would suggest that the Exchange provide a range of the percentage of the proceeds to be used towards the Specialist Technology Product(s), such as 30-50%, depending on the development stage and the number of Specialist Technology Product(s) held by the Pre-Commercial Companies.

Track Record of Operations (Question 13)

We propose to set two years as the minimum period for a Commercial Company to have engaged in R&D, which is consistent with the concessions for biotech companies under Chapter 18A of the Listing Rules. As Commercial Companies already have a proven path to commercialization, if they are able to meet other listing requirements such as revenue threshold and market capitalization, they should be allowed to have a shorter trading record. While the Exchange proposed that it may accept a shorter trading record of at least two financial years in exceptional circumstances, such exceptional circumstances are not commonly seen in the market and insufficient guidance is provided.

IPO Requirements

Allocation to Independent Institutional Investors (Questions 28-30)

We believe the proposed scope of Independent Institutional Investors is too narrow and suggest the Exchange further examine and expand such scope as appropriate. In particular, the scope of Independent Institutional Investors (by whom 50% or more of the total number of shares offered in the initial public offering must be taken up) was proposed to exclude corporate professional investors (i.e. the professional investors referred to in the SFO PI Rules). Based on this proposed scope, entities such as the investment arm of group companies specializing in innovative technology sectors would be excluded as well. This would seem inconsistent with the definition of sophisticated investor which includes "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" (paragraph 20 of the draft Guidance Letter providing guidance on STCs). We would therefore propose that corporate professional investors be included in the definition of "Independent Institutional Investors".

Minimum Free Float (Question 35 and 36)

As to the minimum free float requirement of HK\$600 million, we believe it is disproportionate to the proposed market capitalisation requirement (being 7.5% compared against the proposed market capitalisation threshold for Commercial Companies). We also noted that there is no similar

minimum free float requirement under Chapter 18A. Therefore we would propose to remove such requirement from the Specialist Technology Regime.

It was also proposed by the Exchange that it should reserve the right not to approve the listing of a STC if it believes the company's offer size is not significant enough to facilitate post-listing liquidity. We suggest the Exchange further clarify what constitutes "not significant enough."

Post-IPO Requirements

Shareholders' Lock-ups (Questions 41-44)

While we generally agree with the current proposal on shareholders' post-IPO lock-up requirements, we believe that the definition of key personnel defined in paragraph 242(d)² of the Consultation Paper is overly stringent as this requirement may actually put the Commercial Companies and Pre-Commercial Companies in a disadvantaged position in recruiting and retaining talents who may receive share awards as part of their package. We propose to include the head of the R&D department and the personnel whose names may appear in the relevant key patents or patent applications as "key personnel" in paragraph 242(d) of the Consultation Paper.

² Key personnel responsible for the Specialist Technology Company's technical operations and/or the R&D of its Specialist Technology Product(s) (including the head and the key personnel of its R&D department) whose expertise is primarily relied upon by the company for the development of its Specialist Technology Product(s), and the lead developer(s) of the core technologies in relation to the Specialist Technology Product(s)

The HKVCA would be keen to submit further comments, if requested, aimed at optimizing the listing regime as we work together to strengthen Hong Kong's position as a private equity fund hub.

Your Sincerely,

A handwritten signature in black ink, appearing to be 'Bonnie Lo', written in a cursive style.

Bonnie Lo
Chair of HKVCA Technical Committee

About HKVCA

HKVCA is a member-based trade association which was established in Hong Kong in 1987. It currently has 500 members of whom 320 are Hong Kong based private equity managers across the full spectrum of the industry from venture capital, through growth capital and growth buyouts to institutional fund investors, fund of funds and secondary investors. HKVCA represents small teams investing in start-ups as well as the world's 10 largest private equity firms.