

# Client Alert

## Corporate Finance

3 October 2023

### Hong Kong Stock Exchange proposes GEM listing reforms

On 26 September 2023, The Stock Exchange of Hong Kong Limited (**Exchange**) published a [consultation paper](#) on its GEM listing reform proposals, seeking market feedback by **6 November 2023**.

#### Background

The number of new listings and funds raised on GEM have significantly declined since 2019, and there was no more new GEM listing after January 2021.

The local bourse recognises that it is one of the options for small and/or medium-sized enterprises (SME) seeking capital to drive growth, sustain innovation and create value, and emphasises that encouraging and facilitating SME listings will continue to be its key priority. Having engaged with different stakeholders to hear their concerns regarding GEM, the Exchange has developed proposals to reform the GEM listing regime.

#### Key proposals

##### (A) Introduction of a new financial eligibility test (as an alternative to the existing cash flow test)

The Exchange proposes to introduce a new financial eligibility test (referred to as “**market capitalisation/ revenue/ R&D test**”) targeting high growth enterprises that are heavily engaged in research and development (R&D) activities, while the existing cash flow base test will remain unchanged and continue to be available for use.

A comparison between the respective sets of requirements that GEM listing applicants must meet under the two tests is set out in the table below:

Requirements	Proposed new “market capitalisation/ revenue/ R&D test”	Existing “cash flow test”
<b>Track record</b>	≥ Two financial years	
<b>Market capitalisation at the time of listing</b>	≥ HK\$250 million	≥ HK\$150 million
<b>Revenue</b>	≥ HK\$100 million (in aggregate for the two most recent financial years, with a year-on-year growth of revenue over the two financial years)	Nil
<b>Cash flow</b>	Nil	Positive cash flow from operating activities of ≥ HK\$30 million (in aggregate for the two most recent financial years)
<b>R&amp;D expenditure</b>	≥ HK\$30 million (in aggregate for the two most recent financial years) + ≥ 15% of the total operating expenditure (for each of the two most recent financial years)	Nil

<b>Continuity of ownership and control</b>	Throughout the full financial year immediately preceding the issue of the listing document and up until the date of listing
<b>Management continuity</b>	Throughout the <b>two</b> full financial years immediately preceding the issue of the listing document and up until the date of listing

**(B) Reduction of post-IPO lock-up period for controlling shareholders**

The Exchange proposes to reduce the post-IPO 24-month lock-up period imposed on controlling shareholders of GEM issuers to **12 months**, in line with the Main Board requirements.

**(C) Introduction of a new streamlined transfer mechanism**

The Exchange proposes to introduce a new streamlined transfer mechanism to enable GEM issuers which can meet the modified qualification requirements to transfer to the Main Board without the need to:

- appoint a **sponsor** to carry out due diligence, or
- publish a “**prospectus-standard**” listing document.

Under this proposed new streamlined transfer mechanism, a GEM transfer applicant will only be required to submit certain application and supporting documents to the Exchange, and publish a “long-form” announcement (subject to the Exchange’s pre-vetting) at least five clear business days before the intended date dealings in its shares on the Main Board are expected to commence.

A comparison between the qualification requirements under the proposed new streamlined transfer mechanism and the existing transfer requirements is set out in the table below:

<b>Qualifications for transfer</b>	<b>Proposed new streamlined transfer mechanism (under a new Chapter 9B of the Main Board Listing Rules)</b>	<b>Existing transfer requirements (under Chapter 9A of the Main Board Listing Rules)</b>
<b>Qualifications for listing on the Main Board</b>	The transfer applicant must meet all the qualifications for listing on the Main Board set out in the Main Board Listing Rules.	
<b>Track record</b>	<p>The transfer applicant must have published its financial results for the <b>three full financial years</b> commencing after the date of its initial listing</p> <p style="text-align: center;">+</p> <p>Throughout the three full financial years immediately preceding the transfer application and until the commencement of dealings in its securities on the Main Board, the transfer applicant must:</p> <ul style="list-style-type: none"> <li>• have had <b>continuity of ownership and control</b>; and</li> <li>• have <b>not effected</b> any transactions or arrangements that resulted in a <b>fundamental change in its principal business activities</b>.</li> </ul>	The transfer applicant must have published its financial results for the <b>first full financial year</b> commencing after the date of its initial listing
<b>Daily turnover test</b>	<p>The transfer applicant must have a minimum daily turnover threshold on <b>≥ 50% of the trading days</b> over a prescribed reference period of <b>250 trading days</b> immediately preceding the transfer application and until the commencement of dealings on the Main Board (<b>Reference Period</b>).</p> <p>The Exchange proposes the minimum threshold be set at either <b>HK\$100,000 or HK\$50,000</b>, and seeks views on which is preferred.</p>	Nil
<b>Volume weighted average market capitalisation test</b>	The transfer applicant must have a volume weighted average market capitalisation <u>over the Reference Period</u> that could meet the minimum market capitalisation requirement for listing on the Main Board.	

<b>Compliance record</b>	<p>The Exchange proposes to modify the current Main Board Listing Rules to help ensure a GEM transfer applicant has a clean compliance record during the 12-month period prior to the transfer application and up to the date of transfer. Such proposed amendments will apply to all transfers of listing (whether under the proposed new streamlined transfer mechanism or the existing mechanism).</p> <p>Under the proposed modified rules, the transfer applicant must:</p> <ul style="list-style-type: none"> <li>• have not been held to have committed a serious breach of any GEM Listing Rules or Main Board Listing Rules in the 12 months preceding the transfer application and until the commencement of dealings in its securities on the Main Board; and</li> <li>• not be the subject of any investigation by the Exchange, or any ongoing disciplinary proceedings under Chapter 3 of the GEM Listing Rules, in relation to a serious breach or potentially serious breach of any GEM Listing Rules or Main Board Listing Rules as at (i) the date of the transfer application and (ii) the date when dealing in its securities commences on the Main Board.</li> </ul>
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A GEM issuer that cannot meet the qualification requirements under the proposed new streamlined transfer mechanism may apply for a transfer under the existing mechanism, in which case the GEM issuer would be required to appoint a sponsor to carry out due diligence and publish a “prospectus-standard” listing document.

In addition, the Exchange proposes to exempt GEM transferees to the Main Board from the Main Board initial listing fee, with a view to reducing the cost of a transfer of listing.

**(D) Aligning certain continuing obligations with those for Main Board issuers**

In response to certain stakeholder comments that the current GEM Listing Rules impose undue continuing obligations on GEM issuers, the Exchange proposes the following amendments to bring the relevant continuing obligations of GEM issuers in line with those for Main Board issuers:

	<b>Current continuing obligations of GEM issuers that differ from those for Main Board issuers</b>	<b>Proposed changes to bring in line with those for Main Board issuers</b>
<b>Mandatory quarterly reporting requirements</b>	<p>A GEM issuer is required to publish:</p> <ul style="list-style-type: none"> <li>• preliminary announcements of results for each of the first three-month and nine-month periods of each financial year; and</li> <li>• quarterly reports, in each case, not later than 45 days after the date upon the relevant financial period ended.</li> </ul>	<b>Remove</b> the mandatory quarterly reporting requirements.
<b>Timeframes for publication of annual reports, half-year reports and interim results</b>	<p>A GEM issuer is required to publish:</p> <ul style="list-style-type: none"> <li>• annual reports – not later than <u>three months</u>;</li> <li>• half-year reports – not later than <u>45 days</u>;</li> <li>• preliminary announcements of results for the first six months of each financial year – not later than <u>45 days</u>,</li> </ul> <p>in each case, after the date upon the relevant financial period ended.</p>	<b>Align</b> the timeframes with those required of Main Board issuers, i.e., a GEM issuer would be required to publish: <ul style="list-style-type: none"> <li>• annual reports – not later than <b>four months</b>;</li> <li>• half-year reports (renamed to “interim reports”) – not later than <b>three months</b>;</li> <li>• preliminary announcements of results for the first six months of each financial year – not later than <b>two months</b>,</li> </ul> <p>in each case, after the date upon the relevant financial period ended.</p>
<b>Compliance offer</b>	A GEM issuer must at all times have one of its executive directors to assume responsibility for acting its compliance officer.	<b>Remove</b> this requirement.
<b>Compliance adviser</b>	A GEM issuer must appoint a compliance adviser for the period commencing on the date of its initial listing and ending on the date on	<b>Shorten</b> the period of engagement of the compliance adviser so that it ends on the date on which it publishes its financial

	Current continuing obligations of GEM issuers that differ from those for Main Board issuers	Proposed changes to bring in line with those for Main Board issuers
	which it publishes its financial results for the <u>second</u> full financial year commencing after the date of its initial listing.	results for the <b>first</b> full financial year commencing after the date of its initial listing.
	The current GEM Listing Rules contain requirements relating to a compliance adviser's responsibilities with regards to: (a) due diligence on listing documents published, and dealing with the Exchange, in relation to certain transactions during the period of engagement of the compliance adviser; and (b) disclosure of interests of the compliance adviser for this purpose.	<b>Remove</b> these requirements.

## Want to know more?

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