



DISCUSSIONS ON

HKEX CONSULTATION ON GEM LISTING REFORMS



OCT 2023

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On 26 September 2023, HKEX published a consultation paper seeking market feedback on proposed changes to the GEM Listing Rules

Hong Kong Exchanges and Clearing Limited ("HKEX") published a [consultation paper](#) ("Consultation") announcing the launch of a six-week consultation on GEM listing reform, proposing

1. a new alternative eligibility test - "Market capitalisation / Revenue / R&D test";
2. to remove the mandatory quarterly reporting requirement; and
3. to streamline the transfer mechanism

The deadline for submissions is 6 November 2023.

Background

Since 2019, the number of new listings and funds raised on GEM have significantly declined and there were no new GEM listings in 2022. HKEX believes that the COVID-19 pandemic and alternative SME listing venues in the Chinese Mainland are the factors that contributed to this decline. As facilitating SME listings is a key priority for HKEX, which is committed to providing a supportive environment where SMEs can thrive and ultimately contribute to the continued prosperity of both Hong Kong and the global economy, HKEX has developed proposals to address stakeholders' concerns.

Key features of the GEM listing reforms proposed by the HKEX are discussed below.

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In response to preliminary market feedback, we engaged with a broad range of stakeholders, including SMEs and their representatives, to hear their views regarding GEM and its development. Our resulting proposed reforms aim to broaden GEM's appeal to issuers, while maintaining market confidence, and important high standards of investor protection.”

HKEX Head of Listing, Katherine Ng

For GEM Listing Applicants

- Alternative financial eligibility test for R&D intensive companies
- Shorter post-IPO lock-up period



NEW ALTERNATIVE ELIGIBILITY TEST FOR R&D INTENSIVE COMPANIES

HKEX proposes introducing a new alternative eligibility test for initial listing on the GEM board, targeting high-growth enterprises that are heavily engaged in research and development (R&D) activities but do not have a sufficient track record of positive operating cash flow for the current listing requirements.

Requirements		Existing Test	Proposed Alternative Test
Track record	Trading record	2 full financial years	
	Ownership continuity	1 full financial year	
	Management continuity	2 full financial years	
Expected market capitalization at listing		≥HK\$150m	≥HK\$250m
Cashflow (2-year aggregate)		≥HK\$30m	/
Revenue	2-year aggregate	/	≥HK\$100m
	Year-on-year growth	/	Required
R&D expenditure	2-year aggregate	/	≥HK\$30m
	% of total operating expenditure	/	≥15% each year



SHORTER POST-IPO LOCK-UP PERIOD

To facilitate post-IPO equity fundraisings by GEM issuers, **HKEX proposes to shorten the post-IPO 24-month lock-up period for controlling shareholders to 12 months** which is in line with that for Main Board issuers.

Controlling shareholders of an issuer would not be able to dispose of any of their interests in the issuer within the first six months of listing and would not be able to dispose of any interest in the second six months that would result in them no longer being its controlling shareholder.

Given shell activities have largely ceased due to joint efforts of HKEX and SFC, the prolonged lock-up period is no longer considered to be necessary.

A prolonged lock-up period for controlling shareholders reduces the attractiveness of a GEM listing and hinders newly listed GEM issuers' business development by potentially imposing a delay on a post-listing issue of securities for fundraising purposes.

To aid liquidity at IPO, HKEX notes that the Nasdaq Capital Market requires that a minimum number of the issuer's shares be unrestricted from lock-up (i.e. a "free float"). This is a concept that HKEX may explore further as part of a future consultation exercise.

FOR GEM LISTED ISSUERS

Removal of certain undue and rigid continuing obligations

1. Compliance officer and compliance adviser requirements

	Existing Requirements	Proposed Requirements
Compliance officer appointment	One of the executive directors	Requirement removed
Period of compliance adviser engagement	Ends on issuer publishing its second full financial year's results	Ends on issuer publishing its first full financial year's results

This is to align the requirements relating to a compliance adviser's responsibilities with those for Main Board issuers.

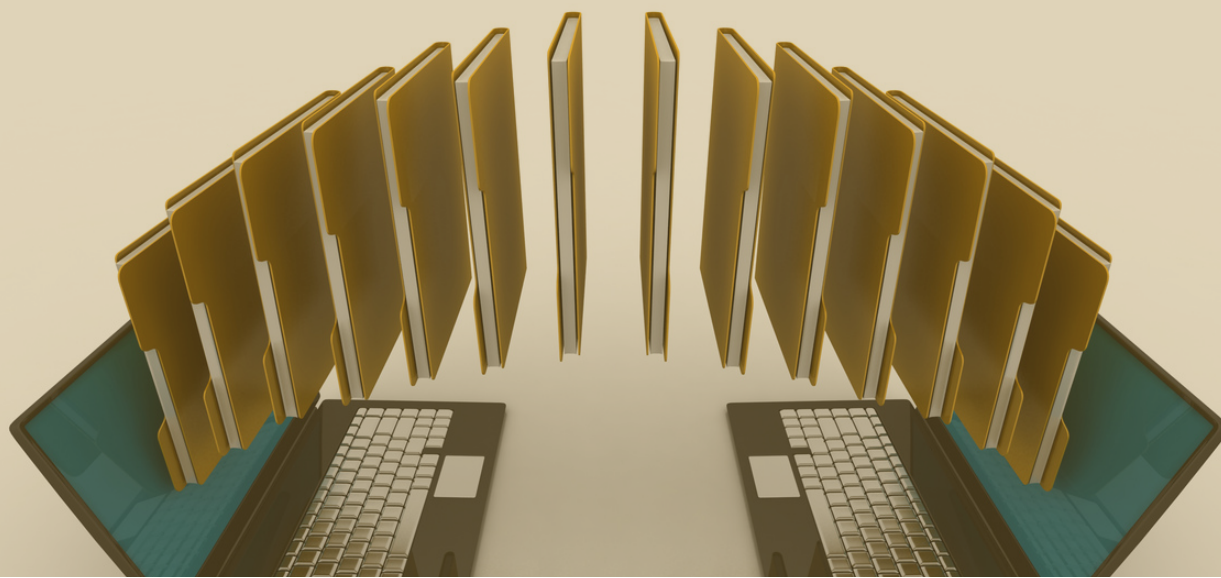
2. ESG reporting requirements

HKEX is currently considering the adoption of a measured approach for implementing new ESG reporting requirements in a manner that is proportionate to GEM issuers. There is no proposed amendment for the time being.

3. Periodic Reporting Requirements for GEM Issuers

HKEx proposes removing the existing mandatory quarterly reporting requirements and aligning other ongoing obligations with those of the Main Board. This proposal aims at reducing the compliance costs of a GEM listing.

	Existing Publishing Deadline	Proposed Publishing Deadline
Annual reports	Three months after the financial period ends	<u>Four</u> months after the financial year ends
Half-year/ Interim reports	45 days after the financial period ends	<u>Three months</u> after the first six months of the financial year end
Quarterly reports	45 days after the financial period ends	<u>Recommended only</u> , as best practice in the GEM's Corporate Governance Code
Preliminary results announcement of first six months of a financial year	45 days after the first six months of the financial year end	<u>Two months</u> after the first six months of the financial year end





NEW STREAMLINED TRANSFER MECHANISM TO THE MAIN BOARD



In addition to **exempt GEM issuers from the initial listing fee for a transfer of listing to the Main Board**, a **new streamlined transfer mechanism is also introduced**. For a GEM issuer that is unable to meet the below eligibility requirements under the new mechanism, it may apply for a transfer of listing under the existing mechanism.

	Existing Requirements	Proposed Requirements
Main Board qualifications	A transfer applicant must meet all the qualifications for listing on the Main Board	
Sponsor appointment/ due diligence	A transfer applicant must appoint a sponsor at least two months before submitting a transfer application	A transfer applicant will not be required to appoint a sponsor to conduct due diligence for its transfer
Track record	A transfer applicant must have published its financial results for the first full financial year commencing after the date of its initial listing on the GEM	A transfer applicant must satisfy the financial eligibility tests of the Main Board for <u>three full financial years</u> before its transfer, with (1) ownership continuity and control, and (2) no fundamental change in its principal business, throughout that period

(con'd)

	Existing Requirements	Proposed Requirements
Listing document/ application documents submission	A transfer must issue a “prospectus-standard” listing document	<p>A transfer applicant will not be required to issue a “prospectus-standard” listing document. A transfer applicant must instead submit the following application documents to the Listing Division:</p> <ul style="list-style-type: none"> • Formal listing application • Short announcement of the application • Long-form announcement of the transfer • Working capital sufficiency statement
Compliance record	A transfer applicant must not have been the subject of any disciplinary investigation by HKEx in relation to serious breach or potentially serious breach of any Listing Rules in the 12 months before the transfer application and until the commencement of dealings in its securities on the Main Board	<p>A transfer applicant must</p> <ul style="list-style-type: none"> • not have been held to have committed a serious breach of any Listing Rules in the 12 months preceding the transfer application; and • not be the subject of any investigation by HKEx, 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 Listing Rules as at the date of the transfer application and the date when dealing in its securities commences on the Main Board

Transfer Announcement

Existing Requirements	Proposed Requirements
Not applicable	A transfer applicant will be required to publish a transfer announcement which will be pre-vetted by the Listing Division.

Daily Turnover Test

Definition	Daily Turnover: Total value of an applicant's GEM shares traded on a trading day
	Minimum Turnover Threshold: Either HK\$100,000 or HK\$50,000, depending on the result of the public consultation
	Reference Period: The 250 trading days immediately before the transfer application and until the commencement of dealings on the Main Board
The Test	A transfer applicant must have reached the Minimum Turnover Threshold on at least 50% of the trading days over the Reference Period.

Volume Weighted Average Market Capitalization Test

Definition	Daily Market Capitalization on any trading day –Number of total issued shares x (Daily Turnover/Number of shares traded)
	Volume Weighted Average Market Capitalization – The weighted average of Daily Market Capitalization based on trading volume over the Reference Period
	Reference Period – The 250 trading days immediately before the transfer application and until the commencement of dealings on the Main Board
The Test	A transfer applicant's Volume Weighted Average Market Capitalization over the Reference Period must meet the minimum market capitalization requirement for listing on the Main Board based on the applicable threshold.



Post-Script



The proposed listing reforms demonstrate HKEX's determination to revitalize the GEM as an important platform for high-growth small and/or medium-sized enterprises ("SMEs") and investors in the wake of the impact of COVID-19 pandemic and alternative venues of SME listing. While the proposal is a positive step forward, HKEX is mindful of the need to balance its commitment in protecting the interests of investors.

Subject to market feedback, HKEX expects that the rule amendments will come into effect in early 2024.

For further information and to discuss what this development might mean to you, please get in touch with our lawyers and business executives.



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