

Hong Kong GEM Listing Reforms



Highlights

The Stock Exchange of Hong Kong Limited (the “Exchange”) has recently published a consultation paper on GEM listing reforms seeking market feedback on proposed changes to the GEM listing rules to enhance GEM's attractiveness, whilst maintaining high standards of investor protection.

Key proposals:

- A **new alternative eligibility test** – “Market capitalisation/revenue/R&D test” that targets high growth enterprises that are heavily engaged in research and development (R&D) activities.
 - Market capitalisation of at least HK\$250 million at the time of listing
 - Revenue of at least HK\$100 million in aggregate for the two most recent audited financial years, with a year-on-year growth of revenue over the two financial years
 - R&D expenditure of at least HK\$30 million in aggregate for the two financial years prior to listing, where the R&D expenditure incurred for each financial year must be at least 15% of the total operating expenditure for the same period
- A **new streamlined transfer mechanism** to enable qualified GEM issuers to transfer to the Main Board without the need to appoint a sponsor to carry out due diligence, or produce a “prospectus-standard” listing document. Instead, the streamlined transfer applicant must published financial results for three full financial years as a GEM issuer with ownership continuity and control and no fundamental change in its principal business and meet (a) a daily turnover test; (b) a volume weighted average market capitalisation test; and (c) a clean compliance record requirement.
- **Removal of mandatory quarterly reporting requirements** and the alignment of other ongoing obligations with those of the Main Board.

The consultation period will end on 6 November 2023. Full text of the consultation paper: [Link](#).



Background

Since 2019, the number of new listings and funds raised on GEM have significantly declined. The Exchange has engaged with a broad range of stakeholders to hear their concerns regarding GEM. The stakeholders commented that, among others, (i) the requirement that GEM applicants demonstrate a track record of positive operating cash flow may prevent the listing of companies with high growth potential that do not have such a track record because they are engaged heavily in R&D; (ii) the cost of listing outweighed the benefits of listing and the GEM's quarterly financial reporting requirement substantially increased the compliance costs for GEM issuers relative to Main Board issuer; and (iii) the removal of the GEM Streamlined Process in 2018 had dissuaded issuers from listing on GEM and had instead incentivised them to remain private until such time that they met the eligibility criteria for listing directly on the Main Board.

Key proposals

To address the issues identified during the stakeholder engagement, the Exchange has proposed:

- (1) a new alternative eligibility test for companies in the high-growth segment;
- (2) a new streamlined transfer mechanism for eligible GEM companies to transfer to the Main Board; and
- (3) removal of quarterly reporting requirements and alignment of other ongoing obligations.

(1) New alternative eligibility test

The Exchange proposed to introduce a new alternative eligibility test that targets high growth enterprises that are heavily engaged in research and development ("R&D") activities.

	Current eligibility test ("cash flow test")	Proposed alternative eligibility test ("Market capitalisation/ revenue/ R&D test")
Track record	<ul style="list-style-type: none">• Trading record of at least two financial years• Ownership continuity and control for at least the most recent financial year and up until the date of listing• Management continuity for at least the two preceding financial years and up until the date of listing	
Cash flow from operating activities	<ul style="list-style-type: none">• ≥ HK\$30 million in aggregate for the two preceding financial years	<ul style="list-style-type: none">• No requirements
Market capitalisation at the time of listing	<ul style="list-style-type: none">• ≥ HK\$150 million	<ul style="list-style-type: none">• ≥ HK\$250 million
Revenue	<ul style="list-style-type: none">• No requirements	<ul style="list-style-type: none">• ≥ HK\$100 million in aggregate for the two most recent audited financial years, with a year-on-year growth of revenue over the two financial years
R&D expenditure	<ul style="list-style-type: none">• No requirements	<ul style="list-style-type: none">• ≥ HK\$30 million in aggregate for the two preceding financial years• ≥ 15% of the total operating expenditure for each of the two preceding financial years

In addition, it proposed to reduce the post-IPO 24 month lock-up period imposed on controlling shareholders of GEM issuers to 12 months which is in line with the Main Board requirements.

(2) New streamlined transfer mechanism

The Exchange proposed a new streamlined transfer mechanism to enable qualified GEM issuers to transfer to the Main Board without the need to: (a) appoint a sponsor to carry out due diligence, or (b) produce a “prospectus-standard” listing document. Instead the applicant has to meet other requirements as detailed in the table below.

	Existing requirements	Proposed streamlined transfer requirements
A. Qualifications for transfer	<p>The transfer applicant must:</p> <ul style="list-style-type: none"> • meet all the qualifications for listing on the Main Board; • have published its financial results for the first full financial year commencing after the date of its initial listing on GEM; and • in the 12 months preceding the transfer application and until the commencement of dealings in its securities on the Main Board, not have been the subject of any disciplinary investigation by the Exchange in relation to a serious breach or potentially serious breach of any Listing Rules 	<p>The transfer applicant must:</p> <ul style="list-style-type: none"> • meet all the qualifications for listing on the Main Board; • have published its financial results for three full financial years as a GEM issuer with ownership continuity and control and no fundamental change in its principal business throughout the three-year financial track record period; • meet Daily Turnover Test – have reached the Minimum Daily Turnover Threshold¹ on at least 50% of the trading days over the Reference Period²; • meet Volume Weighted Average Market Capitalisation Test – have a volume weighted average market capitalisation over the Reference Period that could meet the minimum market capitalisation requirement for listing on the Main Board; and • meet a clean compliance record³ requirement over the 12 months preceding the transfer application and until the commencement of dealings on the Main Board

¹ Either HK\$100,000 or HK\$50,000

² The Reference Period refers to the 250 trading days immediately preceding the transfer application and until the commencement of dealings in its securities on the Main Board. For this purpose, the reference to “trading days” excludes the number of trading days on which trading of the applicant’s securities were halted or suspended

³ A streamlined transfer applicant must: (a) not have been held to have committed a serious breach of any Listing Rules in the 12 months preceding the transfer application and until the commencement of dealings in its securities on the Main Board; and (b) 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 Listing Rules as at the date of the transfer application and the date when dealing in its securities commences on the Main Board

(2) New streamlined transfer mechanism (continued)

	Existing requirements	Proposed streamlined transfer requirements
B. Sponsor appointment/ due diligence	<ul style="list-style-type: none"> A sponsor must be appointed at least two months before the submission of a transfer application 	<ul style="list-style-type: none"> No requirements
C. Publication of a listing document	<ul style="list-style-type: none"> To issue a “prospectus-standard” listing document 	<ul style="list-style-type: none"> Not required to issue a “prospectus-standard” listing document To submit certain application documents as required by the Exchange
D. Transfer announcement	<ul style="list-style-type: none"> No requirements 	<ul style="list-style-type: none"> To publish an announcement as soon as practicable before the intended date dealings in the issuer’s shares on the Main Board are expected to commence Such announcement should be pre-vetted by the Listing Division

The Exchange also proposed to exempt GEM transferees to the Main Board from the Main Board initial listing fee. A GEM issuer that cannot meet the proposed streamlined requirements may apply for a transfer under existing requirements.

(3) Removal of mandatory quarterly reporting requirements and other alignments on ongoing obligations

The Exchange proposed to remove the mandatory quarterly reporting requirements for GEM issuers and align GEM’s periodic reporting deadlines with those for Main Board issuers as follows:

Reporting deadlines (days/months after the end of the relevant period)	GEM		Main Board
	Existing requirement	Proposed requirement	Existing requirement
Interim results announcement	45 days	2 months	2 months
Interim report	45 days	3 months	3 months
Annual results announcement	3 months	3 months	3 months
Annual report	3 months	4 months	4 months

The Exchange also proposed to align GEM issuer’s ongoing compliance officer and compliance adviser obligations with those of the Main Board by:

- removing of the existing requirement for one of the executive directors of a GEM issuer to assume responsibility for acting as the issuer’s compliance officer;
- shortening of engagement period of a GEM issuer’s compliance adviser so that it ends on the date on which the issuer publishes its financial results for the first (instead of the second) full financial year commencing after the date of its initial listing; and
- removing of 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.



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