

Hong Kong: The Exchange proposes GEM listing reforms to attract more listings from SMEs

In brief

On 26 September 2023, The Stock Exchange of Hong Kong Limited ("**Exchange**") published its on GEM listing reforms. The proposals have the objective of encouraging and facilitating listings of small and/or medium-sized enterprises ("**SMEs**") on GEM while upholding high standards of investor protection. The consultation period will close on 6 November 2023. Subject to market feedback, the Exchange expects that the rule amendments will come into effect in early 2024.

Key proposals

Below is a high level summary of the major proposals which, if adopted, will provide GEM listing applicants and GEM listed issuers with greater flexibilities in respect of initial listing requirements, transfer mechanism to the Main Board of the Exchange and post-listing continuing obligations.

Proposals				
For GEM listing applicants				
1. Alternative financial eligibility test	To create a path to GEM listing of high-growth enterprises with substantial investment in research and development (R&D), the Exchange proposes to introduce an alternative financial eligibility test – the market capitalisation/ revenue/ R&D test while keeping the existing cash flow test. A GEM listing applicant will have the option to select either one of these tests.			
	<table border="1"> <thead> <tr> <th>Current cash flow test</th> <th>Proposed alternative market capitalisation/ revenue/ R&D test</th> </tr> </thead> <tbody> <tr> <td> (a) Market capitalisation: At least HKD150 million; and (b) Cash flow: Positive cash flow from operating activities of at least HKD30 million in total for the two preceding financial years. </td> <td> (a) Market capitalisation: At least HKD250 million; (b) Revenue: At least HKD100 million in aggregate for the two most recent audited financial years, with year-on-year growth; and (c) R&D expenditure: At least HKD30 million in aggregate for the two financial years prior to listing, with each financial year's R&D expenditure accounting for at least 15% of the total operating expenditure. </td> </tr> </tbody> </table>	Current cash flow test	Proposed alternative market capitalisation/ revenue/ R&D test	(a) Market capitalisation: At least HKD150 million; and (b) Cash flow: Positive cash flow from operating activities of at least HKD30 million in total for the two preceding financial years.
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Other existing listing requirements e.g. a sufficient track record of a least two full financial years, and ownership continuity and control of at least one full financial year and management continuity of at least two full financial years will apply under both tests.				
2. Shorter post-IPO lock-up period	To facilitate post-IPO equity fundraisings by GEM issuers, the Exchange 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.			



Proposals

For GEM listed issuers

- 1. Removal of certain undue and rigid continuing obligations**
- Compliance officer and compliance adviser requirements**
- To remove the existing requirement for an executive director of a GEM issuer to act as the issuer's compliance officer;
 - To shorten the engagement period of a compliance adviser from two full financial years to one.
 - To align the requirements relating to a compliance adviser's responsibilities with those for Main Board issuers.
- Periodic reporting requirements**
- To remove the mandatory quarterly financial reporting requirement.
 - To align the publication deadlines of annual reports, interim reports and interim results announcement with those for Main Board issuers.
- ESG reporting requirements**
- The Exchange is currently considering the adoption of a measured approach for implementing new ESG reporting requirements for GEM issuers. There is no proposed amendment for the time being.

- 2. New streamlined transfer mechanism to the Main Board**
- To exempt GEM issuers from the initial listing fee for a transfer of listing to the Main Board.
 - To introduce a new streamlined transfer mechanism. 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 transfer mechanism	Proposed streamlined transfer mechanism
A. Eligibility requirements	<p>A transfer applicant must:</p> <ul style="list-style-type: none"> (a) meet all the qualifications for listing on the Main Board; (b) have published its financial results for the first full financial year after its GEM IPO; and (c) have a clean compliance record for the 12 months preceding the transfer application and until the commencement of dealings on the Main Board. 	<p>A transfer applicant must:</p> <ul style="list-style-type: none"> (a) meet all the qualifications for listing on the Main Board; (b) satisfy the financial eligibility tests of the Main Board for three full financial years prior to the transfer, with ownership continuity and control and no fundamental change in its principal business; (c) have a daily turnover of at least either HKD100,000 or HKD50,000 on at least 50% of the trading days over the 250 trading days immediately preceding the transfer application and until the commencement of dealing on the Main Board ("Reference Period"); (d) have a volume weighted average market capitalisation over the Reference Period that satisfies the minimum market capitalisation requirement for a Main Board listing; and (e) have a clean compliance record for the 12 months preceding the transfer application and until the



Proposals		
		commencement of dealings on the Main Board.
B. Sponsor requirement	<ul style="list-style-type: none"> A transfer applicant must appoint a sponsor at least 2 months prior to the submission of its transfer application. 	<ul style="list-style-type: none"> A transfer applicant will not be required to appoint a sponsor to conduct due diligence for its transfer.
C. Prospectus requirement	<ul style="list-style-type: none"> A transfer applicant must issue a prospectus. 	<ul style="list-style-type: none"> A transfer applicant will not be required to issue a prospectus. It will be required to submit application documents for the transfer.
D. Transfer announcement	<ul style="list-style-type: none"> Not applicable. 	<ul style="list-style-type: none"> A transfer applicant will be required to publish a transfer announcement which will be pre-vetted by the Listing Division.

For further information and to discuss what this development might mean for you, please get in touch with our lawyers set out under Contact Us or your usual Baker McKenzie contact.



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