

Submitted via Qualtrics

**The Chamber of Hong Kong Listed Companies
Company/Organisation view
Professional Body / Industry Association**

Question 1

Do you agree that an alternative eligibility test should be introduced to enable the listing of high growth enterprises substantively engaged in R&D activities on GEM?

Yes

Please give reasons for your views.

We welcome the move to accept new types of companies that can be included on GEM which would diversify the types of companies to attract potential investors but we have different views on the eligibility tests proposed.

Our recommendations for the eligibility tests for GEM listing are set out in our answer to Q.4.

Question 2

Do you have any comments on the proposed thresholds for the alternative eligibility test as set out in paragraphs 63 to 75 of the Consultation Paper?

Yes

Please give reasons for your views.

Question 3

Do you agree with the proposal to reduce the post-IPO 24 month lock-up period imposed on controlling shareholders of GEM issuers to 12 months as set out in paragraph 76 of the Consultation Paper?

Yes

Please give reasons for your views.

Lock-up period for companies meeting operating cashflow and profit test (proposed) can be 12 months but for those using revenue/growth/market capitalisation test should be 24 months.

See our answers to Q.4.

Question 4

Should any other existing eligibility requirement for a listing on GEM be amended?

Yes

If so, please state the requirement(s) that should be amended and give reasons for your views.

We believe the purpose of the GEM revamp is to attract more applications and increase the number of successful listings.

Fundamentally, we believe GEM should remain as a board for small or growth companies that wish to utilize the IPO proceeds to enable growth and expansion, and eventually aim for a Main Board listing. We believe this is also the thinking of the Exchange which leads to the recommendations to streamline the process of transfer to the Main Board. We will discuss that further in subsequent questions.

At the same time, given GEM is designed for small or growth companies, the eligibility tests need to cater for their characteristics so as to facilitate their access to the securities markets for funding. We propose we take this opportunity to review the IPO requirements overall.

The current GEM listing requirements are in brief: i) positive cashflow of \$30 million for the past two financial years immediately before IPO application, ii) no profit required, and iii) market capitalisation at IPO of \$150 million. If the objective of this round of GEM listing review is to attract new listing to GEM and revive liquidity, we should ensure the listing requirements are fit for purpose and reflect the current economic situation and market sentiments. We propose:

i) Operating cashflow test: In view of the subdued global economy, the current \$30 million cashflow for the last two financial years requirement shall be reduced to HK\$20 million;

ii) Profit test: We propose the addition of a profit test for smaller profitable companies which cannot meet the operating cashflow test because of the business nature. We propose a combined profit after tax of HK\$10-15 million in the last two years of the track record period.

iii) Revenue and Market Capitalisation test without the R&D spending requirement: We note that Revenue and Market Capitalisation plus R&D spending is a test newly introduced to high growth enterprises substantially engaged in R&D activities, but we believe a Revenue and Market Capitalisation test can be applied to other industries but without R&D spending requirement. We recommend a minimum revenue of HK\$50 million for the latest financial year in the track record period, to demonstrate business feasibility plus revenue growth of at least 30% in the last

financial year in the track record period and market capitalisation of HK\$150 million. This represents three times price-to-sales which is appropriate in the current environment.

iv) Abolish the existing market capitalization test except for iii) above for growth companies. A small or growth company's sustainability should be demonstrated by its operating cashflow, profitability or revenue, not market capitalization which is out of the control of the company and subject to macro factors. A minimum monetary public float and percentage requirement should ensure sufficient liquidity. Abolishing the market capitalisation requirement also enables applicants with operating cashflow and/or profit and in traditional industries to have greater flexibility to price their IPOs at an attractive valuation to lure investors.

Furthermore, the requirement for the disclosure of statement of business objectives should be removed now that GEM is open to small or growth companies.

We do hope after the consultation and the successful reform the GEM Listing, GEM can revive its vitality and successfully attract new listings on the Board.

Question 5

Do you agree with the proposed consequential and housekeeping amendments to the reverse takeover and extreme transaction Rules as set out in paragraphs 81 and 82 of the Consultation Paper?

Yes

Please give reasons for your views.

Apart from these, we would like to make a general comment on the regulation of the reverse takeover and extreme transaction rules.

A main focus of this Consultation is the streamlined transfer of existing GEM companies to the Main Board to enhance the attractiveness of GEM, which we support. But the pre-condition is

the existing GEM companies would get to the stage of being eligible for a Main Board listing of having an aggregate of \$80 million for the three years track record period under the profit test. This is extremely challenging under the subdued economic climate. In addition to organic growth, companies might resort to mergers and acquisitions to expand their scale of business and profitability to reach the Main Board profit threshold. But unfortunately this route is basically shut due to the Exchange's regulatory approach and stance towards smaller companies in the past years to tackle the shell listing problem. But as mentioned in the Consultation Paper, the shell issue had been dealt with. The Exchange should therefore relax its restrictions over M&A and injection of new assets, especially those akin to the existing business. Companies should be allowed to explore new business fields outside of their existing ones which can leverage on current experience, industry know-how and client network. Allowing existing GEM companies to proceed with transactions for business expansion would create positive expectation of growth, attract investors and lead to higher market turnover. This would only be beneficial to all shareholders and have positive effects on market liquidity, which is what plaguing GEM right now.

Question 6

Do you agree with the Exchange's proposal to remove GEM's compliance officer requirement as set out in paragraph 85(a) of the Consultation Paper?

Yes

Please give reasons for your views.

Compliance should be the responsibility of the whole board. The board can decide whether the company needs to appoint a director as dedicated compliance officer or oversee it through normal board procedures.

Question 7

Do you agree with the Exchange's proposal to shorten the period of engagement of GEM issuers' compliance advisers and to remove the additional obligations currently imposed on a GEM issuer's compliance adviser as set out in paragraphs 85(b) and 86 of the Consultation Paper?

Yes

Please give reasons for your views.

In principle, we agree aligning the GEM listing rules with those of the Main Board. Our view is that GEM companies would eventually aim for a Main Board listing, and aligning the two set of rules would be beneficial for transition.

Question 8

Should any other continuing obligation currently applicable to a GEM listed issuer also be removed?

If so, please state the requirement(s) and give reasons for your views.

We agree aligning the GEM rules with those of the Main Board. See our answer to the previous question.

Question 9

Do you agree with the Exchange's proposal to remove quarterly financial reporting as a mandatory requirement for GEM issuers and instead introduce it as a recommended best practice in GEM's Corporate Governance Code?

Yes

Please give reasons for your views.

Our Chamber also holds the view that quarterly reporting should not be mandatory. Because of its short reporting cycle, quarterly reports fail to present the true financial picture of a company and might even promote short-termism. We agree to abolishing this requirement.

Question 10

Do you agree with the Exchange's proposal to align the timeframes for GEM issuers to publish their annual reports, interim reports and preliminary announcements of results for the first half of each financial year with those for the Main Board, as set out in paragraphs 94 and 95 of the Consultation Paper?

Yes

Please give reasons for your views.

We agree aligning the GEM rules with those of the Main Board.

Question 11

Do you agree that a streamlined mechanism should be introduced to enable qualified GEM issuers to transfer their listing to the Main Board?

Yes

Please give reasons for your views.

We agree. As we pointed out in our answers to earlier questions, migrating to the Main Board is the aspiration of most GEM companies. GEM provides a platform to gain earlier access to the securities market to raise the fund they need for business expansion so they may reach the Main Board listing threshold eventually.

The streamlined mechanism that foregoes the requirements of a sponsor and "prospectus-standard" document will not only save costs but is also reasonable given the fact that when GEM companies first got listed, they have already gone through the due IPO vetting process. Provided the business has not had substantial changes (the Exchange would have requested an RTO if that was the case) there is no need to repeat the process again.

As some GEM companies pointed out to us, their previous attempts to transfer to the Main Board have met with excessive scrutiny from the Exchange. This was despite they have met the eligibility tests of the Main Board. The subjective intervention by the Exchange over and beyond stated objective requirements have in some cases thwarted the Main Board listing plan of GEM companies and that may have been a deterring factor for companies seeking a GEM listing in recent years.

Question 12

Do you agree with the removal of the requirement for the appointment of a sponsor for the purpose of a streamlined transfer as set out in paragraph 108 of the Consultation Paper?

Yes

Please give reasons for your views.

See our answer to previous question.

Question 13

Do you agree with, for the purpose of a streamlined transfer, the removal of the requirement for a "prospectus-standard" listing document and other requirements as set out in paragraphs 111 to 114 of the Consultation Paper?

Yes

Please give reasons for your views.

See our answer to Q. 11.

Question 14

Do you agree with the track record requirements for a streamlined transfer applicant as set out in paragraphs 117 to 118 of the Consultation Paper?

No

Please give reasons for your views.

The three financial years requirement is excessive given an issuer has already fulfilled the track record or market capitalisation requirements upon admission to GEM. The purpose of the revamp is to make GEM an attractive proposition. We believe one financial year, comparable to

the one year ownership requirement for Main Board application, is appropriate.

Question 15

Do you agree with the daily turnover and volume weighted average market capitalisation requirements for a streamlined transfer applicant as set out in paragraphs 120 to 133 of the Consultation Paper?

No

Please give reasons for your views.

No, we disagree. These requirements only open up possibility of market manipulation. The Main Board does not have similar requirements.

Question 16

Should the Minimum Daily Turnover Threshold for the Daily Turnover Test be set at: - Selected Choice

Please give reasons for your views.

Question 17

Do you agree with the proposed compliance record requirement for a streamlined transfer applicant as set out in paragraph 134 of the Consultation Paper?

Yes

Please give reasons for your views.

We agree to the "no serious breach of Listing Rules" requirement as stated in 134(a). As for the requirement as stated in 134(b) we can agree to it as long as the issuer intending for a Main Board transfer can start or resume their transfer application once the investigation is clear and not leading to any disciplinary proceedings or the disciplinary proceedings rule in favour of the issuer.

We could see the reasoning of not allowing an issuer to make a transfer while it is a subject of proceedings. But incidents of investigation may be more problematic. Investigation is initiated by the Listing Division and may or may have sufficient ground. It is certainly not ideal that a transfer plan be stalled because of an investigation that might be later proved to be unsubstantiated. In addition, the issuer may not even be aware that they are being investigated before disciplinary proceedings commence. If the issuer is made aware of such only at the time of transfer application and is forced to halt the plan, that could be very disruptive and costly. The Exchange must be mindful of the treatment of investigation incidents.

Question 18

Do you agree with the proposed modification to the existing compliance record requirement for a transfer from GEM to the Main Board as set out in paragraph 136 of the Consultation Paper?

Yes

Please give reasons for your views.

Please see our answer to the previous question.

Question 19

Do you agree that the Exchange should exempt GEM transferees to the Main Board from the Main Board initial listing fee?

Yes

Please give reasons for your views.

We agree. But on the question of GEM listing expenses, we have a general observation. The Consultation Paper pointed out the professional fees incurred at a GEM listing often times account for a very high proportion of the amount of proceeds raised. This of course is not ideal but we noted that the high professional fee is partly a result of the long vetting process of the Listing Division with multiple rounds of queries, sometimes of a subjective nature. Worse still, the lengthy process may cause the application and/or the financial statements to lapse in which case a new set of statements will have to be prepared. This inevitably leads to a hike in professional fee for the applicant.

We believe that the Exchange should stick to its service commitment of fast turnaround, adopt a more objective, bright-line test, remove the bias against GEM IPO applicants, as some in the market have suggested, and where possible minimise subjective vetting, such as questioning the intention of listing. The norm should be completion of vetting within the effective period of an application (i.e. six months) rather than the exception. Not only will that reduce the overall professional fee of listing but also make a GEM listing more predictable (using objective rather than subjective test). That would increase the overall attractiveness of a GEM listing and may improve on the situation of GEM lacking new listings as have been the case in the past two years.

In addition, we would recommend the Exchange be more proactive in reaching out to small or growing companies and encourage them to consider a GEM listing. To listed GEM companies, the Exchange can offer more services such as investors outreach to help market their shares so as to create liquidity.

The Chamber supports a vibrant securities market in which companies of all types and sizes can be accommodated. HKEX, being a monopoly exchange operator, have due obligations to service smaller companies as well, which are an important pillar of our local economy. Facilitating their growth is to support the continual economic development of Hong Kong economy which is much needed at this particular moment in time.