

Submitted via Qualtrics

Raymond Lau
Personal view
Lawyer

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.

I agree that introducing an alternative eligibility test focused on high growth R&D companies could help facilitate listings on GEM and access to public capital for such companies. Some key considerations that support this view:

There is a recognition that companies heavily engaged in R&D may not have sufficient profit or cash flow history to meet the existing tests, even if they have high growth potential. A test focused on R&D investments could help address this.

The proposed thresholds for market cap, revenue, and R&D spending appear reasonably calibrated to target legitimately high growth companies while also ensuring some minimum level of commercialization and validation through investment.

Having an additional pathway to listing acknowledges the different business models of R&D companies and permits evaluation based on key metrics like R&D spending that better capture their potential.

Comparable overseas markets have utilized similar alternative tests, providing precedent and support for this approach.

The proposal aims to balance opportunities for high growth companies with appropriate investor protections through requirements like ownership/management continuity.

Facilitating access to public markets could help further develop Hong Kong's tech ecosystem and positioning as a hub for innovative companies.

Therefore, on balance the introduction of a tailored alternative eligibility test seems a reasonable step that aligns Hong Kong's listing regime with international standards while serving to support high-potential R&D enterprises. Proper implementation and ongoing

review would be important to maximize benefits and address any issues that may emerge.

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.

I do not have any major concerns with the proposed eligibility thresholds for the alternative test. Some brief thoughts:

The market cap threshold of HK\$250M is higher than the existing HK\$150M threshold, which appropriately balances access vs. minimum size/liquidity needs.

The revenue threshold of HK\$100M aggregate over 2 years seems reasonably calibrated based on analysis of other markets and issuers that currently pass the cash flow test.

The R&D spending thresholds of HK\$30M aggregate over 2 years and 15% of operating expenses each year appear intended to meaningfully demonstrate a commitment to and focus on R&D activities.

Using a 2-year track record period matching the existing requirement provides consistency and allows evaluation of growth/trends.

The proposal to define R&D spending and calculate ratios in a standardized way prevents ambiguity.

Overall, the thresholds appear aimed at identifying legitimately high-growth companies engaged in substantial R&D to justify an alternative evaluation approach, without being either too lenient or stringent. Balancing access and investor protections, no individual threshold raises concerns. My view is the proposed thresholds are appropriately set based on the rationale provided.

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.

Yes, I agree with the proposal to reduce the post-IPO lock-up period imposed on controlling shareholders of GEM issuers from 24 months to 12 months.

The key reasons for my view are:

Shell activities that the extended lock-up period originally aimed to address have largely ceased due to regulatory efforts, so the prolonged period is no longer necessary for that purpose.

A shorter 12-month lock-up period would help enhance the attractiveness of GEM listings by removing a potential delay on post-IPO fundraisings that controlling shareholders participation could facilitate. This aligns with the objective of expanding capital raising opportunities on GEM.

Bringing Hong Kong's requirement more in line with the 12-month standard set in most major comparable overseas junior markets reduces any discrepancy without compromising investor protections.

The proposal still mandates a staggered release during the first 12 months to balance the interests of controlling shareholders and minority investors. This prevents a "lock-up cliff" effect upon expiry.

A 12-month period provides a reasonable timeframe for controlling shareholders to demonstrate commitment to their ongoing stewardship role, while not being excessively restrictive.

In summary, reducing the lock-up to 12 months seems a fair calibration that appropriately addresses prior issues, improves competitiveness vis-a-vis other exchanges, and balances the various stakeholder perspectives. It remains a sufficiently robust requirement without overburdening firms or their shareholders.

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.

I do not have any strong views about amending other existing eligibility requirements for listing on GEM besides introducing the alternative test and reducing the controlling

shareholder lock-up period addressed above. The current requirements seem generally appropriate and balanced.

That said, a few other existing requirements could potentially be worth exploring further to facilitate broader access to GEM capital, while still upholding investor protections:

Shareholder spread: The minimum 100 shareholder requirement helps ensure sufficient liquidity but may be too onerous for some companies. Gradually reducing it, e.g. to 75, could ease listing barriers marginally without compromising diversity.

Track record period: Shortening the required 2-year period to 18 months for certain companies could facilitate timelier listings of legitimately high-growth firms, if appropriately gated.

Post-IPO restrictions: Considering a "free float" requirement similar to Nasdaq may further incentive liquidity and efficient price discovery after listing.

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.

Yes, I agree with the proposed consequential and housekeeping amendments to the reverse takeover and extreme transaction Rules as set out in paragraphs 81 and 82.

The reasons for my view are:

Extending the availability of waivers from strict compliance with management/ownership continuity requirements to the proposed new alternative eligibility test ensures a consistent approach across all financial entry standards. This prevents the new test from becoming an unintended barrier in reorganization scenarios.

Clarifying in the Mainboard Listing Rules that such waivers can apply to the existing alternative eligibility tests removes any ambiguity and makes the rules more transparent/specific. This is aligned with existing guidance, so merely codifies current understanding.

The waivers would still be granted on a case-by-case basis with latitude for the Exchange to refuse if deemed unsuitable. So investor protections are not compromised.

Not proposing these conforming amendments could undermine the goal of introducing the new test by potentially inhibiting its practical application in legitimate corporate actions involving an acquisition.

In summary, the proposed revisions appear reasonably aimed at maintaining a uniform and coherent waiver framework across different financial standards. They enhance clarity and ensure the rule amendments do not have unintended restrictive consequences. This keeps the eligibility criteria appropriately flexible without compromising regulation.

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.

The proposal brings GEM's requirements more in line with the Main Board.

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.

Yes, I agree with the Exchange's proposals to:

Shorten the period of engagement of GEM issuers' compliance advisers to end after the first full financial year post-listing rather than the second year, as set out in paragraph 85(b).

Remove additional obligations currently imposed on a GEM issuer's compliance adviser as set out in paragraph 86.

The reasons for my view are:

As established SMEs, GEM issuers require less stringent handholding post-listing compared to when GEM first started as a market for early-stage companies.

Harmonizing the compliance adviser obligation period with the Main Board requirement of one year reduces unnecessary disparities without compromising oversight during the critical initial listing period.

Additional obligations like due diligence on listing documents and interest disclosures for certain transactions relate more to the pre-IPO process. Post-IPO, issuers should have capacity for self-compliance.

Other proposals like maintaining financial reporting requirements ensure ongoing transparency for investors.

Shortening engagement and removing prescriptive adviser obligations lowers costs for issuers while still providing guidance support initially when needed most.

Question 8

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

No

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

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.

I agree with the proposal to remove quarterly financial reporting as a mandatory requirement for GEM issuers and instead introduce it as a recommended best practice.

Reasons for my view:

The original rationale for quarterly reporting no longer applies as GEM issuers are now well-established SMEs rather than startups.

Aligning with Main Board requirements reduces unnecessary regulatory differences.

Quarterly disclosure remains recommended, allowing firms to still voluntarily provide higher frequency reports to investors.

Annual and interim reporting obligations ensure ongoing minimum transparency.

Maintaining flexibility in reporting frequency lowers costs for issuers without compromising disclosure standards.

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.

I agree with aligning the timeframes for GEM issuers to publish annual reports, interim reports and preliminary announcements with those of the Main Board.

Reasons for my view:

Harmonizing publication deadlines streamlines requirements across boards for consistency.

Financial statement auditing for annual reports typically requires a longer timeframe than reviewing interim reports.

Alignment achieves regulatory simplification and parity with the Main Board standards.

Adequate reporting periods are still mandated to ensure timely availability of financial information to the market.

In both cases, the proposals appropriately calibrate periodic reporting obligations for GEM issuers in line with their maturity levels today, addressing costs while keeping disclosure standards robust.

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.

Yes, I agree that a streamlined mechanism should be introduced to enable qualified GEM issuers to transfer their listing to the Main Board for the following reasons:

It provides suitable GEM companies with a clearer path to graduate to the Main Board as they mature, without imposing unnecessary barriers.

By incentivizing listings on GEM rather than waiting to list directly on the Main Board, it enhances GEM's competitiveness and aims to broaden its issuer base.

The proposed eligibility requirements are robust yet balanced, evaluating issuer quality based on financial/liquidity standards over a track record rather than imposition of transfer costs.

Comparable to mechanisms on overseas junior boards that enable progression of qualifying firms to major exchanges.

Appropriately streamlines requirements for issuers well-established as public companies already meeting Main Board admission criteria.

Providing this pathway for eligible GEM issuers seeking to access the Main Board investor base supports Hong Kong's goal of facilitating business growth of quality firms through the local equity capital markets.

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.

Yes, I agree with removing the requirement to appoint a sponsor for a streamlined transfer for the following reasons:

Streamlined transferees would have already undergone sponsor due diligence during initial GEM listing and be subject to ongoing disclosure/audit requirements.

Removal of this obligation meaningfully reduces costs for qualified issuers utilizing this pathway.

Risk of shell activities is mitigated by proposed eligibility criteria including 3-year listing/compliance track record.

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.

Yes, I agree with removing the requirements for a prospectus-standard listing document and substituting the alternative listing documents proposed for a streamlined transfer. This streamlines documentation requirements in a risk-proportionate manner for issuers with an established disclosure history.

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?

Yes

Please give reasons for your views.

Yes, I agree with the proposed 3-year GEM listing track record requirement, which substantiates issuers' qualification for streamlined treatment by demonstrating a sufficient length of public market operations and compliance.

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?

Yes

Please give reasons for your views.

Yes, I agree with the proposed daily turnover and volume-weighted market cap requirements as appropriate liquidity/valuation metrics to evaluate issuer qualification for this pathway in a balanced manner.

Question 16

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

(b) HK\$50,000

Please give reasons for your views.

My preference would be option (b) - setting the Minimum Daily Turnover Threshold at HK\$50,000. While a higher threshold gives more confidence, HK\$50,000 still demonstrates a minimum daily level of liquidity and trading interest while avoiding potential barriers for some otherwise suitable transferees.

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.

Yes, I agree with the proposed compliance record requirement as a sensible screen to only permit qualified issuers with a clean disciplinary history to utilize the streamlined transfer mechanism.

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.

Yes, I agree with the proposed modification to explicitly exclude transfer applicants subject to any investigation or disciplinary proceedings for potential/serious Listing Rules breaches from the streamlined transfer pathway. This helps ensure regulatorily compliant firms.

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.

Yes, I agree that the Exchange should exempt GEM transferees to the Main Board from the Main Board initial listing fee for the following reasons:

It supports the goal of facilitating appropriate transfers between boards by reducing financial barriers for qualified issuers utilizing the streamlined transfer pathway.

Transferees have already undergone an initial listing process and paid associated fees for their original GEM IPO. Requiring repeat fees for transfers between affiliated boards could discourage legitimate transfers.

Main Board admission for transferees involves a modified process relative to an initial public offering, with reduced documentation/due diligence requirements. A full initial listing fee may not be commensurate.

Combining fee exemption with other proposals removing transferee obligations helps meaningfully lower compliance costs for GEM issuers graduating to the Main Board as intended, without compromising regulatory standards.

Fee waiver incentives mature GEM companies to eventually list on the flagship exchange, enhancing the entire Hong Kong market ecosystem for secondary listings over the long run.