

Our Ref : LK/bw

Corporate Communications Department
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29 May 2006

Dear Sirs

Comments on Discussion Paper on the Growth Enterprise Market

I refer to the Exchange's invitation to comment on the above discussion paper. Set out below are my comments on the matters discussed in the paper:-

- (1) Hong Kong needs a growth company market in which emerging companies and small and medium-sized enterprises would be able to access the capital market. Such a growth company market would add value to our positioning as well as enhance the competitive advantage of Hong Kong as a financial centre for raising capital for Chinese enterprises.
- (2) The growth company market should not target only local Hong Kong companies or mainland-based or regional/international companies. The market should be open to any company that can meet its listing criteria, irrespective of their specific backgrounds.
- (3) The growth company market should not be restricted to professional and institutional investors. All investors including retail investors should have the right to freely participate in this market. However, investors should be cautioned of the higher risks involved in this market and they have to take responsibility for their own investment decisions.
- (4) GEM should develop its own branding and should operate independently of the Main Board, e.g., as a subsidiary of the Stock Exchange with a separate and independent board of directors, management team and staff. The purpose of this is to increase its attractiveness and to keep good GEM-listed companies from transferring to the Main Board, thus improving the quality of the long-term constituents of the GEM.
- (5) The scope of GEM should not be restricted to emerging companies, but be broadened so as to position it as an alternative board for companies that are currently unable to meet the listing criteria of the Main Board. Accordingly, the initial listing requirements should be less restrictive than those of the Main Board.

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2004年10月起郭葉律師行與萬世基律師行合併，並改名為“萬盛國際律師事務所”

- (6) The regulatory regime and approach for the growth company market should be adopted and adapted where necessary from that of the Main Board which many believe would be sufficient to deal with the higher risks of investing in companies listed on the growth company market. Additional disclosure could be a way of mitigating such risks. At the same time, the market should have reasonably low listing as well as on-going compliance costs so as to attract suitable candidates. In-depth analysis of the other successful markets, such as AIM and NASDAQ, would be helpful in mapping a way forward for the continued development of GEM in Hong Kong.
- (7) The company's management should be responsible for any breaches of the listing regulations and even company failure. Sponsors, professional advisors and other professionals should only be held responsible for their own misconduct or negligence in performing any due diligence work that is clearly within their work responsibilities, since they are not involved in the day-to-day management of the company and may not have access to all the relevant information about the company. At the same time, there should also be safe harbour rules for sponsors and advisors who perform their roles with due competence and act in good faith. Regulators should first and foremost go after thieves, but not to penalize the watchmen for whatever happened. While the regulators might not want to be perceived as such, this perception has somehow been created.
- (8) Securities market regulators should be more effective in performing their regulatory role and should impose stronger sanctions on the companies and their management for non-compliance and wrongdoing. Since resources are limited, the focus of regulators on investigation and enforcement should be on the more serious breaches rather than on minor breaches.

I am submitting the above comments on an individual basis. The above are my personal views on the discussion paper and do not in any way represent the views or stance of my firm.

Yours faithfully



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cc: Mr Ronald Arculli, Chairman, Hong Kong Exchanges and Clearing Limited
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