

ALVIN H.Y. LEUNG

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18 August 2017

Hong Kong Exchanges and Clearing Limited
12/F, One International Finance Centre
1 Harbour View Street
Central, Hong Kong

By email & by hand

Dear Sirs,

Re: Consultation Paper on Review of the GEM and Changes to the GEM and Main Board Listing Rules (the "Consultation Paper")

I am a former member of the Listing Committee of The Stock Exchange of Hong Kong Limited for the period from 2010 to 2016 and a responsible officer under the Securities and Futures Ordinance for Type 1 (dealing in securities) and Type 6 (advising on corporate finance) regulated activities. We refer to the Consultation paper and enclose herewith the duly completed Questionnaire with our additional comments / views stated in the Appendix for your attention.

We consider that the existing problems of the GEM are stemmed from its low admission requirements, which are further intensified by the preferential treatment to those GEM listed issuers when they apply for transfer to Main Board. This results in GEM becoming a factory for producing Main Board shell companies.

Annual cost of a small-scale listed issuer in compliance and administration (at listco level only) is around HK\$7 million to HK\$8 million ("Annual Listco Costs"). A GEM IPO applicant meeting the minimum net cashflow requirement of HK\$20 million for 2 years (i.e. HK\$10 million in a year by average) won't be able to be profitable after listing on GEM after payment of the Annual Listco Costs and that's why many of the GEM listed issuers are loss making after being listed on GEM.

The preferential treatments for IPO applicants transferring from GEM to Main Board allow those inferior GEM issuers to get listed at Main Board easily. This chain reaction results in deterioration of the Main Board issuers in recent years.

The new admission requirements as proposed in the Consultation Paper are still too low. In order to cure the existing problems of GEM and enhance the quality of GEM and Main Board listed issuers, the admission requirements should be more stringent and the preferential treatments should be abolished. Please refer to our comments in the Appendix to the questionnaire for further details.

Should you have any queries, please contact me at [REDACTED].

Yours faithfully,

[REDACTED]

Alvin H. Y. Leung
Former member of the Listing Committee (2010-2016)

Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please reply to the questions below on the proposed change discussed in the Consultation Paper downloadable from the HKEX website at:

<http://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp2017062.pdf>

Where there is insufficient space provided for your comments, please attach additional pages.

1. Do you agree with the proposal to re-position GEM as a stand-alone board and hence remove the GEM Streamlined Process for GEM Transfers and re-introduce the requirements to (a) appoint a sponsor to conduct due diligence for GEM Transfers; and (b) publish a "prospectus-standard" listing document such that GEM Transfer applications are treated as a new listing application (without requiring the applicant to conduct an offering)?

Yes

No

Please give reasons for your views.

Please refer to the appendix

2. Do you agree with the proposal to require all GEM Transfer applicants to have (a) published and distributed at least two full financial years of financial statements after their GEM listings; and (b) not been subject to any disciplinary investigations by the Exchange in relation to a serious breach or potentially serious breach of any Listing Rules for 24 months before they can be considered for a GEM Transfer?

Yes

No

Please give reasons for your views.

Please refer to the appendix

3. Do you agree with the proposal to retain the current track record requirement under the GEM Listing Rules (i.e. two financial years)?

Yes

No

Please give reasons for your views.

Please refer to the appendix

4. Do you agree with the proposal to retain the current practice of not requiring a GEM applicant that can meet the Main Board admission requirements to list on the Main Board instead of GEM?

Yes

No

Please give reasons for your views.

Please refer to the appendix

5. Do you agree with the proposal to increase the Cashflow Requirement from at least HK\$20 million to at least HK\$30 million?

Yes

No

Please give reasons for your views. We invite suggestions on other potential quantitative tests for admission to GEM.

Please refer to the appendix

6. Do you agree with the proposal to increase the minimum market capitalisation requirement at listing from HK\$100 million to HK\$150 million?

Yes

No

Please give reasons for your views.

Please refer to the appendix

7. Do you agree with the proposal to increase the post-IPO lock-up requirement such that controlling shareholders of GEM issuers:

(a) cannot dispose of any of their equity interest in a GEM issuer within the first year of listing; and

(b) cannot dispose of any interest in the subsequent year that would result in them no longer being a controlling shareholder as defined under GEM Listing Rule 1.01?

Yes

No

Please give reasons for your views.

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8. Do you agree with the proposal to introduce a mandatory public offering mechanism of at least 10% of the total offer size for all GEM IPOs?

Yes

No

Please give reasons for your views.

Please refer to the appendix

9. Do you agree with the proposals to align the GEM Listing Rules on:

(a) placing to core connected persons, connected clients and existing shareholders, and their respective close associates with those under Appendix 6 to the Main Board Listing Rules and Guidance Letter HKEX-GL85-16 "*Placing to connected clients, and existing shareholders or their close associates, under the Rules*"; and

Yes

No

Please give reasons for your views.

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(b) the allocation of offer shares between the public and placing tranches and the clawback mechanism with those in Practice Note 18 to the Main Board Listing Rules?

Yes

No

Please give reasons for your views.

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10. Do you agree with the proposal to increase the minimum public float value of securities from HK\$30 million to HK\$45 million?

Yes

No

Please give reasons for your views.

Please refer to the appendix

11. Do you agree with using the Profit Requirement to determine eligibility to list on the Main Board?

Yes

No

If not, what alternative test should be used? Please give reasons for your views.

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12. If you agree to retain the Profit Requirement, do you agree that the current level of profit under the Profit Requirement should remain unchanged?

Yes

No

Please give reasons for your views.

Please refer to the appendix

13. Do you agree with the proposal to increase the minimum market capitalisation requirement at listing for Main Board applicants from at least HK\$200 million to at least HK\$500 million?

Yes

No

Please give reasons for your views.

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14. Do you agree with the proposal to proportionately increase the minimum public float value of securities for Main Board applicants from HK\$50 million to HK\$125 million?

Yes

No

Please give reasons for your views.

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15. Do you agree with the proposal to increase the post-IPO lock-up requirement such that the controlling shareholders of Main Board issuers:
- (a) cannot dispose of any of their equity interest in a Main Board issuer within the first year of listing; and
 - (b) cannot dispose of any interest in the subsequent year that would result in them no longer being a controlling shareholder as defined under Main Board Listing Rule 1.01?

Yes

No

Alternatively, do you believe that it is not appropriate to extend the post-IPO lock-up requirements for Main Board applicants, given that they are less likely to have the characteristics identified in the 2016 Suitability Guidance Letter because of their larger size and our proposal to raise the minimum market capitalisation requirement to HK\$500 million.

Please give reasons for your views.

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16. Do you agree that the proposals for the Main Board should be considered independently irrespective of the outcome of the proposals for GEM?

Yes

No

Please give reasons for your views.

Please refer to the appendix

- End -

APPENDIX

**to
Concept Paper on New Board**

Question no.	Yes / No	Additional comments / suggestions / view
1.	Yes	<p>AGREE :</p> <ul style="list-style-type: none">(i) GEM should be re-position as a stand-alone board;(ii) the existing rules for GEM Streamlined Process for GEM Transfers to Main Board should be abolished; and(ii) GEM listed companies should NOT have any preferential treatment and they should be subject to the same admission requirements (including mandatory public offering requirement) as if they were other Main Board IPO applicants. <p>DISAGREE :</p> <ul style="list-style-type: none">(i) to waive the mandatory public offering requirement for GEM listed companies when they go for Main Board listing. GEM listed companies should not enjoy any preferential treatment when they opt for transfer to Main Board.
2.	Yes	<p>The Main Board admission requirements for GEM Transfer applicants should be more stringent than suggested in the Consultation Paper and tally with the existing Main Board IPO applicants that all GEM Transfer applicants should have :</p> <ul style="list-style-type: none">(i) published and distribute at least THREE (3) full financial years of financial statements after their GEM listings; and(ii) not been subject to any disciplinary investigations by the Exchange in relation to a serious breach or potential serious breach of any Listing Rules for 36 months before they can be considered for a GEM Transfer. <p>These more stringent requirements can :</p> <ul style="list-style-type: none">(i) show that the GEM and Main Board are two independent

		boards; and (ii) heal the existing problem of GEM that many companies which are marginally qualified for Main Board listing apply for GEM listing instead of Main Board in order to increase the successful rate.
3.	Yes	Agree to retain the track record requirement under the GEM Listing Rules BUT the track record period should be increased to THREE (3) financial years. The existing GEM admission requirement of two full financial years only has proven to be problematic and many GEM issuers' business DETERIORATES IMMEDIATELY after successful listing on the GEM.
4.	No	Those qualified for Main Board should go for Main Board listing, those qualified for GEM should go to GEM listing. In the past few years, some GEM applicants, which can meet Main Board admission requirements, have been using the GEM for stepping stone for listing on Main Board as the admission requirements for GEM are low, Main Board admission requirements for GEM Transfer applicants are lower thus resulting in preferential treatment to those companies. The existing preferential treatment for GEM transfer to Main Board practice is a loophole allowing those inferior companies to get listed on Main Board easily.
5.	Yes	The Cashflow Requirement should be increased to at least HK\$40 million rather than HK\$30 million as suggested. The current Cashflow Requirement of at least HK\$20 million is the fundamental error in setting up the GEM Listing Rules. Annual cost of a small-scale listed company in compliance and administration (at listco level only) after listing is around HK\$7 million to HK\$8 million ("Annual Listco Costs"). A company has net cashflow of HK\$20 million for 2 years (i.e. assuming no growth in profit after listing) would only be have very low profit, if not loss making, after listing on GEM after payment of the Annual Listco Costs unless there's great improvement in their business. That's why many of the GEM listed issuers become loss making after being listed on GEM.

6.	Yes	Agree to increase but should be increased to HK\$200 million rather than HK\$150 million as suggested.
7.	Yes	-
8.	Yes	Agree to have a mandatory public offering mechanism for all GEM IPOs BUT the size should at least 50% of the total offer size. 50% is necessary to avoid market manipulation and high concentration of shares.
9.	Yes	-
10.	Yes	Agree to increase BUT the minimum public float value should be increased to HK\$50 million (based on proposed market capitalization of HK\$200 million in reply to question 6 above).
11.	Yes	-
12.	No	The current level of profit under the Profit Requirement should be DOUBLE (i.e. HK\$40 million). The current Profit Requirement has not been changed for at least 25 years and is out-of-date. During the period, the consumer price index, inflation rate and price of properties in Hong Kong have increased substantially. As mentioned in the reply to question 5 above, the annual additional running cost of a small-scale listed issuer after listing is around HK\$7 million to HK\$8 million, a company won't be able to be profitable / maintain its profitability after listing and payment of the Annual Listco Cost. Doubling the Profit Requirement can cure this problem effectively.
13.	Yes	-
14.	Yes	-
15.	Yes	-
16.	Yes	Totally agree because GEM and Main Board are two separate boards.