

# Chapter 3

## GENERAL

### COMPOSITION, POWERS, FUNCTIONS AND PROCEDURES OF THE GEM LISTING COMMITTEE, THE LISTING APPEALS COMMITTEE AND THE GEM LISTING DIVISION

#### Composition of the GEM Listing Committee

3.18 The GEM Listing Committee shall consist of 21 members, comprising the following number of persons from the following categories:-

(1) Exchange Participants

4 individuals who are Exchange Participants or directors of Exchange Participants which are companies;

(2) Listed company representatives

4 individuals who are directors of listed issuers on GEM or the Main Board of varying sizes and business activities and who are neither Exchange Participants nor officers or employees of Exchange Participants;

(3) Market practitioners and users

12 individuals who are neither Exchange Participants nor officers or employees of Exchange Participants and who are:-

- (a) a director or a partner of a company or firm principally engaged in the business of fund management;
- (b) an officer or senior employee of a merchant bank;
- (c) a barrister or a partner of a firm of solicitors in private practice in Hong Kong;
- (d) a partner of an accounting firm;
- (e) a senior member of an industrial body with an interest in furthering the development of technology or scientific-based research; or
- (f) a person who is otherwise involved in or experienced in the securities market and corporate finance matters or securities regulation;

A minimum of 1 member and a maximum of 4 members may come from any of the foregoing categories in this paragraph (3);

- (4) The Chief Executive, of HKEC acting as ex officio member and, in his absence or if he so directs in any particular case, the Chief Executive to act as his alternate.

### **Appointment and removal of members of the GEM Listing Committee**

- 3.23 The Chairman and Deputy Chairman of the GEM Listing Committee shall be nominated by the Listing Nominating Committee and appointed by the Board. The Chief Executive of HKEC or the Chief Executive (acting as his alternate) may not be elected as either Chairman or Deputy Chairman of the GEM Listing Committee.

### **Conduct of meetings of the GEM Listing Committee**

- 3.29 The GEM Listing Committee shall meet for the despatch of business, adjourn and otherwise regulate its meetings in accordance with the provisions of the rules made by the Board for this purpose, including rules governing members' conflicts of interest, subject to the provisions of this rule. The quorum necessary for the transaction of any business by the GEM Listing Committee shall be 5 members present in person. The Chief Executive of HKEC or the Chief Executive (acting as his alternate) may be counted in the quorum for a meeting of the GEM Listing Committee (including a meeting at which the GEM Listing Committee is determining a matter in the first instance) except that he shall not be counted in the quorum for any meeting at which a decision of the GEM Listing Division or the GEM Listing Committee is under review pursuant to any disciplinary proceedings. The Chief Executive of HKEC or the Chief Executive (acting as his alternate) may attend meetings of the GEM Listing Committee convened for such purpose and put forward his views (if any) on the matter under review pursuant to any disciplinary proceedings but he shall not thereafter be entitled to participate in the deliberations of the GEM Listing Committee or to vote on such matters. At any meeting held to review an earlier decision of the GEM Listing Committee pursuant to any disciplinary proceedings, all of the members present at the second meeting must be persons who were not present at the first meeting.

### **Composition of the Listing Appeals Committee**

- 3.33 The third member shall be chosen and invited to sit on the Listing Appeals Committee by the Chairman of the Listing Appeals Committee as and when the Listing Appeals Committee is required to review a decision of the GEM Listing Committee and shall cease to be a member once the Listing Appeals Committee has given its decision upon the matter or upon resignation, whichever is the sooner. The third member shall be a member of the board of HKEC, except the Chief Executive of HKEC.

# Chapter 4

## GENERAL

### REVIEW PROCEDURE

#### Conduct of review hearing

- 4.11 (1) The GEM Listing Committee, the GEM Listing (Review) Committee or the Listing Appeals Committee shall meet for the despatch of business, adjourn and otherwise regulate its hearings in accordance with the provisions of the rules made by the Board for this purpose, including rules governing members' conflicts of interest, subject to the provisions of this rule.
- (2) The quorum necessary for the transaction of any business by the GEM Listing Committee or the GEM Listing (Review) Committee shall be 5 members present in person. The quorum necessary for the transaction of any business by the Listing Appeals Committee shall be 3 members present in person.
- (3) The Chief Executive of HKEC or the Chief Executive (acting as his alternate) may be counted in the quorum for a meeting of the GEM Listing Committee (including a meeting at which the GEM Listing Committee is determining a matter in the first instance) except that he shall not be counted in the quorum for GEM Listing (Review) Committee at which a decision of the GEM Listing Division or the GEM Listing Committee is under review. The Chief Executive of HKEC or the Chief Executive (acting as his alternate) may attend meetings of the GEM Listing (Review) Committee convened for such purpose and put forward his views (if any) on the matter under review but he shall not thereafter be entitled to participate in the deliberations of the GEM Listing (Review) Committee or to vote on such matters.
- (4) At any meeting held to review an earlier decision of the GEM Listing Committee, subject to the facts and circumstances arising in the earlier meeting(s) in each case and subject further to the absolute discretion of either the Chairman of the GEM Listing Committee or the GEM Listing (Review) Committee, as the case may be, all of the members present at the review hearing shall be persons who were not present at the earlier GEM Listing Committee meeting.
- (5) (a) The relevant party shall have provided the GEM Listing Committee with all or any new information for the consideration by the GEM Listing Committee before seeking to review a GEM Listing Committee decision by the GEM Listing (Review) Committee.
- (b) A party may only request a review of a decision of the GEM Listing Committee when all the relevant information and evidence has been provided to the GEM Listing Committee. A party seeking to review shall not seek to present to the GEM Listing (Review) Committee new information or evidence that was not previously presented to the GEM Listing Committee.
- (c) If the GEM Listing Division upon receipt of the written submission from the relevant party discovers that the relevant party adduces new information in its written submissions prepared for the review hearing, the GEM Listing Division

shall notify the Secretary immediately so that arrangements may be made for the relevant party to withdraw its application for review. The new submission will then be considered by the GEM Listing Committee as a first instance hearing.

- (6) Where the GEM Listing Committee is considering an application for listing from a new applicant, the GEM Listing Division will normally invite the new applicant and its directors to make itself available to attend the GEM Listing Committee hearing. The new applicant, including its directors and its Sponsor shall be prepared to answer questions raised by the GEM Listing Committee, but they will normally only be invited into the GEM Listing Committee hearing if the GEM Listing Committee wishes to directly question the new applicant. If the new applicant is invited to make itself available to attend, the new applicant may be accompanied by its directors, Sponsor and/or proposed authorised representatives.
- (7) At a GEM Listing (Review) Committee or Listing Appeals Committee hearing, the directors of the new applicant or the listed issuer (as the case may be) shall have the right to attend the hearing, to make submissions and to be accompanied by one representative of each of the Sponsor, authorised representatives, proposed or otherwise, the financial adviser, the legal adviser and auditors of the new applicant or the listed applicant (as the case may be); a Sponsor or authorised representative may be accompanied by its/his legal adviser.
- (8) In the case of a review hearing sought by a prospective Sponsor or admitted Sponsor pursuant to rule 4.07(2) or a compliance officer or an authorised representative pursuant to rule 4.07(3), the Sponsor, compliance officer or authorised representative, as the case may be, shall have the right to attend the review hearing, to make submissions and may be accompanied by one legal adviser.