

TO THE BUSINESS EDITOR
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JOINT PRESS RELEASE

*Joint Announcement on the
Market Consultation and Changes to the Rules governing the Listing of Securities on the
Growth Enterprise Market ("GEM")*

The Securities and Futures Commission (the "SFC") and the Stock Exchange of Hong Kong Limited (the "Exchange") have agreed in principle the proposed amendments to the GEM Listing Rules which are highlighted as follows:

1. Minimum active business pursuit period for listing applicants will be 24 months. However, a new category of entry requirement will be introduced to facilitate listing of companies with substantial size and significant public following. Provided that certain criteria are met, the minimum period for these GEM applicants will be 12 months.
2. A GEM listed issuer may not issue new securities within the first six months of listing, except in order to acquire assets which complement its focused line of business, provided that certain criteria are met.
3. The moratorium period for initial management shareholders will be 12 months in general, and 6 months for initial management shareholders with no more than 1% shareholding in the GEM listed issuer.
4. The definition of initial management shareholders will include all members of senior management, directors and investors with board representation.
5. The interpretation of "disposal" by initial management shareholders will exclude stock lending arrangements with underwriters at the time of the GEM applicant's initial offering for the purpose of satisfying any over-allotment, and the sale of shares pursuant to a placing and top-up transaction during the second six months after listing.
6. Certain requirements for share option schemes will be amended, such as the identity of the participants of the scheme and the overall scheme limit, to allow greater flexibility in operations. Further restrictions will be placed in other areas, such as the grant of options to connected persons and the maximum entitlement of each participant under the scheme, to safeguard against abuse of the scheme and to protect minority shareholders.
7. Employees and their associates will not be counted as members of the "public" in determining minimum public float at the time of listing.

8. The prescribed minimum percentage of securities in public hands will be 25% and 20% for GEM listed issuers with market capitalization not exceeding HK\$4 billion and over HK\$4 billion respectively. At the time of listing, the minimum market capitalization in public hands must be the higher of HK\$30 million and 25% for GEM applicants with market capitalization not exceeding HK\$4 billion, and the higher of HK\$1 billion and 20% for GEM applicants with market capitalization over HK\$4 billion.

Amendments are currently being made to the GEM Listing Rules to reflect these new requirements. To ensure effective and fair implementation of these new proposals, the various provisions will commence application in stages, starting on or after the date of this announcement. In addition, the Joint Announcement issued by the SFC and the Exchange on March 11, 2000 will cease to have effect, except for transitional purposes in certain respects.

Details on the proposed amendments to the GEM Listing Rules and the transitional arrangements are set out below.

The SFC and the Exchange have conducted an overall review of the Rules governing the Listing of Securities on the Growth Enterprise Market (the "GEM Listing Rules"), after gaining experience from the administration and operation of the GEM Listing Rules upon the establishment of GEM in November 1999.

On 11 March 2000, the SFC and the Exchange jointly announced the temporary relaxation of certain GEM Listing Rules (the "First Joint Announcement"). The First Joint Announcement was intended to be an interim measure to ensure a level playing field and transparency in the application of the GEM Listing Rules, pending a full review of the rules after market consultation. The Exchange released a consultation paper in May 2000 (the "Consultation Paper"), and the consultation period closed on 30 June 2000.

Submissions from different interest groups were received. The respondents represented a wide spectrum of the market including sponsors, professional firms, financial institutions, professional associations, companies including GEM listed issuer, Main Board listed issuers and new listing candidates, and individuals. A summary of the consultation results is available on the Hong Kong Exchanges and Clearing Limited and the GEM websites at <http://www.hkex.com.hk> and <http://www.hkgem.com>.

At around the time of the market consultation, the SFC appointed a committee known as International Committee on Listing of New Enterprises (the "International Committee") to study the key factors that draw or repel issuers from listing in certain markets. The Executive Summary of the report prepared following this study is available on the SFC website at <http://www.hksfc.org.hk>.

The SFC and the Exchange have taken into account the responses to the market consultation, the findings and recommendations of the International Committee, and the experience gained from the operation of GEM in considering amendments to the GEM Listing Rules. The SFC and the Exchange are of the view that such amendments are beneficial to the long-term development of GEM, and would strike a balance between ensuring market competitiveness and maintaining the quality of the market.

The proposed amendments to the GEM Listing Rules have been approved in principle. Amendments are currently being made to the GEM Listing Rules, and it is estimated that this process will take two to three months before the amended GEM Listing Rules will become effective (the "Effective Date"). To ensure effective and fair implementation of these new proposals, the various provisions of the new proposals will commence application in stages, starting on or after the date of this announcement.

Set out below are the principles of the proposed amendments to the GEM Listing Rules, and details of the transitional arrangements applicable from the date of this announcement.

PRINCIPLES OF THE PROPOSED AMENDMENTS TO THE GEM LISTING RULES

1. Active Business Pursuit Period and Accountants' Report

GEM Listing Rule 11.12 requires a GEM applicant to demonstrate that it has actively pursued one focused line of business for a minimum period of 24 months before listing. Under the First Joint Announcement, the 24-month period is reduced to at least 12 months. Under the proposed amendments, the requirement of GEM Listing Rule 11.12 is maintained.

A new category of entry requirements will be introduced, however, for companies of substantial size and with significant public following, but which cannot satisfy the 24-month period requirement to list on GEM. The rule will be amended to allow such a GEM applicant to list subject to satisfying the following criteria:

- i. has pursued its focused line of business for at least 12 months;
- ii. has total revenue of no less than HK\$500 million in the last 12 month period as shown in the accountants' report in the initial listing document, total assets of at least HK\$500 million as shown in the balance sheet in the accountants' report, or market capitalization of at least HK\$500 million determined at the time of listing;
- iii. at the time of listing, has a minimum market capitalization of HK\$150 million in public hands which is held by at least 300 public shareholders, with the largest 5 and largest 25 of such shareholders holding in aggregate no more than 35% and 50% respectively of the securities in public hands. In determining the “300 public shareholders”, only a maximum of 100 shareholders who have obtained their securities through a distribution in specie may be counted as public shareholders; and
- iv. the initial public offer price of the securities must be at least HK\$1.

GEM Listing Rules 11.10 and 7.03 require a GEM applicant to have an accountants' report covering at least two financial years immediately preceding the issue of the initial listing document. The two financial years under the First Joint Announcement is reduced to at least 12 months, corresponding to the minimum 12-month period of active business pursuit. Under the proposed amendments, the requirement under GEM Listing Rules 11.10 and 7.03 is maintained, however, for GEM applicants meeting the above criteria for a reduced active business pursuit period, the requirement for accountants' report will correspondingly be reduced to a minimum of 12 months.

The maintenance of the minimum 24-month period of active business pursuit for GEM applicants in general will provide more time for those companies to establish their businesses, and to allow their management to demonstrate that they have operated together cohesively as a team. At the same time, the introduction of a new category of entry requirements will facilitate quality companies with potential and public following to be listed on GEM.

2. Share Issue within Six Months of Listing

GEM Listing Rule 17.29 prohibits further issuance of securities by a GEM listed issuer during the first six months after its listing under general circumstances. This rule will be amended to allow a GEM listed issuer to issue new securities in the first six months after listing, provided that the following conditions are satisfied:

- i. the securities are issued to acquire assets which will complement the GEM listed issuer's focused line of business;
- ii. the size of the acquisition must not constitute a major (and larger) transaction (in general, this means the size of the acquisition cannot be 50% or greater compared to the profit or net assets of the GEM listed issuer);
- iii. the issue of securities must not result in any controlling shareholders of the GEM listed issuer ceasing to have control over 35% of the voting rights in the GEM listed issuer after the issue of securities, and in any event, must not result in a change in control of the GEM listed issuer within the meaning of the Takeovers Code;
- iv. shareholders' approval by way of a poll is required, and any connected persons, initial management shareholders and their associates, and shareholders interested in the issue or the related transaction must abstain;
- v. any person who subscribes for the securities will be subject to lock-up arrangement similar to that applicable to an initial management shareholder or significant shareholder, as applicable, for the remaining duration of the moratorium period; and
- vi. the GEM listed issuer is required to issue a circular which must include an opinion from an independent financial adviser together with information on the transaction and securities issue, including the circumstances surrounding and reasons for the acquisition, why the GEM listed issuer must acquire the assets within six months of its listing, and whether the GEM listed issuer had any intention to acquire the asset at the time of listing.

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A GEM listed issuer will generally be expected to have raised sufficient funds during its initial public offering to satisfy its funding needs for at least the first six months. The rule amendment is in line with this expectation, while allowing GEM listed issuers the flexibility to issue securities as consideration for acquisitions, particularly in circumstances where the opportunity to acquire those particular assets only arises after its listing. Meanwhile, the conditions imposed will ensure that shareholders will have a right to be heard in the acquisition, and that their interests will not be unreasonably diluted in the near term.

3. Moratorium Period for Initial Management Shareholders

GEM Listing Rule 13.16 requires the moratorium period for initial management shareholders to be 24 months. This 24-month period is reduced under the First Joint Announcement to 6 months, with a further restriction that no controlling shareholders may dispose of any relevant securities in the second 6-month period after listing, if such disposal would result in the controlling shareholders ceasing to have control over 35% of the voting rights in the GEM listed issuer. Under the proposed amendment, the moratorium period for initial management shareholders will be 12 months, and for initial management shareholders with no more than 1% shareholding in the GEM listed issuer, will be 6 months. The proposed amendment aims to provide flexibility to initial management shareholders, while at the same time allowing a sufficient period for management to demonstrate to investors its commitment to, and confidence in, the future of the GEM listed issuer.

4. Definition of Initial Management Shareholders for the purpose of Lock-up

Existing practice includes the following persons who have interests in the voting rights of the issuer immediately prior to the date of listing as “initial management shareholders” in addition to those defined in GEM Listing Rule 13.15(2):

- i. all members of senior management such as those persons named in the “senior management” section of the listing document of a GEM applicant;
- ii. all directors on the board of a GEM applicant, including non-executive directors; and
- iii. all investors, including but not limited to investment funds, with board representation.

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The GEM Listing Rules will be amended to include the above persons as initial management shareholders for the purpose of the moratorium period. This amendment codifies existing practice.

5. Interpretation of "disposal" by Initial Management Shareholders

Under existing practice, the Exchange grants waivers to exclude the following two types of disposal by initial management shareholders from the meaning of "disposal" under GEM Listing Rule 13.15(5):

- i. stock lending arrangements between shareholders and underwriters at the time of the initial public offering of the new applicant's securities, for the sole purpose of covering any short position prior to the exercise of the over-allotment option; and
- ii. sale of shares by the shareholder pursuant to a placing and top-up transaction during the second six-month period after listing where: a) there is no change in the number of relevant securities held by the shareholder before and after the transaction; and b) the transaction does not result in any controlling shareholders of the GEM listed issuer ceasing to have control over 35% of the voting rights in the GEM listed issuer.

The GEM Listing Rules will be amended to exclude the circumstances mentioned in (i) and (ii) above from the definition of disposal during the moratorium period. This amendment codifies existing practice, and is consistent with the Exchange's view that the above situations do not in substance constitute a disposal of shares in GEM listed issuers by initial management shareholders.

6. Share Option Schemes

Chapter 23 of the GEM Listing Rules sets out the current requirements governing share option schemes of a GEM listed issuer. This Chapter will be amended on certain requirements of the schemes to allow greater flexibility in operation, and at the same time, further restrictions will be placed in other areas to safeguard against abuse of the scheme and to protect minority shareholders. The major changes are summarized below:

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- i. the participants of the scheme – GEM Listing Rule 23.03(1) requires participants of the scheme to be full-time employees of the GEM listed issuer. This will be amended to remove all restrictions on the eligibility of participants of the scheme. However, the GEM listed issuer must define the participants, and the basis of determining the eligibility of the participants under the terms of its scheme, before such scheme is approved by shareholders;
- ii. overall limit on outstanding options – An overall limit will be imposed such that the number of shares to be issued upon the exercise of outstanding options under the scheme, and any other schemes, of the GEM listed issuer must not exceed 30% of its securities in issue from time to time;

In addition, the GEM listed issuer may only grant options of up to 10% of its issued shares at the date of approval of the limit (the "Scheme Mandate Limit"). The GEM listed issuer may renew this Scheme Mandate Limit at any time, subject to shareholders' approval and the issue of a circular. The GEM listed issuer may also seek separate shareholders' approval for granting options beyond the Scheme Mandate Limit to participants specifically identified by the GEM listed issuer, subject to shareholders' approval and the issue of a circular;

- iii. maximum entitlement of each participant – GEM Listing Rule limits maximum entitlement of each participant to 25% of securities subject to the scheme (i.e. a maximum of 2.5% of securities in issue). This rule will be amended to limit the total number of securities issued and to be issued upon exercise of the options granted and to be granted (including both exercised and outstanding options) in any 12-month period up to the date of grant to each participant not to exceed 1% of the securities in issue. Any further grant of options in excess of this limit must be subject to shareholders' approval, with that participant and his associates abstaining from voting, and the issue of a circular; and

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- iv. grant of options to connected persons –This provision will be amended to require any grant of options to a connected person or its associates to be approved by independent non-executive directors (excluding any independent non-executive director who is the grantee of the options). If a grant of options to a substantial shareholder or an independent non-executive director or their respective associates will result in the total number of securities issued and to be issued upon exercise of the options granted and to be granted (including both exercised and outstanding options) in any 12-month period up to the date of grant to such person exceeding the higher of 0.1% of the securities in issue and an aggregate value of HK\$5 million, then the proposed grant of options must be subject to shareholders' approval taken on a poll. All connected persons must abstain from voting, except that any connected person may vote against the resolution provided that his intention to do so has been stated in the circular.

In addition, shareholders' approval as described above will also be required for any change in the terms of any options granted to a participant who is a substantial shareholder, an independent non-executive director or their respective associates to avoid circumvention of this provision.

The GEM Listing Rules will also be amended to further impose, or amend, minor requirements on the terms of the scheme, and impose additional disclosure requirements (including information regarding the valuation of options granted) in the circular to be issued to shareholders and in the interim and annual reports of the GEM listed issuer. Details of some of these amendments relating to the adoption of, and terms of the scheme, are available on the Hong Kong Exchanges and Clearing Limited and the GEM websites at <http://www.hkex.com.hk> and <http://www.hkgem.com>.

Additional requirements, such as the requirements in relation to options granted to connected persons, and the maximum entitlement to a participant, will be imposed to safeguard against the abuse of the scheme and to protect minority shareholders. Furthermore, the new requirements for disclosure will increase transparency for shareholders in relation to the operation of the scheme.

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7. Offering Mechanism

The GEM Listing Rules will be amended to exclude employees of the GEM applicant and their associates from the definition of members of the "public" in determining the minimum public float at the time of listing. Another rule amendment will require further disclosure of the placing concentration and spread, including the level of interest and distribution of the placing shares, and an analysis of the concentration of the placing shares at the time of the public offering.

The rule amendments address the concern that a high concentration of shares in the hands of a few investors and/or a substantial number of employees may affect the liquidity of the securities. The proposed disclosure requirement will also promote greater transparency in the shareholdings of a GEM listed issuer at the time of listing.

8. Prescribed Minimum Percentage of Securities to be in Public Hands

The prescribed minimum percentage of securities to be in public hands under GEM Listing Rule 11.14(1) will be amended to 25% and 20% for GEM listed issuers with market capitalization not exceeding HK\$4 billion and over HK\$4 billion respectively. At the time of listing, the minimum market capitalization in public hands must be the higher of HK\$30 million and 25% for GEM applicants with market capitalization not exceeding HK\$4 billion, and the higher of HK\$1 billion and 20% for GEM applicants with market capitalization over HK\$4 billion. This rule amendment is expected to improve market liquidity and reduce volatility, thereby enhancing the integrity and attractiveness of GEM.

DETAILED TRANSITIONAL ARRANGEMENTS

Since the publication of the First Joint Announcement, the Exchange has granted waivers to GEM listed issuers based on the requirements set out in the First Joint Announcement (the "Existing Waivers"). Existing Waivers already granted to GEM listed issuers would continue to apply, with an exception in the case of share option schemes. In these cases GEM listed issuers may grant further options from their existing schemes only if the options granted are in accordance with the new requirements. From the date of this announcement until the Effective Date, the Exchange will grant waivers based on the new proposals set out in this announcement ("New Waivers"). The Exchange will cease to grant Existing Waivers based on the First Joint Announcement from the date of this announcement, with two exceptions as stated below where Existing Waivers will continue to be granted for a limited period. Details of the application of the transitional arrangements to GEM applicants and listed issuers from the date of this announcement are set out below.

GEM Applicants

- 1. Active Business Pursuit Period and Accountants Report* - Existing Waivers may be granted to GEM applicants which submit new listing applications ("Form 5As") on or before September 30, 2001, provided that listings of the GEM applicants take place on or before December 31, 2001, or before the expiry of Form 5A if earlier. Where applicable, all other GEM applicants may apply for New Waivers.
- 2. Moratorium Period for Initial Management Shareholders* - Existing Waivers may be granted to GEM applicants who have submitted Form 5As before the date of this announcement, provided that listings of these GEM applicants take place within three months from the date of this announcement, or before the expiry of the Form 5A if earlier than three months. All other GEM applicants may apply for the New Waivers.
- 3. Definition of Initial Management Shareholders and Interpretation of "disposal" for Initial Management Shareholder* - The rule amendments reflect existing practices or waivers and their applications will continue.
- 4. Share Option Schemes* - New Waivers may be granted to GEM applicants from the date of this announcement.

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5. *Offering Mechanism and Public Float* – The rule amendments will come into effect on Effective Date.

GEM Listed Issuers

1. *Share Issue within the first six months of Listing, and interpretation of "disposal" for Initial Management Shareholder (top-up and placing transaction within the second six months)* - GEM listed issuers who did not apply for Existing Waivers (in the case of top up and placing transaction), and all GEM listed issuers (in the case of share issue) may apply for New Waivers from the date of this announcement.

2. *Moratorium Period for Initial Management Shareholders* - GEM listed issuers who did not apply for Existing Waivers may apply for New Waivers from the date of this announcement until the Effective Date. Nevertheless, such GEM listed issuer must issue an announcement upon being granted a New Waiver to inform shareholders of the new lock up arrangement. The new provisions will apply automatically on or after the Effective Date, however, the GEM listed issuer should issue an announcement on or before the disposal of shares by its initial management shareholder to inform its shareholders of the disposal or intended disposal. For GEM listed issuers who were granted Existing Waivers, such waivers will continue to apply after Effective Date.

3. *Share Option Scheme* – Options already granted as at the date of this announcement will not be affected by the new provisions. Furthermore, GEM listed issuers may continue to grant options under the existing schemes from the date of this announcement up to the day before the Effective Date. Where the GEM listed issuer has a contractual commitment before the date of this announcement to grant options, these options may continue to be granted under the existing terms. From Effective Date, GEM listed issuers may grant further options from their existing schemes only if the options granted are in accordance with the new requirements. Otherwise, they have to alter the terms of the scheme, or to adopt a new scheme before further options may be granted. Finally, the new disclosure requirements in the interim and annual reports will apply to financial periods commencing on or after October 1, 2001 for all GEM listed issuers.

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4. *Minimum Public Float percentage* – The rule amendments will come into effect two years from the Effective Date.

The SFC and the Exchange emphasize that this joint announcement outlines the principles of the proposed amendments to the GEM Listing Rules only, and is intended to serve as a guideline for GEM applicants and listed issuers who intend to apply for New Waivers, and to provide market practitioners and the public with an overview of the general direction of the proposed rules. Amendments are currently being made to the GEM Listing Rules based on the above principles, and upon becoming effective, the new rules shall supercede the guideline above.

For further information, please contact the GEM Corporate Finance Department of the Exchange's Listing Division.

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