

## **HKE<sub>x</sub> GUIDANCE LETTER**

**HKE<sub>x</sub>-GL6-09 (July 2009) (updated in September 2009, November 2011 and August 2012) (Superseded by GL6-09A issued in July 2013 and became effective on 1 October 2013; Withdrawn in February 2014)**

<b>Summary</b>	
<b>Subject</b>	<b>IPO-filing administrative practices for Main Board and GEM Applicants -Information in the first draft listing document – Acceptance for vetting</b>
<b>Listing Rules</b>	<b>Main Board Rules 4.29, 8.06 and 9.03(3), GEM Rules 7.31, 11.11 and 12.09</b>
<b>Related Publications</b>	<b>Listing Decisions HKE<sub>x</sub>-LD34-1; HKE<sub>x</sub>-LD43-4; HKE<sub>x</sub>-LD46-4;</b>
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**Important note:** *This letter does not override the Listing Rules and is not a substitute for advice from qualified professional advisers. If there is any conflict or inconsistency between this letter and the Listing Rules, the Listing Rules prevail. You can consult the Listing Division for consultation on a confidential basis for interpretation of the Listing Rules, or this letter.*

### **1. Purpose**

This letter revises our current administrative practices on accepting early filings of listing applications to facilitate IPO filings for Main Board and GEM at different times of the year. *(Updated in August 2012)*

### **2. Background**

2.1 In April 2003, we issued Listing Decision HKE<sub>x</sub>-LD34-1 to require the first draft listing document submitted for vetting to include figures for three financial years of the trading record period, failing which we would not consider the document to be in an advanced form in compliance with Rule 9.03(3) and would refuse to accept it for vetting.

2.2 Since the publication of HKE<sub>x</sub>-LD34-1, we have announced certain administrative practices designed to:

- (a) reduce the risk of seasonal congestion of IPO applications as applicants' financial year-ends are often clustered towards the end or the first quarter of the calendar year; and
- (b) ensure that we receive a reasonable level of financial information to enable us to commence our review upon receipt of the draft listing document.

2.3 *(Deleted in November 2011)*

### **3. Applicable Listing Rules**

- 3.1 Main Board Rule 8.06 (GEM Rule 11.11) provides that in the case of a new applicant, the latest financial period reported on by the reporting accountants must not have ended more than six months from the date of the listing document. *(Updated in August 2012)*
- 3.2 Main Board Rule 9.03(3) (GEM Rule 12.09) provides, among other things, that if the Exchange considers the draft listing document submitted with the listing application form is not in an advanced form, the Exchange will not commence review of any documents relating to the application. *(Updated in August 2012)*

### **4. Revised Administrative Practices**

- 4.1 With effect from the date of this letter, the administrative practices on accepting certain types of Main Board and GEM IPO applications for vetting will be revised as set forth below. *(Updated in August 2012)*

#### ***Applicants filing within 45 days after the end of trading record period***

- 4.2 For a Main Board applicant whose trading record is three years or more (two years or more for GEM applicants), we will ordinarily accept a listing application for vetting only if the first draft listing document includes at a minimum figures for three financial years (two financial years for GEM applicants) in audited or advanced draft form. *(Updated in August 2012)*
- 4.3 If the Main Board or GEM applicant intends to file an application within 45 days after the end of the trading record period and cannot include the last financial year figures in audited or advanced draft form in its first draft listing document (e.g. in the case of a Main Board applicant, filing of Form A1 is before 15 February 2012 and the audited accounts have been made up from 1 January 2009 to 31 December 2010. In the case of a GEM applicant, filing of Form 5A is before 15 February 2012 and the audited accounts have been made from 1 January to 31 December 2010), for us to accept this application for vetting, the listing applicant must include with its Form A1 or Form 5A:
- (a) a sponsor's confirmation that it is satisfied that:
    - (i) the applicant and sponsor have made a demonstrable effort in good faith to produce an advanced draft listing document;
    - (ii) the Exchange will have enough information to begin substantive review of the listing application; and
    - (iii) the sponsor considers it to be beyond a reasonable doubt that the applicant will satisfy Main Board Rule 8.05 (GEM Rule 11.12A for a GEM applicant) or other financial standards requirement following its due diligence review under Chapter 3A and Practice Note 21 of the Main

Board Rules (Chapter 6A and Practice Note 2 of the GEM Rules) (*Updated in August 2012*); and

- (b) in the accompanying first draft listing document:
- (i) for Main Board applicants, the audited figures for the two financial years before the most recent audited balance sheet date (e.g. if an applicant's trading record period is from 1 January 2009 to 31 December 2011, it must include audited figures for 2009 and 2010) and related management discussions;
- for GEM applicants, the audited figures for the financial year before the most recent audited balance sheet date (e.g. if an applicant's trading record period is from 1 January 2010 to 31 December 2011, it must include audited figures for 2010) and related management discussions; and (*Updated in August 2012*)
- (ii) the stub period figures as of a date within 230 days of the filing of Form A1 or Form 5A in audited or advanced draft form. (*Updated in November 2011 and August 2012*)

#### 4.4 (*Deleted in November 2011*)

#### ***Applicants filing within 230 days of their latest audited financial statements<sup>1</sup>***

- 4.5 We will ordinarily refuse to accept a listing application for vetting if the latest financial period reported on in the first draft listing document is more than six months old at the date of the filing of Form A1 or Form 5A (Main Board Rule 8.06/GEM Rule 11.11). (*Updated in August 2012*)
- 4.6 For us to accept this application for vetting, the listing applicant must include with its Form A1 or Form 5A:
- (a) a sponsor's confirmation that the circumstances described in paragraph 4.3(a) have been satisfied; and
- (b) in the accompanying first draft listing document the audited figures for the three financial years (two financial years for GEM applicants) preceding the most recent audited balance sheet date and related management discussions provided that the latest audited financial statements are of a date within 230 days of the filing of Form A1 or Form 5A. (*Updated in November 2011 and August 2012*)

#### ***Applicants filing beyond 230 days of their latest audited financial statements***

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<sup>1</sup> The latest audited financial statements of a listing applicant refers to the audited financial statements covering the applicant's last of the three financial years (two financial years for GEM applicants) of trading record as required under Main Board Rule 8.05(1) (GEM Rule 11.12A).

- 4.7 For us to accept this application for vetting, the listing applicant must include in the first draft listing document filed with Form A1 or Form 5A:
- (a) the audited figures for the three financial years (two financial years for GEM applicants) preceding the most recent audited balance sheet date and related management discussions; and
  - (b) stub period figures in audited or advanced draft form that are not more than six months old at the time of filing of Form A1 or Form 5A and the prior year stub period comparative figures and related management discussions. *(Updated in August 2012)*

***Inclusion of pro forma information of the enlarged group under Main Board Rule 4.29 (GEM Rule 7.31) under certain circumstances***

- 4.7A The first draft listing document must include pro forma information of the enlarged group required under Main Board Rule 4.29 (GEM Rule 7.31) where the applicant has acquired or intend to acquire a company or business since the latest audited (or advanced draft) accounts have been made up and the acquisition falls under Main Board Rule 4.28 (GEM Rule 7.30).

Such pro forma information will not be required if the financial information in the hearing proof of the listing document will be updated to include the pre-acquisition financial information relating to the acquired company or business as required under Main Board Rule 4.05A (GEM Rule 7.04A). *(Updated in November 2011 and August 2012)*

***General***

- 4.8 There is no need for the sponsor to apply to the Exchange to accept an early filing of application if this guidance is followed. *(Updated in November 2011)*
- 4.9 These administrative practices also apply to an applicant whose trading record is less than three years and who intends to apply for listing under Main Board Rules 8.05A and 8.05B based on a shorter trading record. In this case, the audited financial information that must be included in the applicant's first draft listing document will be for the period since the beginning of the shorter trading record period. *(Updated in August 2012)*
- 4.10 Applicants should plan their listing timetable to allow us sufficient time to review the final year-end financials or latest stub period financials. Otherwise, the listing hearing timetable may be delayed.
- 4.11 These revised administrative practices do not affect:
- (a) our commenting process for assessing an applicant's listing eligibility regarding its final year financials or latest stub period financials; and
  - (b) the applicant's obligations under Main Board Rule 8.06 (GEM Rule 11.11) and the requirements for submission of accountants' reports and statement of adjustments (if any) for vetting under Chapter 9 of the Main Board Rules

(Chapter 12 of the GEM Rules). (*Updated in November 2011 and August 2012*)

- 4.12 This letter supersedes the administrative practices set out in Listing Decisions HKEx-LD43-4 and HKEx-LD46-4.
- 4.13 The administrative practices set out in this letter only provide for the filing of listing applications after the end of the trading record period. Listing applications filed before the trading record period end will be returned. (*Updated in September 2009 and August 2012*)

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