



**ASSOCIATION OF HONG KONG CAPITAL MARKET PRACTITIONERS**

21 WING WO STREET, CENTRAL, HONG KONG

**CONSULTATION PAPER ON GEM LISTING REFORM**

**HKCMP WRITTEN RESPONSE**

**2 NOVEMBER 2023**

1.	<i>Do you agree that an alternative eligibility test should be introduced to enable the listing of high growth enterprises substantively engaged in R&amp;D activities on GEM?</i>
	<p>We believe the reform should be targeted at enhancing the attractiveness of GEM, including making it easier for companies to list, and expediting the vetting process. While we generally agree that an alternative eligibility test should be introduced with a view to provide more options for small and medium-sized enterprises (SMEs) to list on GEM, we do not agree with the current proposed approach which provides an alternative eligibility test that only caters for high growth enterprises substantively engaged in research and development (R&amp;D) activities.</p> <p>In paragraphs 39 to 41 of the Consultation Paper, the Exchange confirmed its commitment to SMEs by stating that (a) the Exchange is a source of funding for SMEs seeking long-term corporate investment; (b) one of its important goals is to provide investors with access to SME listings and to enable investors to diversify their investment portfolio effectively; and (c) encouraging and facilitating SME listings will continue to be a key priority of the Exchange. Under the Consultation Paper, the proposal under the alternative eligibility test does not seem to affirm the above commitment by the Exchange to SMEs as it fails to provide an alternative option to all SMEs that are not able to satisfy the current listing eligibility test and the requirements of the Exchange to apply for listing on GEM. By requiring GEM listing applicants to be heavily engaged in R&amp;D activities, the alternative eligibility test is all but targeting technology focused SMEs for a GEM listing. We are of the view that this alternative eligibility test is yet again another attempt to appeal GEM only to technology companies in addition to the approaches already taken in the reform of Main Board throughout the years (e.g. the introduction of chapters 18A and 18C of the Main Board Listing Rules which are already avenues for pre-revenue technology companies materially engaged in R&amp;D activities). If GEM is to be positioned as a stand-alone board for supporting SMEs, why is the alternative eligibility test focusing on one particular group of SMEs rather than all SMEs?</p>

Although it seems like there is a market perception that companies that are technology focused will experience high growth, it does not mean that companies that are engaged in sectors that do not heavily engage in R&D activities will not achieve the same growth as technology companies or worthy of becoming a listed company. In fact, we have seen in the market that, many SMEs that engage in consumer discretionary, industries, financials, etc. may also experience high growth but, due to their business nature, they do not necessarily engage in R&D activities to the extent that renders them eligible to satisfy the alternative eligibility test. By disregarding the SMEs of non-technology related industries, the alternative eligibility test does not provide a real alternative to all SMEs, or a meaningful portion of SMEs, that cannot meet the current GEM's cash flow requirement. Such denial of access to GEM is unjustifiable and greatly limits the spectrum of investment options to investors that GEM could offer and thereby does not follow through on the commitment that the Exchange has made to SMEs by providing a source of funding for SMEs to seek long-term corporate investment.

It is worthy to note that, with reference to paragraph 32 of the Consultation Paper, issuers in the industry of consumer discretionary accounted for 33% of GEM industry distribution as at 31 December 2022, followed by issuers in the industry of information technology (15%) and properties & construction (14%). This is clear indication that there is strong demand for a listing platform for SMEs which are engaged in industries other than technology and/or which are R&D intensive (such as, *inter alia*, catering, logistics, consumer products, tourism, financial and professional services, energy, infrastructure and other businesses and applications) which benefits the real economy and are in need of capital for growth and expansion. In order for GEM to act as a viable platform for SMEs to source funding for long-term corporate investment, it is imperative that GEM should be opened up to all SMEs and the alternative eligibility test should be made available generally to SMEs that are involved in all sectors and SMEs that are not technology focused should *not* be indiscriminately disadvantaged by the Exchange.

We believe that GEM should be designed to be industry-agnostic and the decision of which sectors are eligible to enter the listing platform and raise capital should be in the hands of the market, rather than in the hands of the regulators. Regulators should take a neutral stance on what type of companies are allowed be listed so long as the listing applicant has fulfilled clearly defined and specified objective listing criteria and requirements.

On the other hand, whilst the Exchange has been increasingly focused on supporting the capital raising activities of new economy companies and Mainland issuers, investor preferences (for issuers engaged in different sectors and geographies) could change quickly while it inherently takes a longer period of time to develop and reform the listing regime to accommodate such changes by preference. By embracing a diverse array of industries to list on GEM, this would enable the market to better adapt to evolving investors' interest and make GEM a more accessible platform for smaller businesses, create a more dynamic market for SMEs and foster a more sustainable and long-term growth not only for GEM but for Hong Kong's capital market as a whole.

In addition, it should be observed that the Exchange and regulators have often imported subjective criteria and judgment against traditional and real economy businesses (through the use of such terms such as "sunset industries") it considers to be unattractive despite meeting financial eligibility criteria; we consider that such bias against traditional

	<p>businesses with predictable net cash flows in favour of “growth stocks” (many of which operating at a loss but are perceived to be promising at least from the perspectives of generating revenue for the Exchange) is grossly unfair.</p> <p>It also appears that the GEM reform has heavily focused on “growth stocks” to the exclusion of almost everything else as all its concessions have been directed towards them. These companies flourished back when money was virtually free and, while these conditions have persisted for years, leading to a massive misallocation of resources, it is no longer the case now with the increase in interest rates. The concessions being made by the Exchange, including the criteria set out in the alternative eligibility test, appear to be made for companies which are already falling out of favour for investors and hence unlikely to invigorate GEM.</p> <p>Whilst the Exchange has previously publicly expressed that more support for start-ups and SMEs is warranted; for example, it raised the concept of a registration based “Private Market” for unlisted pre-listing companies under its 2017 concept paper and the proposed introduction of a “Third Board” as alternative to a GEM listing in its 2017 consultation (of which the former Chief Executive of the Exchange, Mr. Charles Li Xiaojia, likened the path to a GEM listing as akin to mountain climbers in their “path to Mt. Everest”<sup>1</sup> during a speech concerning relevant consultations), it would appear that the proposed alternative eligibility test (despite being a small step forward) is narrowly tailored and falls short of promoting diversity or offering assistance to those start-ups and SMEs which are not considered new-economy or R&amp;D intensive.</p> <p>If the Exchange wishes to introduce an alternative eligibility test with a focus on enterprises that engage substantially in R&amp;D activities, such eligibility test should not be linked to the revenue test. Accordingly, there should be one eligibility test with a focus on revenue (one similar to Main Board Listing Rules 8.05(2) and 8.05(3)) and the other one with a focus on R&amp;D activities (one similar to Main Board Listing Rule Chapter 18C), both with adjusted thresholds for attracting a meaningful number of SMEs to be listed on GEM.</p> <p>Nonetheless, in conclusion, we generally agree that an alternative eligibility test should be introduced with a view to provide more options for SMEs to list on GEM, however, such alternative eligibility test should not be limited to those that are substantively engaged in R&amp;D activities only.</p>
2.	<i>If your answer to Question 1 is “Yes”, do you have any comments on the proposed thresholds for the alternative eligibility test as set out in paragraphs 63 to 75 of the Consultation Paper?</i>
	Referring to our reply to Question 1, we are of the view that the requirement on R&D expenditure should be removed to allow SMEs in different industries to benefit from an alternative eligibility test, thereby enhancing the inclusiveness of the reform as a whole.

<sup>1</sup> “Third board mustn’t be seen like an unruly casino” China Daily (HK Edition), 2017-06-09, pg. 9. HKEX Chief Executive Charles Li Xiaojia noted concerning proposal to create a third board for companies that do not qualify for GEM: “How can Hong Kong help people on that path to Mount Everest? Hong Kong needs to do something because it’s a long, hard, lonely road”.

If the Exchange does not agree to removing the R&D expenditure requirement from the alternative eligibility test, we are of the view that the threshold amount of revenue, R&D expenditure and R&D expenditure ratio should be adjusted. The reason being it would be questionable as to how many SMEs could fulfil the proposed R&D requirements, and even if there are such SMEs, whether they would be interested in listing on GEM at all. Further, the alternative eligibility test under the Consultation Paper has been poorly structured, e.g. with the minimum requirement of HK\$100 million of revenue, HK\$30 million of R&D expenditure and such R&D expenditure requires to represent not less than 15% of the total operating expenditure in the past two financial years, the listing applicant would be incurring operating expenditure of at least HK\$200 million and therefore would be making a loss of at least HK\$100 million for past two financial years, which would raise another listing barrier of sustainability. Accordingly, as mentioned on our reply to Question 1, we are of the view that under the alternative eligibility test, the test on revenue should be segregated from the R&D expenditure test. In order to attract a meaningful number of SMEs to list on GEM, we therefore propose that the revenue requirement should be adjusted to HK\$80 million for past two financial years and the requirement of R&D expenditure should be adjusted to HK\$20 million for past two financial years without any requirement to meet a minimum R&D expenditure ratio in the alternative eligibility test if the Exchange insists in retaining the R&D expenditure requirement.

In addition, we disagree with the Exchange's proposal to apply a higher minimum market capitalisation threshold of HK\$250 million for the purpose of the alternative eligibility test.

In all capital markets transactions, the valuation of a company should be determined by the market. There is no justification for imposing a higher threshold of market capitalisation for an alternative test which was designed with an aim to attract the same targeted listing applicants, i.e. SMEs, that are not able to fulfil the existing operating cash flow requirement to list on GEM. While we note that the Exchange proposed this threshold to mitigate the risk of the absence of a track record of cash flow, we do not agree that a company with a higher market capitalisation at the time of listing can necessarily attract more substantial investor support or that the company is of better quality. This might encourage listing applicants to propose a higher valuation at the time of listing in order to meet the higher market capitalisation requirement which may lead to possible market manipulation.

What we have observed is that both the regulators and bulge bracket investment banks are willing to impute higher valuations on new economy and technology companies than other SMEs, although the valuation and share price of these companies have often been more volatile post-IPO (due to artificial inflation of valuation and investors' short-term profit goals). This risk of inflated valuations might be more detrimental to the market than the proposed concession envisages.

For comparison, more market-driven markets (such as that of AIM of the London Stock Exchange) have been successful in supporting growth companies through market forces. Listings on such markets are supported by a network of advisors and liquidity providers who devote their energy in understanding the needs of the growing companies they

	<p>represent rather than merely focusing on meeting admission requirements<sup>2</sup>, and many issuers in such markets have grown to becoming very substantive businesses with real impact on the economy.</p> <p>We therefore recommend the Exchange to maintain the existing minimum market capitalisation threshold of HK\$150 million in the alternative eligibility test.</p>
3.	<p><i>Do you agree with the proposal to reduce the post-IPO 24 month lock-up period imposed on controlling shareholders of GEM issuers to 12 months as set out in paragraph 76 of the Consultation Paper?</i></p>
	<p>We agree with the proposal to reduce the post-IPO 24-months lock-up period imposed on controlling shareholders of GEM issuers to 12 months.</p> <p>In general, given the usually smaller scale and complexity of the business operation and structure of SMEs as opposed to large enterprises that are qualified to list in the Main Board, any relaxation of the GEM Listing Rules requirement to align with the Main Board Listing Rules requirement is considered as sensible and should be welcomed.</p> <p>Such relaxation of the requirement, especially in light of the fact that “shell activities” are no longer considered by the Exchange to be a material issue, would also align GEM with junior markets of other overseas exchanges which have shorter lock-ups (e.g. 6 months for NASDAQ).</p>
4.	<p><i>Should any other existing eligibility requirement for a listing on GEM be amended?</i></p> <p><i>If so, please state the requirement(s) that should be amended and give reasons for your views.</i></p>
	<p>Generally, as pointed out in the Consultation Paper, one critical reason for the decline in GEM listing was the inordinate cost involved in the listing on GEM. Not only the listing expenses of GEM applicants are often disproportionately high compared to the amount of funds they could raise from listing, the listing expenses of a GEM listing applicant are not necessarily lower than the listing expenses of a Main Board listing applicant. For example, based on the public information available, in 2021, the total listing expenses of the largest GEM IPO of the year that raised gross proceeds of approximately HK\$55.5 million were approximately HK\$46.2 million as compared to the total listing expenses of approximately HK\$33.0 million for the smallest Main Board IPO of the same year which raised gross proceeds of approximately HK\$62.5. Considering the nature of the business that GEM seeks to attract, such phenomenon is unsound and unjustifiable.</p> <p>Based on our market experience and observation, the pivotal contributing factor to a high listing cost is the prolonged vetting process typically encountered by GEM listing applicants. During the period between 7 January 2019 to 22 September 2023, 122 out of 164 applications were lapsed and 15 were withdrawn. This indicated that the vetting of most GEM listing applications could not be completed within the six-month effective</p>

<sup>2</sup> The AIM market focuses on businesses with sound track record, viable business plan and sound corporate governance structure, but imposes relatively low admission requirements (in particular, no minimum market capitalisation requirement).

period of an application. In order to tackle the long-standing problems of GEM as noted in the Consultation Paper, this inherent problem of prolonged vetting process must be addressed to ease the major concern of SMEs which may hold them back from proceeding with a listing application in GEM due to the high listing expenses involved.

In fact, there have been more than 40 listing applications under GEM in the past three years and none of them were successfully listed. Out of 85 and 38 applications in 2019 and 2020, only 10 and 5 were successfully listed, representing a very low success rate of about 16.5% and 13.2% respectively. This could imply that either the existing GEM Listing Rules are not realistic in view of various factors in the market, or the vetting process is too subjectively stringent for all GEM listing applicants. Without a corrective vetting process towards GEM listing applicants, and in fact all listing applicants with small market capitalisation, the Hong Kong IPO market can never be revived.

In light of the above, we set out below some recommendations to the Exchange on amending the existing listing requirements to address the core problems of GEM, with the objective of strengthening GEM's position as a viable and preferable listing market for SMEs.

**(a) Clearer timeline on the vetting process and simplified vetting procedure for GEM applicants**

We are of the view that the current listing process, particularly the vetting procedures, is too lengthy and tedious and is not favourable to the SMEs in particular. While we understand the importance of protecting investors' interest, having considered the size of SMEs, being the majority of the listing applicants on GEM, the Exchange should not take a relatively longer period of time to vet and approve, if any, a GEM listing application considering GEM listing applicants would typically operate under less complicated business models with a smaller scale of business than more developed and matured listing applicants for the Main Board. However, the records have shown that the time taken for smaller companies to list is a multiple of that required for the listing of the largest IPOs. For example, in 2021, the time taken for the largest Main Board IPO of the year to list from its first A1 submission was 80 days only, while the time taken for the largest GEM IPO of the same year to list from its first A1 submission was 894 days, which was more than 11 times of the time taken for the largest IPO in the Main Board. Even worse was that the listing expenses incurred for that GEM listed issuer accounted for 81.3% of the IPO fund raised due to multiple re-submission.

One prevailing criticism among market players towards GEM is that the regulators' vetting on a GEM listing application, or for that matter a smaller company seeking listing on Main Board, appears to be more stringent than that for large cap Main Board listing application. From the experience of our members who have been involved in GEM listing applications in the past, the regulators tended to impose unreasonable scrutiny of GEM listing applicants in the following areas:

- Use of proceeds - extensive questions are raised as to how the proceeds from a GEM listing will be used for achieving its business objectives and detailed breakdown and payback period analysis would often be requested (with reasonableness of assumptions boundlessly challenged) irrespective of materiality of amounts involved. Where business development and expansion

plans are involved (in particular, involving new business ventures), GEM listing applicants are being asked to elaborate in detail why their plans are justifiable and how success of plans can be guaranteed given the lack of a track record (especially where the relevant plans involve innovation and R&D, notwithstanding their relevant experience and competence in the relevant industry). We believe that so long as risks and plans associated with use of proceeds have been adequately and accurately disclosed in the prospectus, the commerciality and purposed future performance and success of business ventures utilising use of proceeds should not be subjectively scrutinised and evaluated by regulators who are not experts in the relevant industry. This would be consistent with disclosure based “buyer aware” philosophy as cited in the Consultation Paper.

- Reason for listing - one of the main reasons for listing is to establish an alternative platform for the listing applicant to raise funds, whether during the IPO or subsequently thereafter. However, GEM listing applicants have frequently been questioned by the regulators on their genuine reasons for listing given the small amount of net proceeds being raised (after the deducting of listing expenses) and that GEM listing applicants, at the time of the listing application, have not fully utilised their existing financing sources, such as bank financing. The GEM listing applicants are often requested to rationalise why their gearing ratio are less than their listed peers despite the obvious fact that listed peers have more debt financing options. How to finance the business and development of a company is a commercial decision so long as it is done legitimately, the regulators should not force a listing applicant to exhaust all other financing options before being eligible to raise funds through a new listing.
- Valuation - one of the existing GEM listing requirements is for a GEM listing applicant to have a minimum market capitalisation of HK\$150 million at the time of listing. Due to the lower revenue and profitability of most GEM listing applicants, in order to meet the minimum market capitalisation, the shares of such GEM listing applicants may need to be sold at a valuation higher than some of its listed peers. Regulators would then question and seek justifications as to whether there is investors' interest to acquire shares on such high valuation (in some cases, requesting elaborate detailed submissions of syndication and bookbuilding work undertaken and indication of interests from prospective investors very early in the vetting process when no listing hearing is in sight). We are of the view that the regulators should leave it to the market to determine whether a valuation is justifiable or not and if not, the deal would not be able to go ahead through sheer market forces.
- Sponsor's due diligence - there have been many instances in which issues on sustainability, business model and sponsor's due diligence on a GEM listing applicant were questioned by the regulators for numerous rounds. Particularly, sponsors had frequently been asked to demonstrate whether sufficient due diligence has been conducted on certain areas of the GEM listing applicants and even after the sponsors have confirmed that sufficient due diligence had been conducted with basis and documentation, the regulators would still take a subjective approach to form the view that the due diligence work was not sufficient or that more due diligence would need to be performed.

The above are just a few examples and not exhaustive in the vetting process of a GEM listing application which have led to the significant prolonging of the duration of the vetting process causing a significant delay to the timetable of a contemplated listing project. Such discriminating treatment and prejudice against GEM listing applicants appears to have arisen from the regulators' determination with stamping out "shell activities" whereby GEM listing applicants which possess any of the characteristics set out under the HKEx-GL-68-13A (Guidance on IPO vetting and suitability for listing) are invariably and pre-emptively deemed "bad" with dubious and ulterior motives requiring closer scrutiny despite objectively meeting listing eligibility requirements under the GEM listing rules and having met all documentary and other requirements.

Not only does the above lead to an uncertainty as to the timeline of the listing application process, it also leads to greater listing expenses (including, inter alia, fees for renewing the listing application, costs for updating stub financials as well as costs and expenses for performing enhanced due diligence and other work often disproportionate with risks involved). Altogether, this has led to many market practitioners and potential GEM listing applicants having an impression of an inherent view that the regulators, including the Exchange, do not favour listings on GEM or welcome SMEs, which in turn further disincentivizes them to opt for GEM as their listing platform. It appears that the regulators are sceptical of small companies attempting to list when indeed any fraudulently act of such companies shall be an issue of enforcement and be handled by the enforcement authority. Holding such scepticism unfairly and unjustifiably denies most of the SMEs' right to raise funds from the market despite having proper operation and good quality.

In fact, we believe the sceptical attitude of the Exchange (as perceived by market practitioners and listing applicants) towards listing applicants with small market capitalisation upon listing, including SMEs is one of the most important and fundamental issues holding back the development of GEM which is currently not addressed in the Consultation Paper. The advantage of listing in Hong Kong versus other exchanges used to be its transparency (minimal subjective factors affecting the vetting) and visibility (listing before expiry of the first application), and these no longer hold true.

Ultimately, investment quality of any listed company is best to be assessed and judged by the investing public. Implementing a vetting process to such extensive extent is not in line with the market principle of "buyer beware" which was GEM's initially regulatory approach as noted in the Consultation Paper and the "disclosure" based approach which has been adopted by the Exchange.

We therefore recommend the Exchange to impose a clear and explicit timeline on the vetting process (e.g. issuing guidance letter or certain performance pledges that under normal circumstances, listing applicants would expect a fixed number of rounds of comments from the regulators, assigning specific teams responsible for GEM listing applications only and that the regulators would reject a listing application if the questions have not been satisfactorily addressed after a fixed number of rounds of comments<sup>3</sup>), remove subjective criteria and vetting bias and provide clearer and more certain

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3 NB: The GL56-13 states that the HKEX will return GEM listing applications if the business model or operations are not clearly understandable after two rounds of comments from the Exchange – is the above concept an extension of the GL56-13 guidance? Also, we note that the HKEX often do not follow such guidance, by including numerous rounds of verbal comments which do not appear to count



guidance. Moreover, the Exchange should consider creating a separate IPO vetting team specifically for GEM listing applicants only and designate their own KPIs to measure and surveil the time taken for the vetting process.

The proposal should also contain an unambiguous statement to assure the market that the Exchange is firmly behind the expansion of GEM and will use its endeavours to promote GEM and enhance its attractiveness to improve the certainty and transparency of GEM listing application (including but not limited to providing more access for market practitioners to communicate with the Exchange and the SFC on the matter/issues raised).

**(b) Lower requirement on operating cash flow**

In addition to the issue relating to the market capitalisation requirement mentioned in our response to Question 2, we believe that the current threshold of operating cash flow is too high which may deter SMEs, despite having high growth potential, from listing on GEM. The threshold for operating cash flow requirement was increased from HK\$20 million to HK\$30 million in February 2018. Such amendment was made prior to the COVID-19 pandemic when Hong Kong was experiencing much better economic conditions. In 2018, the GDP of Hong Kong was growing at an annual rate of 2.8% whilst the Hang Seng Index closed at 25,845 on 31 December 2018 after reaching historical high of 33,154 on 26 January 2018. Due to the events that have occurred since then, including but not limited to the COVID-19 pandemic, the Hong Kong economy has experienced a significant downturn, particularly, in 2020 and 2022. According to the Hong Kong Census and Status Department, Hong Kong experienced four consecutive quarters of negative GDP growth in both 2020 and 2022 which has technically put Hong Kong's economy into recession in both 2020 and 2022. Further, Hang Seng Index closed at 17,661 on 26 September 2023, the date on which the Consultation Paper was published, and has hovered around the 17,000 level or below since.

While the current operating cash flow might be a practicable threshold for companies applying for a GEM listing prior to the COVID-19 pandemic, it is unfortunately no longer the case under the post-pandemic economic conditions in Hong Kong and globally. In fact, the significant deterioration in the Hong Kong economy and the Hong Kong stock market performance between 2018 to now has made it exceptionally difficult for SMEs of smaller size with good business perspectives and high growth to access to GEM under the existing initial listing requirements including the existing operating cash flow requirement. Therefore, we recommend the Exchange to consider lowering the requirement on operating cash flow back to HK\$20 million in order to adapt to the current economic conditions, making GEM more accessible to SMEs in general.

If such amendment is considered impossible for whatever reasons, the Exchange should consider a clear mechanism to grant a waiver to those enterprises which could meet the original requirements of operating cash flow if it is not because of the COVID-19 pandemic. As such, we propose that such waiver should be granted to GEM listing applicants that are not able to meet the HK\$30 million operating cash flow requirement due to the COVID-19 pandemic.

**(c) A new profit requirement test**

In order to revitalise GEM and to attract SMEs to choose GEM as their preferred listing platform on one hand and to allow investors to have the opportunity to invest in high quality SMEs in a regulated environment on the other, we recommend the Exchange to consider adding a second alternative eligibility test in the listing requirement by way of a profit requirement test.

Although the existing operating cash flow requirement and the alternative eligibility test as proposed in the Consultation Paper would have allowed SMEs with sufficient operating cash flow or revenue to satisfy the initial listing requirements, we are of the view that there are still many high quality SMEs that are making a reasonable amount of profit which may not be able to fulfill the operating cash flow or revenue requirement. Based on our own research, we note that 15% of the GEM listed issuers recorded a net profit after tax of more than HK\$8 million, out of which 43% were not able to satisfy the operating cash flow or revenue requirement according to their audited financial statements for the latest financial.

As such, we recommend the Exchange to add a second alternative eligibility test in the listing requirement that allows a listing applicant that recorded a profit after tax of not less than HK\$15 million in aggregate for the past two financial years and a profit after tax of not less than HK\$8 million for the latest financial year to be eligible to apply for listing on GEM.

Furthermore, we recommend the Exchange to reduce the market capitalisation requirement for applicants meeting the operating cashflow or profit requirement to HK\$100 million such that the valuation multiples (EV/EBITDA or P/E) represented by pricing can be at a realistic level to attract investors.

**(d) General amendments to the Listing Rules**

In addition to the above suggestions, another core issue with the current listing regime is the unaccommodating approach to SMEs with poor performance.

We note that SMEs currently listed on the Exchange is presently in a particularly poor state. While one of the major contributing factors is the bear market in Hong Kong and China stocks, the other factors are also at work which further worsen the situation. The Exchange's extensive measures to eliminate reverse takeovers and cash companies, neither of which has caused any particular concern in other developed markets, have greatly reduced transactional activities.

The policy on the cancellation of listings has also greatly increased the risks associated with investment in smaller capitalised companies, which makes trade suspension and delisting a likely outcome once the companies start to incur losses. Coupled with the growing attractions of using internet brokers for retail investors in Hong Kong to invest in overseas companies which offer greater liquidity and investment choice, the valuations of SMEs are further lowered with less trading volume and hence fewer opportunities to raise equity capital in the Hong Kong market.

	<p>In committing itself to facilitate GEM listing and make it an attractive venue for SMEs, we recommend the Exchange to give much closer consideration to the factors inhibiting to the core issues aforementioned and amend the GEM Listing Rules to address such underlying problems instead of amending it with the narrow mind-set to only attracting more high growth enterprises that are heavily engaged in R&amp;D activities, i.e. high tech companies.</p>
5.	<p><i>Do you agree with the proposed consequential and housekeeping amendments to the reverse takeover and extreme transaction Rules as set out in paragraphs 81 and 82 of the Consultation Paper?</i></p>
	<p>While we agree with the proposed consequential and housekeeping amendments to the reverse takeover and extreme transaction rules as set out in paragraph 81 and 82 of the Consultation Paper, we would like to take the opportunity to draw the Exchange's attention to the difficulty in terms of business development GEM listed issuers have encountered as a result of the reverse takeover and extreme transaction Rules.</p> <p>As previously mentioned in our response to Question 4, SMEs currently listed on the Exchange are presently performing poorly and this has contributed significantly to the unattractiveness of GEM. The situation can be improved if existing GEM listed issuers can be seen as more expansionary and dynamic, of which growth by acquisition is probably the most likely way to achieve this, and yet the current reverse takeover and extreme transaction Rules have made significant acquisitions extremely difficult, expensive and time consuming, which leaves such GEM listed issuers with fewer and less efficient options to grow its existing business.</p> <p>We therefore recommend the Exchange to consider amending the reverse takeover and extreme transaction Rules for GEM listed issuers to allow more flexibility and better facilitate business expansion of such GEM listed issuers.</p>
6.	<p><i>Do you agree with the Exchange's proposal to remove GEM's compliance officer requirement as set out in paragraph 85(a) of the Consultation Paper?</i></p>
	<p>We agree with the Exchange' proposal to remove GEM's compliance officer requirement. As mentioned in our response to Question 3, SMEs typically have simpler business structure and operation and it is only more sensible that GEM-listed issuers are subject to equal, if not less onerous, ongoing compliance requirements than Main Board listed issuers. This amendment will also lower ongoing compliance costs which would be consistent with the proposals to make it more attractive.</p>
7.	<p><i>Do you agree with the Exchange's proposal to shorten the period of engagement of GEM issuers' compliance advisers and to remove the additional obligations currently imposed on a GEM issuer's compliance adviser as set out in paragraphs 85(b) and 86 of the Consultation Paper?</i></p>
	<p>We agree with the analysis of the Exchange that a lot of the GEM listed issuers have been in operation for a long period of time at the time of listing and hence we agree to the Exchange's proposal to shorten the period of engagement of GEM issuers' compliance advisers and remove additional obligations currently imposed on a GEM issuer's compliance adviser. However, being an SME with likely less resources than its</p>

	<p>Main Board counterparts, it may not have a strong team to look after its compliance and corporate governance matters, such relaxation of the rule should therefore be subject to the condition that the relevant GEM issuer and its directors should not have been disciplined or found to be in compliance to any rules and regulations in any material respect during the first year after the date of its initial listing.</p>
8.	<p>Should any other continuing obligation currently applicable to a GEM listed issuer also be removed?</p>
	<p>We are generally satisfied with the continuing obligation currently applicable to a GEM listed issuer. Nevertheless, any approach with an aim to reduce the ongoing compliance cost for GEM listed issuer, thereby enhancing the competitiveness and accessibility of GEM, is welcomed and appreciated.</p>
9.	<p><i>Do you agree with the Exchange's proposal to remove quarterly financial reporting as a mandatory requirement for GEM issuers and instead introduce it as a recommended best practice in GEM's Corporate Governance Code?</i></p>
	<p>We agree with the Exchange's proposal to remove the quarterly financial reporting requirement for GEM issuer.</p> <p>Simplifying the ongoing compliance to make it on par with the Main Board requirements will render GEM more appealing to SMEs as a result of reduction in compliance cost and the stress for human resources.</p>
10.	<p><i>Do you agree with the Exchange's proposal to align the timeframes for GEM issuers to publish their annual reports, interim reports and preliminary announcements of results for the first half of each financial year with those for the Main Board, as set out in paragraphs 94 and 95 of the Consultation Paper?</i></p>
	<p>With reference to our reply to Question 9, we agree with the Exchange's proposal to align the timeframes for GEM issuer to publish their financial reports and results announcement with those for the Main Board.</p>
11.	<p><i>Do you agree that a streamlined mechanism should be introduced to enable qualified GEM issuers to transfer their listing to the Main Board?</i></p>
	<p>We agree that a streamlined mechanism should be introduced to enable qualified GEM issuers to transfer their listing to the Main Board. Please however refer to our comments to the streamlined transfer mechanism, in particular in respect of the track record requirement and daily turnover/volume weighted average market capitalism requirements, in our response to Questions 14 and 15.</p>
12.	<p><i>If your answer to Question 11 is "Yes", do you agree with the removal of the requirement for the appointment of a sponsor for the purpose of a streamlined transfer as set out in paragraph 108 of the Consultation Paper?</i></p>
	<p>We agree with the removal of the requirement for the appointment of a sponsor. With the reduction of transferring cost for GEM listed issuer, this will make GEM more appealing to smaller business.</p>

13.	<i>If your answer to Question 11 is “Yes”, do you agree with, for the purpose of a streamlined transfer, the removal of the requirements for a “prospectus standard” listing document and other requirements as set out in paragraphs 111 to 114 of the Consultation Paper?</i>
	We agree with the proposal to remove the requirements for a “prospectus standard” listing document. Given that GEM listed issuer is already listed with a track record of listing for at least one full financial year (under the existing rules), the need for a “prospectus standard” listing document is questionable and will unduly increase the workload and cost for transferring to Main Board.
14.	<i>If your answer to Question 11 is “Yes”, do you agree with the track record requirements for a streamlined transfer applicant as set out in paragraphs 117 to 118 of the Consultation Paper?</i>
	<p>We do not agree with the proposal to extend the track record requirements from one year to three years for a streamlined transfer applicant prior to its transfer. Under the current transfer regime, the transfer applicant is required to have a listing track record of one year and satisfy all qualifications for listing on the Main Board (including but not limited to the financial requirements). There is no justification to request a transfer applicant to delay its plan to transfer to Main Board for two additional years when in fact such applicant has already met all other qualifications for listing on the Main Board including an ownership control and continuity and no fundamental change in its principal business in the past three financial years. When to transfer to the Main Board is a commercial decision to be made by the transfer applicant and by demonstrating the fulfilment of all the qualifications for listing on the Main Board by the transfer applicant, such applicant would have already disclosed its financials, business operations, activities and plans in accordance with the requirements under the GEM Listing Rules for a minimum period of three consecutive full financial years. By adding two full financial years as a GEM listed issuer into the minimum track record prior to its transfer would have discounted the importance and relevance of the information that was disclosed previously in the prospectus of the transfer applicant, bearing in mind that the prospectus was issued after the sponsor has conducted investigations and due diligence work on the transfer applicant.</p> <p>We believe that the proposed track record requirement (which was far more onerous than those adopted by markets such as NASDAQ and BSE) creates an unnecessary restriction which may adversely affect one’s decision to apply for listing on GEM as it would unnecessarily lengthen the time that a transfer applicant needs to take to qualify for a transfer to the Main Board on one hand, whilst not providing any additional meaningful information to the investors on the other hand. Such proposal would go against the purpose of revitalising GEM by streamlining the transfer regime for a GEM issuer. We therefore recommend the Exchange to retain the current minimum track record of one full financial year as a GEM listed issuer prior to its transfer for the streamlined transfer regime.</p>

15.	If your answer to Question 11 is “Yes”, do you agree with the daily turnover and volume weighted average market capitalisation requirements for a streamlined transfer applicant as set out in paragraphs 120 to 133 of the Consultation Paper?
	<p>We do not agree with the daily turnover and volume weighted average market capitalisation requirements for a streamlined transfer applicant.</p> <p>Similar to the proposed market capitalisation requirement, imposing daily turnover and volume weighted average market capitalisation requirements would put the market at risk of manipulation. This would also unnecessarily complicate the GEM listing regime which go against of the purpose of the reform (i.e. to streamline the transfer regime for GEM issuer), especially when daily turnover of the shares of a company is not a useful indication of investors' interest in the company.</p> <p>In addition, while we understand the volume weighted average market capitalisation requirement was proposed to take into account of the Main Board listing requirement on market capitalisation, it should be emphasized that such requirement is only applicable at the time of an initial listing on the Main Board. The listing of a transfer applicant on the Main Board is not an initial listing, by the time of its listing on the Main Board, under the existing requirement, its shares would have already been listed on GEM for one full financial year. The requirement of requiring a transfer applicant to meet the Main Board market capitalisation requirement may lead to market manipulation. Further, since there are already numerous examples in the Main Board where listed companies fail to maintain such minimum market capitalisation after their shares have been listed, why should a transfer applicant whose shares are already listed on GEM for more than one full financial year be required to fulfil this minimum market capitalisation requirement? It is therefore an onerous and unreasonable requirement to require a transfer applicant, which has already been listed for at least one year (under current requirement) to fulfil requirements of this nature, the equivalent of which is not imposed on a Main Board issuer.</p> <p>These requirements do not serve the purpose of revamping GEM and streamlining its transfer mechanism. Such additional requirements would simply complicate the transfer mechanism for a qualified GEM transfer applicant which may lead to unnecessary market manipulation as the transfer applicants may use various ways to try satisfy such requirements. We therefore recommend the Exchange to remove the requirements of daily turnover test and volume weighted average market capitalisation test from the streamlined transfer mechanism in its entirety.</p>
16.	<p><i>If your answer to Question 15 is “Yes”, should the Minimum Daily Turnover Threshold for the Daily Turnover Test be set at:</i></p> <p><i>(a) HK\$100,000;</i></p> <p><i>(b) HK\$50,000; or</i></p> <p><i>(c) another figure (please specify)?</i></p>
	Not applicable.

17.	<i>If your answer to Question 11 is “Yes”, do you agree with the proposed compliance record requirement for a streamlined transfer applicant as set out in paragraph 134 of the Consultation Paper?</i>
	We agree with the proposed compliance record requirement and find it reasonable. However, we recommend the Exchange to define “serious breach” (e.g. one that will adversely impact the continuation of business or one that will affect the listing status of the GEM listed issuer) for clarity.
18.	<i>Do you agree with the proposed modification to the existing compliance record requirement for a transfer from GEM to the Main Board as set out in paragraph 136 of the Consultation Paper?</i>
	With reference to our response to Question 17, we agree with the proposed modification to the existing compliance record requirement for a transfer from GEM to Main Board as set out in the Consultation Paper.
19.	<i>Do you agree that the Exchange should exempt GEM transferees to the Main Board from the Main Board initial listing fee?</i>
	We agree that GEM transferees should be exempt from the Main Board initial listing fees. Any approach to reduce the cost for transferring to Main Board is welcomed and appreciated. Please also refer to our comment relating to the reasons that may have led to an escalation in the cost of GEM listing as set out in our response to Question 4.