



GEM Listing Reform Effective on 1 January 2024

On 26 September 2023, The Stock Exchange of Hong Kong Limited (**HKEx** or **the Exchange**) released a consultation paper outlining proposed reforms for GEM listings in Hong Kong.

Originally established as the "Growth Enterprise Market" in November 1999, GEM was created to offer emerging growth companies an independent and alternative platform for capital formation compared to the Main Board. In February 2018, HKEx eliminated the streamlined process introduced in July 2008, which allowed GEM issuers to transfer to the Main Board without a sponsor and the issuance of a listing document, as part of market quality reform measures implemented at that time.

From 2019 onward, there has been a notable decrease in both the quantity of new listings and the funds raised on GEM. In 2022, GEM did not have any new issuers, and the existing GEM listed issuers only managed to raise HK\$2.7 billion.

The decrease in GEM listing activity, according to HKEx, is primarily attributed to (i) the impact of the COVID-19 pandemic and (ii) the availability of alternative SME listing venues. SMEs are widely recognized as vital contributors to the Hong Kong economy, fostering innovation, generating employment, and fueling economic expansion. HKEx remains committed to prioritizing and supporting SME listings.

In this context, HKEx announced the publication of consultation paper on GEM reform in September 2023 and the publication of the conclusion on 15 December 2023.

The key proposals adopted include:

- Introducing a **new alternative "market capitalisation/ revenue/ R&D test"** for an initial listing on GEM that targets high growth enterprises heavily engaged in research and development (R&D) activities;
- Reducing the **post-IPO lock-up period** imposed on GEM issuers' controlling shareholders to 12 months;
- Removing **mandatory quarterly reporting requirements** and aligning other continuing obligations of GEM with those of the Main Board; and
- Introducing a **new streamlined transfer mechanism** to enable eligible GEM issuers to transfer to the Main Board without the need to appoint a sponsor to carry out due diligence or produce a "prospectus-standard" listing document.

EXISTING REQUIREMENTS

(A) Financial eligibility for listing on GEM

- Trading record: at least two financial years
- Market capitalisation: ≥HK\$150 million
- Cash flow: ≥HK\$30 million in aggregate generated from operating activities for the last two financial years

KEY CHANGES

- Maintain existing financial eligibility requirements.
- Introduce a new alternative "market capitalisation/ revenue/ R&D test" targeting high growth enterprises that are heavily engaged in R&D activities. GEM listing applicants using this new test must meet the following thresholds:
 - o Trading record: at least two financial years;
 - o Market capitalisation: ≥HK\$250 million;
 - o Revenue: ≥HK\$100 million in aggregate for the last two financial years, with year-on-year growth over the two financial years; and
 - o R&D expenditure: ≥HK\$30 million in aggregate for the last two financial years, where the R&D expenditure incurred for each financial year must be at least 15% of its total operating expenditure for the same period.



(B) Post-IPO lock-up on controlling shareholders of a GEM issuer

A GEM issuer's controlling shareholder(s) is/are:

- restricted from disposing of any shares within the first 12 months after listing; and
 - within the second 12 months after listing, restricted from disposing of shares that would result in them ceasing to be the controlling shareholder(s).
- Shorten the post-IPO lock-up period on a GEM issuer's controlling shareholder(s) as follows:
 - restricted from disposing of any shares within the first six months after listing; and
 - within the second six months after listing, restricted from disposing of shares that would result in them ceasing to be the controlling shareholder(s).

(C) Periodic reporting requirements for a GEM issuer

A GEM issuer must publish:

- annual reports not later than three months;
 - half-yearly reports not later than 45 days;
 - preliminary announcements of results for the first six months of each financial year not later than 45 days; and
 - quarterly reports not later than 45 days after the date upon which the financial period ended.
- Remove quarterly reporting as a mandatory requirement for GEM issuers and instead introduce it as a recommended best practice in GEM's Corporate Governance Code.
 - Bring GEM's periodic reporting requirements in line with Main Board requirements so that a GEM issuer must publish:
 - annual reports not later than four months after the date upon which the financial period ended;
 - interim reports not later than three months after the date upon which the financial period ended; and
 - preliminary announcements of results for the first six months of each financial year not later than two months after the date upon which the financial period ended.

(D) Transfers to the Main Board

- A GEM issuer may transfer to the Main Board under Main Board Chapter 9A if it:
 - (a) meets all the qualifications for listing on the Main Board;
 - (b) has published its financial results for the first full financial year commencing after the date of its initial listing on GEM; and
 - (c) in the 12 months preceding the transfer application and until the commencement of dealings in its securities on the Main Board, has not been the subject of any disciplinary investigation by the Exchange in relation to a serious breach or potentially serious breach of any Listing Rules.
 - Maintain Main Board Chapter 9A route for transfers to the Main Board.
 - Implement a new streamlined transfer mechanism under proposed Main Board Chapter 9B.
- Streamlined transfers under proposed Main Board Chapter 9B*
- A streamlined transfer applicant is NOT required to appoint a sponsor to conduct due diligence for its transfer and is not required to issue a "prospectus-standard" listing document.
 - A streamlined transfer applicant must:
 - (a) meet all the qualifications for listing on the Main Board;
 - (b) comply with the Exchange's requirements in respect of its financial results for three full financial years as a GEM listed issuer prior to its transfer, with (i) ownership continuity and control, and (ii) no fundamental change in its principal business, throughout that period;
 - (c) have reached the Minimum Daily Turnover Threshold of HK\$50,000 on at least 50% of the trading days¹ over the 250 trading days immediately preceding the transfer application and until the commencement of dealings in its securities on the Main Board (the "Reference Period") (the "Daily Turnover Test");

¹ The reference to "trading days" excludes the number of trading days on which the trading of the applicant's securities were halted or suspended.



- A Main Board Chapter 9A transfer applicant must appoint a sponsor at least two months before the submission of a transfer application and issue a “prospectus-standard” listing document.
- (d) have a volume weighted average market capitalisation over the Reference Period that could meet the minimum market capitalisation requirement for listing on the Main Board (the “**Volume Weighted Average Market Capitalisation Test**”); and
- (e) not have been held to have committed a serious breach of any Listing Rules in the 12 months preceding the transfer application and until the commencement of dealings in its securities on the Main Board; and (ii) not be the subject of any investigation by the Exchange, or any ongoing disciplinary proceedings under Chapter 3 of the GEM Listing Rules or Chapter 2A of the Main Board Listing Rules, in relation to a serious breach or potentially serious breach of, any Listing Rules as at the date of the transfer application and the date when dealing in its securities commences on the Main Board. This qualification will also apply to transfers of listing under Main Board Chapter 9A and will replace the existing compliance record requirement under Main Board Rule 9A.02(3).
- A streamlined transfer applicant is required to publish an announcement as soon as practicable before the intended date that dealings in the issuer’s shares on the Main Board are expected to commence. This announcement will be pre- vetted by the Listing Division.

The long-form announcement must contain information including: (a) a prescribed form disclaimer statement; (b) directors’ responsibility statement; (c) confirmation of fulfilment of all pre-conditions to a transfer of listing; (d) reasons for the transfer of listing; (e) a statement that various documents are displayed on the Exchange’s website and the issuer’s website, (f) a statement that the requisite approval has been granted by the Exchange; (g) issuer’s stock codes on GEM and the Main Board; (h) a statement of CCASS eligibility; (i) if applicable, a statement of any listing of options, warrants etc., that will be transferred together with the underlying securities; (j) names of the directors; and (k) such information as directed by the Exchange.

This should not be confused with the short announcement informing the public of the application on the day of application for transfer under GEM Rule 9.26. This announcement is not expected to contain substantial details and no content requirements will be included in the Listing Rules.

Other GEM rule changes include:

- (1) Compliance Officer: (i) Remove the requirement that one executive director of a GEM issuer must be a compliance officer; (ii) shorten engagement period of the compliance officer so that it ends on the date of publication of financial results for the first full financial year (existing rule: two full financial years) after listing and (iii) remove other requirements relating to a compliance adviser’s responsibilities that only apply to GEM issuers including: (a) due diligence on listing documents published, and dealing with the Exchange, in relation to certain transactions during the period of engagement of the compliance adviser; and (b) disclosure of interests of the compliance adviser for this purpose.
- (2) Costs for transfer of listing: Exempt transfer applicants from the Main Board initial listing fee.



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Newsletter

The GEM reform rule amendments will come into effect on Monday, 1 January 2024; and Part B of the conclusion of the consultation paper also sets out housekeeping rule amendments for the purpose of the forthcoming expanded paperless listing regime that has come into effect on Sunday, 31 December 2023.

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