

# ACUMINOUS

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## GEM LISTING REFORMS

On 15 December 2023, The Stock Exchange of Hong Kong Limited (the “**Exchange**”) published its conclusion to its consultation on proposed GEM listing reform (the “**GEM Reform**”). The GEM Reform will come into effect on 1 January 2024 and with a view to enhancing GEM’s attractiveness whilst maintaining high standards of investor protection. In this issue, we will go through the key changes in relation to the GEM Reform.

### Key Changes to GEM Listing Rules

The Exchange has made the following key amendments:-

- Introduction of a new alternative eligibility test (referred to as the “market capitalisation/ revenue/ research and development (the “**R&D**”) test”) which targets high growth enterprises that are heavily engaged in R&D activities.
- Introduction of a new streamlined transfer mechanism which, among other things, does not require appointment of a sponsor and issue of “prospectus-standard” listing document.
- Removal of mandatory quarterly reporting requirements and alignment of certain ongoing obligations of GEM with those of the Main Board.

### New Alternative Eligibility Test

Set out below are the key aspects of the two tests:-

	Existing Requirements	New Eligibility Test Requirements
Market Capitalisation at the time of listing	≥ HK\$150 mil	≥ HK\$250 mil
Revenue	Nil	≥ HK\$100 mil (in aggregate for the last two financial years, with year-on-year growth)
Cash Flow	≥ HK\$30 mil (from operating activities in aggregate for the last two financial years)	Nil
R&D Expenditure	Nil	≥ HK\$30 mil (in aggregate for the last two financial years) & ≥ 15% (of total operating expenditure of each financial year for the same period)

### New Streamlined Transfer Mechanism

The Exchange introduced a new streamlined transfer mechanism (the “**Streamlined Mechanism**”) as an alternative for qualified GEM issuers to transfer their listing to the Main Board. Set out below are the key differences between the existing requirements and new alternative requirements under the Streamlined Mechanism:-

	Existing Requirements	New Alternative Requirements
Qualifications for Transfer	Must meet all the qualifications for listing on the Main Board	
Track Record	Financial results for the <b>first</b> full financial year	Financial results for the <b>three</b> full financial years (with ownership continuity and control and no fundamental change in its principal business)
Daily Turnover Test	Nil	Minimum threshold of HK\$50,000 on ≥ 50% of the trading days over the Reference Period (Note)
Volume Weighted Average Market Capitalisation Test	Nil	A volume weighted average market capitalization over the Reference Period (Note) that could meet the minimum market capitalization requirement for listing on the Main Board
Compliance Record	Clean compliance record during the 12-month period prior to the transfer application and until the commencement of dealings on the Main Board	
Sponsor Appointment	At least 2 months prior to the submission of a transfer application	Nil
Listing Document	A ‘prospectus-standard’ listing document is required	Nil

*Note: Such “Reference Period” covers both the 250 trading days immediately preceding the transfer application and the trading days between the transfer application and the commencement of dealings of its securities on the Main Board.*

The Streamlined Mechanism will be in force in parallel with the existing mechanism for GEMs issuers to proceed their transfer applications.

### **Ongoing Obligations**

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With respect to stakeholders' concerns as to continuing compliance costs being imposed on GEM issuers, the Exchange has amended compliance reporting requirements and aligned certain continuing obligations of GEM with those of the Main Board.

The key amendments are as follows:

- Removing the mandatory quarterly reporting requirement;
- Removing the existing requirement for one of the executive directors of a GEM issuer to assume responsibility for acting as the issuer's compliance officer;
- Shortening the period of engagement of the compliance adviser of a GEM issuer to the first full financial year, in lieu of two as per now, commencing after the date of listing;
- Removing the responsibilities of a compliance adviser regarding (a) due diligence on listing documents published and dealing with the Exchange and (b) disclosure of interests of the compliance adviser for this purpose; and
- Aligning the timeframes of publishing annual reports, interim reports, and preliminary announcements of results for the first six months of each financial year of GEM with those of the Main Board.

### **Conclusion**

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The GEM Reform provides an opportunity for small and medium enterprises (SMEs) and growth companies which are heavily engaged in R&D activities to have access to the Hong Kong capital market.

It also introduced a new alternative route for existing GEM listed issuers to be transferred to the Main Board of the Exchange, in addition to the existing transfer mechanism. Consequently, GEM listed issuers may opt for a quicker transfer via the existing transfer mechanism, if the benefit outweighs the cost of sponsor due diligence and production of a "prospectus-standard" listing document.

Companies intending to go public in the newly reformed GEM market in Hong Kong or transfer from GEM to the Main Board of the Exchange should seek financial advice from experienced professionals at an earlier stage to navigate potential regulatory issues.

For enquiries related to this newsletter, please get in touch with the following person or your usual contacts in Asian Capital.

**Catherine Wang**

T (852) 2869 8861

E [acuminous@asiancapital.com.hk](mailto:acuminous@asiancapital.com.hk)