



Profit Test for Listing on Main Board of Hong Kong Stock Exchange (HKEX) Under the Listing Rules

《上市規則》 規定
在**香港交易所主板**上市
需通過「**盈利測試**」

For a listing under chapter 8 of the Main Board Listing Rules, a listing applicant must satisfy the following listing conditions, namely,

- (a) it must be incorporated or established in Hong Kong or in overseas jurisdiction which is recognised and acceptable by HKEX;
- (b) it must not be a private company where public offering of shares is not permitted;
- (c) it and its business must, in the opinion of HKEX, be suitable for listing;
- (d) it must satisfy either the profit test (Profit Test) (under MBLR 8.05(1)) or the market capitalisation/revenue/cash flow test (under MBLR 8.05(2)) or the market capitalisation/revenue test (under MBLR 8.05(3)); and
- (e) its expected market capitalisation at the time of listing must not be less than HK\$500 million with a public float of not less than HK\$125 million (under MBLR 8.09(2)&(1) respectively).

This article will focus on the Profit Test which is the subject of the consultation paper issued by HKEX in November 2020. It is to be noted that under the Profit Test, the listing applicant is also required to have:

- (a) a trading record of not less than three financial years;
- (b) management continuity for at least three years prior to listing; and
- (c) ownership continuity and control for at least the most recent audited financial year prior to listing.

根據《主板上市規則》第八章的規定，上市申請人必須符合以下上市條件，即：

- (a) 上市申請人必須在香港或香港交易所（港交所）認可和接受的海外司法權區註冊或成立；
- (b) 上市申請人不得是不允許公開發售股份的私人公司；
- (c) 上市申請人及其業務必須屬於港交所認為適合上市者；
- (d) 上市申請人必須符合（根據《主板上市規則》第8.05(1)條）「盈利測試」或（根據《主板上市規則》第8.05(2)條）「市值／收益／現金流量測試」或（根據《主板上市規則》第8.05(3)條）「市值／收益測試」；及
- (e) 上市申請人在上市時的預期市值不得低於5億港元，且公眾持股量的市值不得低於1.25億港元（分別根據《主板上市規則》第8.09(2)及(1)條）。

本文將重點討論港交所在2020年11月發佈的諮詢文件中所涉及的盈利測試。值得注意的是，根據盈利測試，上市申請人同時需具備：

- (a) 不少於3個會計年度的營業記錄；
- (b) 上市前至少3個會計年度的管理層維持不變；及
- (c) 上市前至少經審計的最近一個會計年度的擁有權和控制權維持不變。



Profit Test

Prior to 1994, the MBLR did not have a financial performance requirement but only had a minimum market capitalisation requirement of HK\$100 million at the time of listing. After the consultation in 1994, the current Profit Test was introduced on 15 September 1994 pursuant to which a listing applicant must have a total profit of not less than HK\$50 million during the three-year trading period, of which the profit attributable to shareholders must not be less than:

- (a) HK\$20 million in the most recent year prior to listing; and
- (b) HK\$30 million in aggregate for the two preceding years.

Since then, there were further market consultations in relation thereto leading to the increase of the initial market capitalisation from HK\$100 million to HK\$500 million but the Profit Test remains unchanged. It is to be noted that a listed company is not required to maintain the market capitalisation nor the profit requirement after listing. Accordingly, many listed companies are still listed on HKEX with a market capitalisation below HK\$500 million and/or not meeting the Profit Test. In addition, profit is based on the profit after tax as reported in the audited financial statements after excluding:

- (a) the results of associated companies and other entities whose results are recorded in the financial statements by way of equity accounting; and
- (b) all or any incomes and/or losses generated by activities outside the ordinary and usual course of business,

to the effect that the profit eligible under the Profit Test will normally be less than the actual profit that is recorded in the financial statements.

Proposals under the Consultation Paper

Under the Consultation Paper, the following proposals are put forward for market consultation by HKEX, namely,

- (a) to increase the profit requirement under the Profit Test; and
- (b) to introduce (i) temporary conditional relief from the profit requirement and (ii) transitional arrangement if proposal (a) is adopted.

Under the proposal to increase the profit requirement, two options are proposed, namely,

- (a) under Option 1, the minimum amount of profit attributable to shareholders will be increased to not less than (i) HK\$50 million in the most recent financial year, and (ii) HK\$75 million in aggregate in the two preceding financial years making a total profit of not less than HK\$125 million during the three-year trading period; and
- (b) under Option 2, the minimum amount of profit attributable to shareholders will be increased to not less than (i) HK\$60 million in the most financial year, and (ii) HK\$90 million in aggregate in the two preceding financial years making a total profit of not less than HK\$150 million during the three-year trading period.

盈利測試

於1994年之前，《主板上市規則》並無財務業績要求，僅要求於上市時市值最少達到1億港元。於1994年進行諮詢後，於1994年9月15日引入現行的盈利測試，據此上市申請人於三年營業期內的總盈利必須不少於5,000萬港元，其中股東應佔盈利必須符合以下要求：

- (a) 最近一年不低於2,000萬港元；及
- (b) 前兩年累計不低於3,000萬港元。

此後，有關方面進行了進一步市場諮詢，將初始市值由1億港元漸次提高至5億港元，但盈利測試保持不變。要注意的是，上市公司於上市後無需維持市值或盈利規定。因此，許多上市公司即使市值低於5億港元及/或未達到盈利測試要求，仍繼續在港交所上市。此外，盈利是基於經審計財務報表中所報告的除稅後盈利，並扣除：

- (a) 聯營公司及其業績是以權益會計法記入財務報表內的其他實體；及
- (b) 日常及正常經營業務以外的活動所產生的所有或任何收入或虧損，

因此，盈利測試下合資格的盈利通常會少於記入財務報表的實際盈利。

諮詢文件的建議

在諮詢文件中，港交所提出以下建議徵詢市場意見，即：

- (a) 調高盈利測試中的盈利規定；及
- (b) 若建議(a)被採納，推出(i)有條件的盈利規定的臨時寬限及(ii)過渡安排。

調高盈利規定的建議提出兩個方案，即：

- (a) 方案1，股東應佔盈利的最低要求將調高如下：
 - (i) 最近一個財政年度須不低於5,000萬港元；及
 - (ii) 其前兩個財政年度累計須不低於7,500萬港元，即三年營業期內的總盈利不少於1.25億港元；及
- (b) 方案2，股東應佔盈利的最低要求將調高如下：
 - (i) 最近一個財政年度須不低於6,000萬港元；及
 - (ii) 其前兩個財政年度累計須不低於9,000萬港元，即三年營業期內的總盈利不少於1.5億港元。

若調高盈利規定的建議被採納，將推出有條件的臨時寬限及過渡安排，以應對因新型冠狀病毒疫情肆虐及中美政治經濟局勢不明朗，對業務營運及盈利造成的不利影響，詳情載於諮詢文件第二及第三章。

提出建議的理由

經過2017年的諮詢，上市公司於上市時的市值已經由2億港元提高至5億港元，但由於盈利規定保持不變，

If the proposal to increase the profit requirement is adopted, temporary condition relief and transitional arrangement will be introduced to address the hardship due to COVID-19 pandemic and the uncertainties arising from the economic and political tensions between the US and China, whereby the business operation and profit have been adversely affected, details of which are set out in chapters 2 and 3 of the Consultation Paper.



Reasons for the Proposals

After the consultation in 2017, the market capitalisation at the time of listing has been increased from HK\$200 million to HK\$500 million with the profit requirement remains unchanged. This means that the implied P/E ratio (measured by market capitalisation divided by profit) has increased from 10 times to 25 times (based on the most recent minimum profit of HK\$20 million) or from 12 times to 30 times (based on the average profit of HK\$16.66 million). In consequence, HKEX has noted an increase in listing applications from small cap issuers that marginally met the profit requirement but had relatively high historical P/E ratios as compared with peers in similar industries. This gave rise to HKEX's concern as to the reasonableness of such high valuation. HKEX's regulatory concern is whether these small cap issuers are genuinely listed to raise funds for growth and development or to manufacture potential shell companies for sale after listing. If the high valuation is not supported by the market after listing, the price will decrease significantly after listing resulting in losses to investors and hurting their confidence in the market. Inadequate demands also lead to thin trading and low liquidity susceptible to speculative trading and excessive market volatility after listing. In addition, inflated valuations also raise HKEX's concern whether the IPO offer prices genuinely reflect the expected market clearing prices. Market misconducts are suggested to ensure that such inflated companies are eventually listed. It is HKEX's view that all these will be addressed when the profit requirement is increased in accordance with its proposal. Furthermore, it is also the view of HKEX that small cap companies may be listed on GEM as an alternative where the listing requirement is less stringent.

意味隱含市盈率（以市值除以盈利計算）由10倍提高至25倍（以最近一年最少錄得2,000萬港元盈利為基準），或由12倍提高至30倍（以每年平均盈利1,666萬港元為基準）。結果，港交所注意到來自低市值發行人的上市申請有所增加，它們往往僅僅符合盈利規定的最低要求，但歷史市盈率與類似行業的同業比較則偏高，從而引起港交所對高估值合理性的關注。從監管角度上，港交所關注這些低市值發行人是否真正為了業務增長和發展而上市融資，或是為了日後轉手「借殼上市」而製造潛在「殼股」。若上市後高估值得不到市場支持，股價可能會在上市後大跌，以致損害投資者利益，並影響投資者對市場的信心。因市場需求不足導致交投量少、流動性低，上市後更容易受到投機炒賣左右，並引發股價大幅波動。此外，過高的估值也引發港交所關注，首次公開招股發行價是否真實反映市場的預期價格。根據港交所的觀點，這些估值過高的公司最終之所以能夠上市，是因為有市場失當行為護航。港交所認為，若按照其建議調高盈利規定，上述所有問題都將得到解決，又認為低市值公司可在上市規定較寬鬆的創業板上市，作為主板的替代選擇。

本商會的立場

本商會不支持調高利潤規定的建議，理由如下：

- (a) 調高盈利規定會剝奪本地小型企業在香港上市的機會；
- (b) 亦會削弱香港吸引海外公司來港上市的競爭力；
- (c) 調高盈利規定不能解決港交所指出的問題；

Chamber's Position

Our Chamber does not support the proposal to increase the profit requirement for the reasons that:

- (a) increasing the profit requirement will deprive the opportunities of smaller local business from listing in Hong Kong;
- (b) it will also weaken Hong Kong's competitiveness in attracting overseas companies to list here;
- (c) increasing the profit requirement will not address the problems identified by HKEX;
- (d) valuation is a matter for commercial decision;
- (e) market misconducts should be dealt with by enforcement;
- (f) shell company activities are now properly regulated under the Listing Rules; and
- (g) GEM is not an alternative to the Main Board.

Our Chamber's views are contained in its submission to HKEX which is available on the Chamber's website www.chklc.org and a summary of which is contained in the "Talking Point" column in this issue of *Momentum*. **M**

— Vincent P C Kwan

Solicitor/Certified Public Accountant (Fellow) (Non-Practising)
Member (Formerly Chairman), FRA Committee
The Chamber of Hong Kong Listed Companies

- (d) 估值純屬商業決定；
- (e) 市場失當行為應以執法方式處理；
- (f) 空殼公司的活動現已受到《上市規則》的適當規管；及
- (g) 創業板並非主板的替代選擇。

本商會的觀點載於本商會向港交所提交的意見書中，會員可於本商會網站www.chklc.org查看，並綜述於本期 *Momentum* 《論點》專欄。**M**

— 關保銓

律師 / 資深會計師（非執業）
香港上市公司商會
財經事務及監管政策委員會委員（及前任主席）

Ride the Momentum

Reach out to the market movers and shakers

For advertising in Momentum, the official publication of CHKLC, please contact:

Jennifer Luk
E: jennifer@ninehillsmedia.com

Frank Paul
E: frank@ninehillsmedia.com

ninehillsmedia
T: +852 3796 3060
W: www.ninehillsmedia.com