



**GEM Board:**  
**Past Present** and  
**Future**  
**GEM**的前世今生

In September 2023, Hong Kong Stock Exchange (HKEX) issued a consultation paper on GEM listing reform proposing changes to the GEM regime. In December 2023, HKEX issued the consultation conclusions. In December 2023, the amendments relating to the GEM Board were effective. This article will review the history and development of the GEM Board from its inception in 1999, to the three revamps, and the current regime.

### Establishment and Launch of the Growth Enterprise Market (GEM) in 1999

In May 1998, HKEX issued a consultation paper to consult the market to establish a new market for emerging companies. Under the consultation paper, 'the Second Market will be established as an alternative market to the Main Board. Its main objective is to provide capital formation for emerging companies to facilitate their business development and/or expansion. [HKEX] accepts that certain companies which can fulfil the listing requirements of the Main Board may choose instead to list on the Second Market'. Thus, the Second Market (vis-a-vis the Main Board) would be similar to NASDAQ (vis-a-vis the New York Stock Exchange) in the US and would not be a stepping stone to the Main Board. As regards regulatory philosophy, 'the Second Market will adopt a "let the buyer beware" philosophy with prominent risk warnings. Unlike the Main Board which adopts a combination of merit and disclosure based regulatory approach, the Second Market will implement an enhanced disclosure based regime. The major emphasis will be on greater disclosure and increased corporate governance'. As regards financial reporting, companies listed on the GEM Board would be required to prepare quarterly reporting. The consultation was well received by the market. The new market was created and launched in November 1999. The new market was then named the Growth Enterprise Market (GEM) and is now named as GEM Board. Since its launch in 1999 and until 2005, some 220 companies have been listed on GEM Board raising over HK\$40 billion of equity capital with most of listed companies being dot.com companies taking advantage of the dom.com boom and the new economy in Hong Kong and around the world. After the dom.com boom and bust, not many companies were listed on the GEM Board and those already listed were thinly traded with very little fund raising activities. This led to the first revamp of the GEM Board in 2008.

### First Revamp of GEM Board in 2008

In January 2006, HKEX issued a discussion paper on the Growth Enterprise Market discussing three possible structural options to revamp the GEM Board, namely, (a) GEM as a second board (and hence a stepping stone to the Main Board), (b) GEM and the Main Board to merge into a single board, and (c) new alternative market. After the discussion paper, HKEX issued a consultation paper on the Growth Enterprise Market in July 2007 to consult the market on the proposed changes to the GEM Board as therein contained. In May 2008, HKEX issued the consultation conclusions confirming the changes to the structure of the GEM Board. The main feature of this revamp was that the GEM Board was re-positioned from an alternative board to a 'stepping stone' to the Main Board and that the transfer process to the Main Board was simplified. In the simplified transfer process, no sponsor nor prospectus was required. All that was required was an announcement for the transfer to be pre-vetted by

2023年9月，香港交易所（港交所）刊發有關GEM上市改革的諮詢文件，建議修訂GEM制度。2023年12月，港交所刊發諮詢總結。2023年12月，有關GEM的修訂生效。本文將回顧GEM自1999年創立以來歷經三次改革及至形成現行制度的歷史與發展。

### GEM於1999年設立及推出

1998年5月，港交所刊發諮詢文件，就設立新興公司新市場諮詢市場意見。根據諮詢文件，「將設立第二板市場作為主板市場以外的另類市場。其主要目的是為新興公司提供集資途徑，助其發展及／或擴展業務。港交所接受若干能夠符合主板市場上市規定的公司或會選擇改到第二板市場上市」。因此，第二板市場（相對於主板而言）與美國納斯達克（相對於紐約證券交易所而言）相似，且並非主板踏腳石。就監管理念而言，「第二板市場的監管理念將以『買者自負』為主，加上明顯的風險警告聲明。有別於主板市場結合以監管機構評審為本及以披露為本的監管機制，第二板市場將實行更加以披露為重的監管機制。重點將在於加強資料披露和公司治理。」在財務報告方面，於創業板上市的公司均須編製季度報告。是次諮詢深受市場歡迎。新市場於1999年11月創立並推出。新市場當時稱為創業板，現時稱為GEM。自1999年推出以來直至2005年，約有220家公司已於創業板上市，募集股本逾400億港元，其中大部分上市公司為互聯網公司，受益於風靡香港和全球各地的互聯網熱潮及新經濟。在經歷互聯網熱潮的興衰後，於創業板上市的公司並不多，而已上市公司的成交量低迷，且集資活動少之又少。有鑒於此，2008年的首次GEM改革應運而生。

### 2008年首次GEM改革

2006年1月，港交所就創業板刊發討論文件，討論改革GEM的三個可行結構性方案：(a) 創業板作為第二板（及到主板上市的踏腳石）；(b) 創業板與主板合併成為單一板塊；及(c) 全新的另類市場。於討論文件刊發後，港交所於2007年7月就創業板刊發諮詢文件，以就其中所載的建議改革創業板諮詢市場意見。2008年5月，港交所刊發諮詢總結，確認對創業板結構的變更。本次改革的主要特點是將GEM由替代板塊重新定位為到主板上市的「踏腳石」，簡化了到主板上市的轉板程序。在簡化的轉板程序中，既不需要保薦人，亦不需要招股章程，只需發佈一份由上市科預審並經上市委員會批准的轉板公告。首次改革後，GEM重新煥發活力，許多符合主板上市要求的公司選擇先到GEM上市，兩年後只需發佈公告即可轉到主板上市。借助簡化的轉板程序，許多上市空殼公司成立，先在GEM上市，符合主板上市要求後立即轉到主板上市，隨後出售給當時熱衷於收購主板上市公司的內地投資者。GEM因此於2018年迎來第二次改革，力求解決這一漏洞。

### 2018年第二次GEM改革

2017年6月，港交所刊發另一份諮詢文件，檢討創業板下列事宜：(a) 創業板作為主板「踏腳石」的定位；(b) 創業板上市規定及除牌機制；及(c) 公開市場規定。2017年12月，港交所刊發諮詢總結。於是次諮詢之後及自2018年2月15日起，GEM重新定位為一個

the Listing Division and approved by the Listing Committee. After the first revamp, the GEM Board was reactivated with many companies meeting the Main Board requirements choosing to list on the GEM Board and then transferring to the Main Board after two years simply by an announcement. Taking advantage of the streamlined transfer process, many listed shells were created and listed on the GEM Board, transferred to the Main Board immediately after meeting Main Board listing requirements and then sold to mainland investors who were then very eager to obtain Main Board listed companies. This led to the second revamp of the GEM Board addressing this loophole in 2018.

### Second Revamp of the GEM Board in 2018

In June 2017, HKEX issued another consultation paper to review the GEM Board as regards (a) GEM's position as a 'stepping stone' to the Main Board, (b) GEM listing requirements and delisting mechanism, and (c) open market requirement. In December 2017, HKEX issued the consultation conclusions. After the consultation and with effect from 15 February 2018, GEM was re-positioned not as a 'stepping stone' to Main Board but as a stand-alone board. On transfer mechanism (from GEM Board to Main Board), the streamlined process was removed and a sponsor and a prospectus were required to be prepared. Other amendments were also made to the GEM listing rules but quarterly financial reports were still required. Since the second revamp of the GEM Board in 2018, the number of new listings and fund raisings on GEM Board have significantly declined. In 2022, no new company was listed on GEM Board and existing listed companies raised only HK\$2.7 billion in funds. This led to the third revamp of the GEM Board in 2023.

### Third Revamp of the GEM Board in 2023

In September 2023, HKEX issued the consultation paper on GEM Listing Reforms consulting the market for the proposals for reform. Key proposals were (a) introducing a new alternative GEM eligibility test targeting high growth enterprises that are heavily engaged in R&D (research and development), (b) removing mandatory quarterly reporting and the alignment of the GEM's ongoing obligations with those of the Main Board, and (c) introducing a new streamlined transfer mechanisms for eligible GEM companies to transfer to the Main Board without the need to appoint a sponsor to carry out due diligence and produce a 'prospectus-standard' listing document. In December 2023, HKEX issued the consultation conclusions implementing the proposals with effect from 1 January 2024 (as regards GEM reform rule amendments) and 31 December 2023 (as regards other housekeeping rule amendments). Key amendments are as follows and for detail, please refer to the amended listing rules with marked up as contained in Appendix IV (for amendments to the GEM listing rules) and Appendix V (for amendments to the Main Board listing rules) to the consultation conclusions dated December 2023.

獨立板塊，而非主板「踏腳石」。轉板機制（從創業板轉到主板）方面，取消了簡化轉板申請程序，且需要委任保薦人及編製招股章程。此外，亦對《創業板上市規則》作出了其他修訂，但仍要求編製季度財務報告。自2018年第二次GEM改革以來，GEM新股上市數量及集資額均大幅下降。2022年，沒有新的公司在GEM上市，現有的上市公司僅集資27億港元。GEM因此於2023年迎來第三次改革。

### 2023年第三次GEM改革

2023年9月，港交所刊發有關GEM上市改革的諮詢文件，向市場徵詢改革意見。主要建議是（a）為大量從事研發的高增長企業推出新的GEM資格測試；（b）取消強制季度匯報，GEM發行人的持續責任亦改與主板發行人一致；及（c）引入新的「簡化轉板機制」，合資格的GEM發行人轉往主板時毋須委任保薦人進行盡職審查及刊發達到「招股章程標準」的上市文件。2023年12月，港交所刊發諮詢總結，自2024年1月1日起（就GEM改革《上市規則》修訂而言）及自2023年12月31日起（就其他《上市規則》的輕微修訂而言）實施該等建議。主要修訂載於下文，詳情請參閱2023年12月諮詢總結附錄四（《GEM上市規則》修訂）及附錄五（《主板上市規則》修訂）所載顯示修改的經修訂《上市規則》。



As regards initial listing requirements, a new alternative 'market capitalisation/revenue/R&D test' is introduced targeting high growth enterprises that are heavily engaged in R&D activities with the thresholds of (a) trading record of at least two financial years, (b) a market capitalisation of at least HK\$250 million at the time of listing, (c) a revenue of at least HK\$100 million in aggregate for the last two financial years, with year-on-year growth over the two financial years, and (d) R&D expenditure of not less than HK\$30 million in aggregate for the last two financial years where R&D expenditure incurred for each financial year must be at least 15% of its total operating expenditure for the same period. As regards post-IPO lock-up period, controlling shareholders are restricted from (a) disposing any shares within the first six months after listing, and (b) disposing of shares that would result in them ceasing to be the controlling shareholders within the second six months after listing.

As regards continuing obligations after listing, it is not required that one executive director must be a compliance officer. As regards compliance adviser, its engagement period is shortened and ends on the date of publication of the financial results for the first full financial year after listing with other requirements related to a compliance adviser's responsibilities being removed. As regards financial reporting, mandatory quarterly reporting is removed and is introduced as a recommended best practice under the corporate governance code. In addition, periodic reporting requirements are aligned with the Main Board listing rules that (a) annual reports must be published not later than four months, (b) interim reports must be published not later than three months, and (c) preliminary interim results announcements must be published not later than two months.

On the transfer to Main Board, a sponsor and a 'prospectus-standard' listing document are not required and instead a transfer announcement approved by HKEX is required. Before the transfer, a listed company must:

- (a) meet all the qualifications for listing on the Main Board;
- (b) comply with HKEX's requirements in respect of its financial results for three financial years;
- (c) have reached the minimum daily turnover threshold of HK\$50,000 on at least 50% of the trading days over the reference period;
- (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; and
- (e) (i) 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 HKEX or any ongoing disciplinary proceedings under the listing rules.

As regards costs for transfer, the Main Board initial listing fee is exempted on transfer from the GEM Board.

就首次上市規定而言，為大量從事研發活動的高增長企業推出新的「市值 / 收益 / 研發測試」，有關企業須符合以下條件：(a) 具備至少兩個財政年度的營業記錄；(b) 上市時的市值不低於2.5億港元；(c) 前兩個財政年度的收益總額不低於1億港元，而且收益在該兩個財政年度有按年增長；及(d) 前兩個財政年度的研發開支總額不低於3,000萬港元，而每個財政年度產生的研發開支佔同期總營運開支至少15%。至於首次公開招股後禁售期，控股股東：(a) 在上市後的首六個月內不得出售任何股份；及(b) 在上市後的第七至十二個月內不得出售會使其不再成為控股股東的股份。

就上市後的持續責任而言，不再要求必須有一名執行董事擔任監察主任，而合規顧問的聘用年期亦縮短，至公司刊發上市後首個完整財政年度的財務業績當日為止，同時刪除其他與合規顧問職責相關的規定。就財務匯報而言，取消強制性季度報告，並將其改為企業管治守則項下的建議最佳常規。此外，定期匯報規定與《主板上市規則》保持一致：(a) 年報須於四個月內刊發；(b) 中期報告須於三個月內刊發；及(c) 初步中期業績公告須於兩個月內刊發。

在轉往主板時，無需委任保薦人及刊發達到「招股章程標準」的上市文件，但需發佈經港交所批准的轉板公告。轉板前，上市公司必須：

- (a) 符合主板上市的所有資格；
- (b) 符合港交所對三個財政年度財務業績之規定；
- (c) 參照期內至少50%的交易日達到50,000港元的最低每日成交金額要求；
- (d) 參照期內的成交量加權平均市值符合主板上市的最底市值要求；及
- (e) (i) 在提出轉板申請前的12個月，直至其證券在主板開始買賣為止，上市公司未曾被裁定嚴重違反《上市規則》任何條文；以及(ii) 並非港交所的調查對象，或成為按《上市規則》所述任何進行中的紀律程序的對象。

就轉板成本而言，豁免由GEM轉往主板的首次上市費。

## 結語

在與市場參與者的非正式討論中，我們了解到在GEM上市會面臨的主要問題與困難包括(a) 首次上市要求嚴苛；(b) 首次公開招股成本高；(c) 上市後合規成本高；(d) 轉板上市成本高；及(e) 市場交投清淡。本次檢討後，將有更多公司能夠上市，且轉板上市場機制亦獲簡化。為進一步重振GEM，可考慮採取以下措施：

- (a) 進一步放寬上市要求，令更多規模小但具創新精神的企業有機會上市；

## Conclusions

In discussing informally with the market participants, we are aware that the major issues and problems associated with the GEM Board are (a) stringent initial listing requirements, (b) high costs of IPO, (c) high compliance cost after listing, (d) high cost for transfer of listing, and (e) thin market trading. After the current review, more companies are able to be listed and transfer of listing has been streamlined. In order to further re-vitalise the GEM Board, the following measures may be considered:

- (a) further relaxing the listing requirements so that more small but innovative companies may be listed;
- (b) reviewing and simplifying the IPO process so as to reduce the IPO cost;
- (c) relaxing and simplifying the compliance requirements after listing so as to reduce the compliance cost, for example, removing the requirements for independent non-executive directors (and replacing it with a nominated adviser);
- (d) requiring to appoint a nominated adviser who will ensure the listed company to comply with the listing rules;
- (e) introducing a market making mechanism to ensure that there is a market for secondary trading after listing;
- (f) considering to limit the GEM Board to professional investors who are able to accept higher risks when the listing rules are relaxed; and
- (g) considering to delist the listed company if it fails to transfer its listing to Main Board within five years to give effect to the GEM Board being a stepping stone to the Main Board.

The above observations and suggestions are based on the writer's informal discussion with some market participants who are familiar with the GEM Board but do not represent the views and opinions of our Chamber nor its FRA Committee. **M**

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- (b) 檢討及簡化首次公開招股程序，以減低首次公開招股成本；
- (c) 放寬及簡化上市後的合規要求，以減低合規成本，例如取消有關獨立非執行董事的規定（並以指定顧問取代）；
- (d) 規定須委任一名指定顧問，由其確保上市公司遵守《上市規則》；
- (e) 引入市場莊家機制，以確保上市後存在二級交易市場；
- (f) 考慮在放寬《上市規則》後，僅向能夠承受更高風險的專業投資者開放GEM；及
- (g) 考慮將未能於五年內轉至主板上市的上市公司除牌，令GEM成為於主板上市的踏腳石。

上述言論及建議乃根據筆者與若干熟悉GEM的市場參與者之間的非正式討論而得出，並不代表商會或其財經事務及監管政策委員會的觀點及意見。 **M**

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