

## **HKE<sub>x</sub> LISTING DECISION**

**Cite as HKE<sub>x</sub>-LD45-3 (First Quarter of 2005) (Withdrawn in June 2013; Superseded by GL25-11)**

<b>Summary</b>	
<b>Name of Party</b>	Company A - a GEM new listing applicant and its subsidiaries (the "Group")
<b>Subject</b>	Whether Company A would be granted a waiver from the strict requirements of GEM Listing Rules 7.03(1) and 11.10 to the effect that the accountants' report that was included in its prospectus would not be required to include the financial information up to its latest financial year end?
<b>Listing Rules</b>	GEM Listing Rules 7.03(1) and 11.10
<b>Decision</b>	The Exchange granted a waiver from the strict requirements of GEM Listing Rules 7.03(1) and 11.10 provided that the latest financial period reported on by the reporting accounts would not have ended more than six months before the date of the prospectus and the maximum allowable time between the latest financial period reported on and the proposed listing date was not more than two months.

### **SUMMARY OF FACTS**

1. Company A proposed to be listed in February of a certain year ('Year T'). Its financial year ended on 31 December. The accountants' report that was included in Company A's prospectus included the combined results of the group covering the two years ended 31 December of Year T minus 2 ('Year T-2') and the nine months ended 30 September of Year T minus 1 ('Year T-1').
2. Based on the listing timetable, Company A would be in compliance with GEM Listing Rule 11.11 which requires the latest financial period reported on by the reporting accountants must not have ended more than six months before the dated of the prospectus.

### **THE ISSUE RAISED FOR CONSIDERATION**

3. Whether Company A would be granted a waiver from the strict requirements of GEM Listing Rules 7.03(1) and 11.10 to the effect that the accountants'

report that was included in its prospectus would not be required to include the financial information up to its latest financial year end?

#### **APPLICABLE LISTING RULES OR PRINCIPLE**

4. GEM Listing Rules 7.03(1) and 11.10 require, among other things, that, in the case of a new applicant, the accountants' report must include the results of the issuer or, if the issuer is a holding company, the consolidated results of the issuer and its subsidiaries in respect of each of the two financial years immediately preceding the issue of the listing document.
5. GEM Listing Rule 11.11 requires '*[I]n the case of a new applicant, the latest financial period reported on by the reporting accountants must not have ended more than 6 months before the date of the listing document*'.
6. GEM Listing Rule 18.03 requires the listed issuer to despatch to its shareholders its annual report no later than three months after its financial year-end.

#### **THE ANALYSIS**

7. The Exchange recognises that a new listing applicant proposing to issue its listing document shortly after the expiration of the latest financial year may experience difficulty in producing audited accounts within such a short period of time. The Exchange therefore considers it appropriate to grant waiver of this requirement to listing applicants based on the facts and circumstances of the case. For consistency, it is necessary to lay down the maximum allowable time gap between the latest financial year-end and the proposed listing date, in excess of which such a waiver would not be granted.
8. GEM Listing Rule 18.03 requires the listed issuer to despatch to its shareholders its annual report no later than three months after its financial year-end. Based on the same principle, namely that an issuer should require no more than three months to produce audited accounts for the latest financial year, the Exchange determines that the cut-off line for granting such waiver should be one month before the due date on which the first audited reports after listing must be despatched by a GEM issuer.
9. In practical terms, this can be translated as no waiver of GEM Listing Rules 7.03(1) and 11.10 will be granted where the proposed listing date is more than two months after the latest financial year-end. In other words, the maximum allowable time gap between the latest financial year-end and the proposed listing date is two months.
10. Based on the submission that Company A's proposed listing date would fall

into the two-month period after the latest financial year end and the latest financial period reported on by the reporting accountants would not be more than six months before the date of the prospectus, the Exchange considered that Company A qualified for a waiver of GEM Listing Rules 7.03(1) and 11.10 to the effect that Company A's prospectus was not required to contain an update of its accountants' report to include at least the financial information up to its financial year end.

## **THE DECISION**

11. Based on the facts and circumstances of the case and the Exchange's analysis of the GEM Listing Rules, the Exchange granted a waiver from the strict requirements of GEM Listing Rules 7.03(1) and 11.10 provided that the latest financial period reported on by the reporting accounts would not have ended more than six months before the date of the prospectus and the maximum allowable time between the latest financial period reported on and the proposed listing date was not more than two months.