

香港就税务事宜
自动交换金融帐户资料
咨询文件

摘要

为税务目的而交换资料是提升税务透明度和打击跨境逃税活动的重要途径。作为国际金融中心及国际社会负责任的一员，香港已承诺优化税制，以便根据经济合作与发展组织(「经合组织」)颁布的国际标准，与其他税务管辖区交换税务资料。

2. 一直以来，政府的优先工作是与香港的贸易和投资伙伴签订全面性避免双重课税协定(「全面性协定」)，以促进香港的商业活动和尽量减少双重课税的情况。香港签订的全面性协定全均载有与缔约伙伴交换资料的机制。此外，我们亦签订税务资料交换协定(「交换协定」)。有关协定纯粹用作资料交换的工具，并不提供课税宽免。

3. 经合组织的交换资料标准，容许税务管辖区按请求交换资料、自动交换资料，或自发交换资料。迄今，香港只选择按请求交换资料。然而，国际社会在税务合作方面的发展迅速。二零一四年七月，经合组织公布就税务事宜自动交换金融帐户资料(「自动交换资料」)的标准，呼吁各地政府从其金融机构搜集海外税务居民的金融帐户资料，并每年与有关帐户持有人所属居住地交换该等资料。

4. 税务透明化及资料交换全球论坛(「全球论坛」)是倡议提高税务透明度的组织，辖下共有 120 名成员，当中包括香港。全球论坛已邀请所有成员承诺实施新国际标准，并建立了机制，以监察和审视成员在二零一七年以后实施新国际标准的进度。截至二零一四年十月底，逾 90 个税务管辖区已承诺实施新标准。香港作为国际社会负责任的一员，并为免被视为「不合作」的税务管辖区而影响国际金融中心地位，我们在二零一四年九月向全球论坛表示支持实施自动交换资料新标准。我们会在互惠原则下，与合适伙伴实施新标准，以期在二零一八年年底前进行首次自动交换资料。有关伙伴须符合关于保障私隐和资料的保密性及正当使用所交换资料的规定。我们已表明，承诺实施新标准的大前提，是香港可在二零一七年或之前通过所需的本地法例。

5. 香港一直奉行以地域来源为征税原则的简单税制。要实施自动交换资料的标准，须就我们的政策、法律框架，以及只按请求交换资料的现行安排作出重大的改变。在制订于

香港实施自动交换资料的模式时，我们须确保所订定的模式符合国际标准，但不会对金融机构及其属非香港税务居民的帐户持有人造成不必要的合规负担。我们将采取**务实的方式**，以期把所有自动交换资料标准的必要规定纳入本地法律，以及**确保**国际标准得以**有效实施**。

6. 自动交换资料标准的主要元素和规定于本文件**第一章**概述。我们曾与不同金融机构、专业团体和商会进行了非正式会面，以交换意见。根据他们的初步意见及经研究其他税务管辖区正考虑的立法建议所得，我们提出了就法律框架(**第二章**)和运作架构(**第三章**)两方面，实施自动交换资料的香港模式的最新构想。我们计划在二零一五年四月至六月征询相关持份者的意见，并提出了须搜集意见的主要范畴(**第四章**)。我们的目标是在二零一六年年年初向立法会提交修订条例草案，在二零一七年前制订法例，然后在二零一八年年底前进行首次自动交换资料。

第一章

自动交换资料标准的主要元素

什么是自动交换资料安排？

1.1 根据经合组织颁布的标准，自动交换资料安排涉及把金融帐户持有人(即非香港税务居民)的各类投资收入、帐户结余或数额，以及从出售金融资产所得收益等金融帐户资料，定期且有系统地每年从帐户持有人的资料来源地传送至其税务居住地。须予以交换的金融帐户资料的范围已根据经合组织的标准而订明和划一，而所交换的资料是透过金融机构¹在资料来源地向其主管当局申报而搜集所得。因此，「自动交换」并不是指资料会在各税务管辖区内自由互通。

1.2 自动交换资料安排须建基于税务协定。首先，各有关税务管辖区之间须已签订双边协议(即全面性协定或交换协定)或多边协议(即《税务事宜行政互助多边公约》)，作为交换税务资料的法律基础。其次，各主管当局须签订主管当局协定，藉以规范交换安排，确保资料根据有关标准适当互通。

自动交换资料标准的元素

1.3 具体而言，自动交换资料标准包含下列元素 —

- (a) **主管当局协定范本：**这是主管当局(一般是税务当局)之间的自动资料交换协定范本。
- (b) **共同汇报标准：**这订明各项标准和规定如下 —
 - (i) **金融机构：**包括银行、托管人、保险公司、经纪及投资实体(例如某些集体投资工具)，除非他们被人用作逃税工具的风险很低，并可获豁免申报(例如指明的退休计划)，则作别论。

¹ 根据共同汇报标准，金融机构有「须申报的金融机构」及「无须申报的金融机构」。为了方便起见，除另有所示外，在本文件所指的「金融机构」即「须申报的金融机构」。

(ii) 须申报的帐户资料：金融机构须申报关于金融帐户持有人的资料包括 —

■ **个人资料**(即帐户持有人的姓名、地址、出生日期和地点、税务居住地及纳税人识别号²)；及

■ **财务资料**(即利息、股息、帐户结余或数额、从某些保险产品所得的收入、从出售金融资产所得的收益，以及其他由有关帐户持有资产或存入帐户的款项所产生的收入)。

(iii) 须予申报的帐户：涵盖个人和实体(包括基金会和信托)所持有的帐户。金融机构须仔细审视被动实体，并申报相关控制人士(即实益拥有人)的资料。

(iv) 尽职审查程序：当中包括各项过程和程序，让金融机构从个人和实体的现有和新开立帐户中辨识须予申报的帐户、确定帐户持有人的税务居住地和其他须申报的帐户资料，以及按订明申报范围向主管当局申报在申报期完结时的资料。

(c) 主管当局协定范本及共同汇报标准的注释：这解释主管当局协定范本及共同汇报标准的规定。在致力确保自动交换资料标准应用和实施贯彻一致的同时，亦就以下特定情况提供例外处理安排 —

(i) 帐户结余或数额：在有关历年或其他适用的申报期终结时，帐户的结余或数额，如帐户在年内或期间内取消，则帐户取消时的结余或数额。然而，就一些税务管辖区已要求其金融机构在该历年或其他适用的申报期间申报帐户的平均结余或价值，这些税务管辖区可维持申报此类资料。

(ii) 关于纳税人识别号、出生日期及地点的须予申报的资料 —

² 如没有「纳税人识别号」，则指功能相等的资料。

- 就**纳税人识别号及出生日期**而言，如该等资料并非在金融机构的纪录内及本地法律并没有要求该等金融机构需搜集该等资料，金融机构无须申报属**现有帐户**的该等资料。金融机构须作合理努力，在识别出该等为须予以申报的帐户后的第二个历年的年底时，取得这些现有帐户的纳税人识别号及出生日期。如有关自动交换资料的伙伴没有发出纳税人识别号或自动交换资料伙伴的当地法律没有要求搜集纳税人识别号的资料，金融机构无须申报纳税人识别号。

- 就**出生地点**而言，金融机构无须申报**现有及新开纳帐户**的该等资料，除非金融机构在现行法例下须取得和申报该等资料及可于该等金融机构备存的电子检索数据中得到。

(d) 技术解决方案的指引：这订定交换资料的模式及传送和加密数据的指引，确保资料保密。

主管当局协定范本及共同汇报标准的主要规定分别载于**附件 A 及 B**(只有英文版)。

第二章

拟议的自动交换资料的香港模式 — 法律框架

政策原意

2.1 我们会采取**务实的方式**，把所有自动交换资料标准的必要规定纳入本地法律，并**确保**国际标准得以**有效实施**。我们会尽量降低受影响金融机构的合规成本，同时无损自动交换资料标准的有效实施。我们会扩大税务局的法定权力至合理程度，以确保自动交换资料标准得以有效实施。

香港现行的资料交换政策

2.2 《税务条例》容许香港可就提供双重课税宽免及 / 或交换税务资料³的目的，与其他税务管辖区订立安排。香港可与另一税务管辖区签订全面性协定，为香港和该相关税务管辖区的税务居民提供双重课税宽免。全面性协定包含一项资料交换条文，利便双方交换税务资料。为了纯粹交换税务资料，香港也可与另一税务管辖区签订独立的交换协定。

2.3 《税务条例》没有订明应如何交换资料 — 即按请求还是自动或自发交换资料。香港至今所签订的 32 份全面性协定⁴大部分均订明缔约双方无须自动交换资料，而至今所签

³ 《税务条例》第 49(1A)条订明：

「如行政长官会同行政会议藉命令宣布，已与香港以外某地区的政府订立该命令中所指明的安排，而该等安排的生效是属于有利的，则该等安排即属有效，并尤其—

(a) 对根据本条例征收的税项有效，即使任何成文法则另有规定亦然；及
(b) 就该等安排中规定须披露关乎该地区的税项资料的条文而言，对作为该条文标的之该地区的税项有效。」

《税务条例》第 49(1B)条进一步订明「然而，只有为以下两个目的或其中之一而订立的安排，方可在第(1A)款所指的命令中指明—

(a) 给予双重课税宽免；
(b) 就香港或有关地区的法律所施加的任何税项，交换资料。」

⁴ 我们的 32 个全面性协定伙伴包括比利时(2003)、泰国(2005)、中国内地(2006)、卢森堡(2007)、越南(2008)、文莱、荷兰、印尼、匈牙利、科威特、奥地利、英国、爱尔兰、列支敦士登、法国、日本、新西兰(2010)、葡萄牙、西班牙、捷克共和国、瑞士、马耳他(2011)、泽西岛、马来西亚、墨西哥、加拿大(2012)、意大利、根西岛、卡塔尔(2013)、韩国、南非及阿拉伯联合酋长国(2014)。(注：在括号内标示的年份为签订有关全面性协定的年份。)

订的 7 份交换协定⁵则订明会按请求交换资料。

自动交换资料安排的法律依据

2.4 我们现时的计划，是只与全面性协定或交换协定的伙伴订定双边自动交换资料安排。我们会以双边全面性协定或交换协定作为法律依据，实施自动交换资料。我们目前并没有计划与其他税务管辖区签订多边协定。

2.5 具体而言，我们会从现有的全面性协定或交换协定伙伴中，辨识可符合经合组织标准的税务管辖区；该等管辖区须已订立合适的法规，保障私隐和确保所交换的资料能予保密。我们会订定与该等税务管辖区商议主管当局协定的优先次序，以期实施自动交换资料安排。即使香港可与现有全面性协定 / 交换协定伙伴实施自动交换资料的安排，但我们或需对全面性协定 / 交换协定作出修订，而税务局亦需与该等协定伙伴的有关当局签订新的主管当局协定。全面性协定的资料交换条文如无禁止自动交换资料，便无须修订；但交换协定明文规定只按请求交换资料，因此我们须先藉议定书予以修订，税务局才可就自动交换资料安排签订新的主管当局协定。

2.6 至于日后与可能成为新伙伴的税务管辖区商议全面性协定或交换协定时，我们会先考虑他们是否能符合自动交换资料的标准，才决定是否只签订全面性协定 / 交换协定，还是把有关税务协定连同主管当局协定一并签订。

将纳入《税务条例》的主管当局协定及共同汇报标准的主要条款

2.7 尽管主管当局协定是由两个税务管辖区的主管当局签订的国际协定，其条款属运作性质，并就两个税务管辖区的交换资料安排作出规范(例如须提交资料的范围，以及向自动交换资料伙伴提供资料的时间和方式)。至于共同汇报标准，则是主管当局协定的附件，载述金融机构须进行的尽职审查程序，以辨识须予申报的帐户。

⁵ 我们的 7 个交换协定伙伴包括美国、挪威、丹麦、瑞典、冰岛、格陵兰及法罗群岛 (2014)。(注：在括号内标示的年份为签订有关交换协定的年份。)

2.8 为赋予主管当局协定和共同汇报标准法律效力，我们拟把主管当局协定和共同汇报标准的主要条款纳入香港法例，确保香港能有效实施自动交换资料安排。我们将在《税务条例》的附表中，载列每个与香港签订主管当局协定的税务管辖区名称。财经事务及库务局局长可在宪报刊登公告，以修订该附表，而有关修订须经立法会进行先订立后审议程序。

2.9 建议纳入本地法例的主要条款(参考相关的主管当局协定及共同汇报标准)包括 -

- (a) 金融机构及须予申报帐户的定义(主管当局协定的第一部分及共同汇报标准的第八部分)；
- (b) 金融机构提交税务局及税务局随后与自动交换资料伙伴所交换的资料范围(主管当局协定的第二部分及共同汇报标准的第一部分)；
- (c) 金融机构为辨识须予申报帐户而进行的尽职审查程序(共同汇报标准的第二至七部分)；及
- (d) 税务局确保有效实施有关安排的执法权力(共同汇报标准的第九部分)。

2.10 我们计划将上文第 2.9(a)、(b)及(d)段所述事项纳入主体法例。正如经合组织的自动交换资料标准所述，金融机构的尽职审查程序是必要元素，须纳入本地法例。我们参考了《打击洗钱及恐怖分子资金筹集(金融机构)条例》(第 615 章)所订的法律框架，当中尽职审查及保存记录的规定是详列于该条例的附表，我们建议在《税务条例》的附表中，载述自动交换资料安排的尽职审查规定(即上文第 2.9(c)段)。财经事务及库务局局长可在宪报刊登公告，修订该附表，而有关修订须经立法会进行先订立后审议程序。

2.11 附件 C 载述的示意图显示拟议在香港实施自动交换资料的立法模式。

金融机构和须予申报帐户的范围

2.12 根据共同汇报标准的规定，并参照我们本地法例，我们建议将下述金融机构的定义纳入《税务条例》－

- (a) 「托管机构」 - 根据《受托人条例》(第 29 章)注册的信托公司；或任何其他人士代他人持有帐户的金融资产，而该资产占持有人相当大部分的业务；
- (b) 「存款机构」 - 根据《银行业条例》(第 155 章)获发牌或注册的认可机构；或根据《储蓄互助社条例》(第 119 章)注册的储蓄互助社；
- (c) 「指定保险公司」 - 根据《保险公司条例》(第 41 章)获授权的保险人，而该保险人发行或有责任支付予现金价值保险合约或年金合约，而在紧接上一历年从保险、再保险及年金合约所产生的总收入超过该年的总收入 50%，或在紧接上一历年的任何时间从保险、再保险及年金合约所产生的综合数额超过该年任何时间的总资产 50%；及
- (d) 「投资实体」 -
 - (i) 根据《证券及期货条例》(第 571 章)获发牌而进行以下一项或多于一项的规管活动的法团 -
 - 证券交易；
 - 买卖期货合约；
 - 杠杆式外汇交易；
 - 资产管理；
 - (ii) 根据《证券及期货条例》(第 571 章)注册而进行以下一项或多于一项的规管活动的机构 -
 - 证券交易；
 - 买卖期货合约；
 - 资产管理；
 - (iii) 根据《受托人条例》(第 29 章)注册的信托公司；

- (iv) 根据《证券及期货条例》(第 571 章)获授权的集体投资计划或结构性产品；
- (v) 任何实体代客户主要从事以下一项或多于一项活动或作业作为其业务 –
 - 货币市场工具交易、外汇交易、汇兑、利率及指数工具业务、可转让证券买卖，或商品期货交易；
 - 个人及集体投资组合管理；或
 - 以其他方式代他人投资、管理或管控资金或金钱；或
- (vi) 如实体由另一实体(此为上述第(v)段所述的存款机构、托管机构、指定保险公司或投资实体)所管理，而该实体的总收入主要来自投资、再投资或买卖金融资产。

2.13 我们会于本地法例订明，须予申报的帐户是由须予申报的税务管辖区(即我们的自动交换资料的伙伴，而有关伙伴的名称会载于《税务条例》的**附表**中)的税务居民所持有的帐户。须予申报的帐户亦包括被动非金融机构实体所持有的帐户，而该等被动非金融机构实体的控制人士属须予申报的税务管辖区的税务居民。金融机构须根据法例订明的尽职审查程序辨识须予申报的帐户。

无须申报的金融机构及获豁免帐户

2.14 共同汇报标准容许税务管辖区，辨识出一些会被用作逃税风险较低的金融机构及金融帐户，豁免他们申报的要求。共同汇报标准就这些获豁免申报的**金融机构**提供定义，称为「无须申报的金融机构」，这些金融机构须为被非本地税务居民用作逃税的风险不高。同样地，共同汇报标准订明只要符合某些指定的要求，一些**金融帐户**被用作逃税的风险不高，因此不用申报。这些金融帐户称为「获豁免帐户」。我们会根据共同汇报标准的规定，制订「无须申报的金融机构」及「获豁免帐户」的清单。

2.15 我们拟把下列机构，定为无须申报的金融机构⁶：

- (a) 政府机构(包括政府全权拥有的法定组织和实体)、国际组织、香港金融管理局；
- (b) 政府机构 / 国际组织 / 香港金融管理局的退休金基金；
- (c) 补助学校公积金和津贴学校公积金；及
- (d) 符合共同汇报标准所界定为广泛参与退休基金、有限参与退休基金、合资格信用卡发行机构、获豁免的集体投资工具，或由受托人申报的信托基金的任何金融机构。

2.16 《强制性公积金计划条例》(第 485 章)下的强制性公积金计划，以及根据《职业退休计划条例》(第 426 章)设立、并已向强制性公积金计划管理局注册的职业退休计划，被用作逃税工具的风险应不高。举例来说，这些计划均受到规管，并须在若干情况下向税务局申报资料。然而，这些计划未必完全符合共同汇报标准的规定。我们拟把这些计划纳入豁免名单内，但须确保计划符合共同汇报标准的规定。至于由获豁免的实益拥有人全资拥有的投资实体和投资顾问 / 经理⁷，由于这些金融机构的帐户持有人并无申报责任，甚或没有开立金融帐户，因此这些金融机构没有申报责任。

2.17 至于**获豁免帐户**，我们参考了共同汇报标准，拟包括以下帐户 –

- (a) 退休金帐户(须符合若干规定)；
- (b) 非退休税务优惠帐户；
- (c) 定期人寿保险合同；

⁶ 在本文件的无须申报的金融机构的建议清单不一定详尽无遗，并会进一步修订。

⁷ 在香港与美国签订的跨政府协定下，实益拥有人全资拥有的投资实体，以及投资顾问 / 经理获豁免申报，以便实施《海外帐户税收合规法案》。

- (d) 遗产帐户；
- (e) 托管帐户；及
- (f) 根据共同汇报标准所定义的存管未退回多付款项的帐户。

2.18 为方便有需要时作出更新，我们拟把「无须申报的金融机构」及「获豁免帐户」名单以附表的形式纳入《税务条例》。财经事务及库务局局长可在宪报刊登公告，修订该附表，有关修订须经立法会进行先订立后审议的程序。

金融机构提交税务局及税务局随后与自动交换资料伙伴的资料范围

2.19 税务局须备存关于须予申报金融机构(连同其须予申报帐户)资料的记录册。为此，我们会在《税务条例》中加入相关条文，列明金融机构须向税务局提交周年报表的时间和方式，以及金融机构须就持有任何首个须予申报帐户和停止持有该等帐户等事宜通知税务局的规定。为了让税务局可根据主管当局协定与自动交换资料伙伴交换资料，我们会参照主管当局协定的规定，要求金融机构向税务局就每个须予申报的帐户申报下列资料 -

- (a) 每名须予申报人士的姓名、地址、所属居住地、纳税人识别号及出生日期和地点，如属由个人持有的帐户或如属由实体持有的帐户(经进行尽职审查程序后，确定须予申报帐户由一位或多位人士控制)。

参照共同汇报标准的注释提供的例外处理情况，金融机构无须申报现有帐户的纳税人识别号或出生日期，如该等资料不存于金融机构的纪录内及本地法例并没有规定相关金融机构需搜集有关资料。然而，金融机构须作出合理努力，在识别出该等为须予申报的帐户的第二个历年的年底时，取得这些现有帐户的纳税人识别号及出生日期。就纳税人识别号方面，如有关自动交换资料的伙伴没有发出纳税人识别号或自动交换资料伙伴的当地法律没有要求搜集纳税人识别号的资料，金融机构无须申报纳税人识别号。至于出生地点方面，金融机构无须申报现有

及新开纳的帐户该等资料，除非金融机构在现行法例下须取得及申报该等资料及可于该等金融机构备存的电子检索数据中得到；

- (b) 帐号(如无帐号，则提供功能相等的资料)；
- (c) 金融机构的名称及识别编号(如有的话)；
- (d) 在有关历年或其他适用的申报期终结时，帐户的结余或数额(包括现金价值保险合约的现金价值，或年金合约的退保现金价值)，如帐户在年内或期间内取消，则帐户取消时的结余或数额；
- (e) 如属托管帐户 –
 - (i) 在该历年或其他适用的申报期内，付予或存入帐户(或与该帐户有关)的利息总额、股息总额及其他由有关帐户持有资产所产生的收入总额；以及
 - (ii) 在该历年或其他适用的申报期内，售卖或赎回金融资产后付予或存入帐户的收益总额，而申报的金融机构为帐户持有人担任托管人、经纪、代名人或代理人；
- (f) 如属存款帐户：在该历年或其他适用的申报期内，付予或存入帐户的利息总额；及
- (g) 如属(e)及(f)段未有提及的帐户：在该历年或其他适用的申报期内，付予帐户持有人或存入其帐户的款项总额；申报的金融机构为承担义务人或债务人，款项包括在该历年或其他适用的申报期内，向帐户持有人作出任何赎债付款的合计总额。

金融机构就辨识及备存关于须予申报税务管辖区资料的规定

2.20 为了让金融机构搜集和向税务局申报上述要求的资料，金融机构须进行尽职审查程序，以辨识须予申报的帐户；有关程序会以附表形式加入《税务条例》。我们理解部分金融机构可能倾向采用「更广泛的方式」立法，让他们可辨识和备存所有非香港税务居民的帐户持有人的资料，不论

香港是否已与有关帐户持有人的税务居住地签订自动交换资料协定。然而，由于香港现时并无计划就自动交换资料安排签订多边协定，以及由此方式所搜集的资料或许未必符合香港资料私隐保障制度的豁免准则，有关立法方式是否合理可能成疑。因此，我们拟只把尽职审查规定的主要条款(即共同汇报标准第 II 至 VII 部)纳入本地法例；该等条款订明程序，让金融机构按帐户持有人居住地是否**指定须予申报的税务管辖区**(而非香港以外的**所有税务管辖区**)，以辨识须予申报的帐户。当税务局与某税务管辖区的主管当局签订了主管当局协定，金融机构便须向税务局辨识、提交和申报该等税务管辖区的税务居民的帐户持有人的资料。

2.21 然而，假如金融机构选择在上述建议就指定须予申报的税务管辖区为法律规定之上，辨识及备存有关非香港以外的所有税务管辖区的帐户持有人的资料，而其做法又能符合香港资料私隐保障制度的规定，我们对金融机构所采取的安排持开放态度。

2.22 有关尽职审查程序的主要内容于**第三章**载述。

执行条文 - 权力及罚则

2.23 现时，香港的金融机构无须向税务局提交和申报非香港税务居民的客户的金融帐户资料，供交换资料之用。为实施自动交换资料安排，我们建议赋予税务局下列权力 -

- (a) 按订明的方式，向金融机构搜集须予申报帐户的资料；
- (b) 进入金融机构的营业处所和存取其电脑系统；一旦金融机构违反法庭颁布的遵行申报规定的命令时，取得搜查手令；指示金融机构核实是否遵行申报及尽职审查程序，并修正自动交换资料系统欠妥之处；以及指示金融机构或任何人士纠正规避尽职审查程序的安排 / 做法；
- (c) 使用从金融机构所得的资料，以施行《税务条例》；
及

- (d) 对违反尽职审查规定或故意提供虚假或不正确资料的金融机构，施加罚则。

2.24 为确保有效实施自动资料交换，我们拟对金融机构施加某些罚则，以收阻吓效果。我们建议对金融机构的罚则为

—

- (a) 在无合理辩解下，未能遵从规定去进行尽职审查程序、向税务局提交报表，或为利便自动交换资料的有效实施的任何其他义务。此举属罪行，一经定罪，可处第 3 级罚款。如定罪后罪行持续，继续违反规定，则相关者在定罪后罪行持续期间，每天可另处不超过 500 元的罚款(不足一天也作一天计算)；
- (b) 金融机构未能完全遵行法例所订明的尽职审查规定，提交不正确报表。申报不准确的资料不会自动触犯罪行。在我们采取最少立法修订的方式下，金融机构若已遵行尽职审查程序，以及对资料不准确的情况不知情，可作为抗辩理由。金融机构一经定罪，可处第 3 级罚款。如定罪后罪行持续，继续违反规定，则相关者在定罪后罪行持续期间，每天可另处不超过 500 元的罚款(不足一天也作一天计算)；及
- (c) 蓄意提交报表，以误导或欺骗。这是关于利用欺诈行为来逃避尽职审查规定或欺诈税务局。此举属罪行 —
 - (i) 一经循简易程序定罪，可处第 3 级罚款及监禁 6 个月；及
 - (ii) 一经循公诉程序定罪，可处第 5 级罚款及监禁 3 年。

2.25 此外，参照《打击洗钱及恐怖分子资金筹集(金融机构)条例》，我们建议向属金融机构的雇员、或受雇为金融机构工作、或关涉金融机构的管理的人士施加罚则 —

- (a) 在没有合理辩解下，导致或容许金融机构违反施加于金融机构的规定，或导致或/容许金融机构提交不

正确的报表。一经定罪，可处第 3 级罚款。如定罪后罪行持续，继续违反规定，则相关者在定罪后罪行持续期间，每天可另处不超过 500 元的罚款(不足一天也作一天计算)；及

- (b) **蓄意欺诈**，导致或容许金融机构违反施加于金融机构的规定，或导致或/容许金融机构提交不正确的报表。一经循简易程序定罪，可处第 3 级罚款及监禁 6 个月；或一经循公诉程序定罪，可处第 5 级罚款及监禁 3 年。

2.26 现时，我们无意为实施自动交换资料对**非香港税务居民的帐户持有人**施加一系列新的罚则。在现行《税务条例》下，任何人如无合理辩解而在影响任何人缴付香港以外某地区(即香港的全面性协定或交换协定伙伴)的税项的法律负责的事情或事物方面，向税务局就交换税务资料提供不正确的资料，即属犯罪。尽管如此，自我申报证明书对自动交换资料的有效实施十分重要，而且我们注意到经合组织在其关于有效实施的注释部分订明，期望税务管辖区会在当地法律中加入具体条文，就签署(或确认)虚假的自我申报证明书施加罚则，以提高自我申报证明书的可靠程度。在这方面，视乎其他税务管辖区的经验，我们或会考虑**扩大现时《税务条例》的罚则或加入新的特定罚则来涵盖个人帐户持有人提供虚假的自我申报证明书**，以期提高进行自我申报证明书的可靠程度。

保障纳税人权利和确保所交换资料能予保密的措施

在全面性协定、交换协定及主管当局协定下的保障措施

2.27 在自动交换金融帐户资料的过程中，我们会确保纳税人的私隐和所交换资料的保密性得到保障，以及确保正当使用所交换的资料。

2.28 全面性协定的资料交换条文及交换协定的有关条文均订明保障纳税人私隐和确保所交换资料能予保密的保障措施。由于我们会于现行的全面性协定及交换协定的框架下实施自动交换资料，因此该等保障措施均会适用。概括来说，在协定层面的相关保障措施包括 -

- (a) 所交换的资料须为可预见相关的资料，即不得作打探性质的资料交换请求；
- (b) 缔约伙伴所获取的资料必须保密；
- (c) 资料只可向税务当局披露，不得向其监管当局披露，除非全面性协定 / 交换协定伙伴提出充分理由，始作别论(即我们已对立法会承诺，该类监管当局必须以正面载列的方式列出)；
- (d) 所交换的资料不得向第三司法管辖区披露；
- (e) 在某些情况下缔约双方没有责任提供资料，例如资料会披露任何贸易、业务、工业、商业或专业秘密或贸易程序，又或有关资料属法律专业特权涵盖范围等；
- (f) 容许交换所得的资料作其他用途(即非税务用途)，但有关用途必须为缔约双方的法律所容许，并须经提供资料一方的主管当局批准。换言之，交换资料的大前提是，必须先为了有关全面性协定 / 交换协定规定的税务目的而进行。经合组织认为，分享所交换的税务资料只能为了某些优先考虑事项(例如打击洗黑钱、贪污及恐怖份子融资)；及
- (g) 我们不会答允缔约伙伴所提出的海外税务调查的请求(即我们并没有在全面性协定 / 交换协定内加入这类条款)。

2.29 主管当局协定也需有类似的保障措施。主管当局协定范本第 5 条订明，所有交换的资料必须符合保密规则及有关公约 / 工具所订的其他保障措施。第 7 条订明，如其他主管当局有或曾有严重不遵守主管当局协定的情况，主管当局可向对方发出书面通知而暂停交换资料。主管当局也可向另一主管当局发出终止通知，以终止主管当局协定⁸。在先订立后审议的程序完成前，终止协定一事可立即生效。

⁸ 经合组织制订了一套问卷，协助税务管辖区评估其他税务管辖区是否符合有关保密及保障资料的规定。如未能达到这些标准(不管是在法例上还是实际操作上)，或缔约伙伴违反了有关保密规则，税务管辖区可暂停与有关缔约伙伴交换资料。

《披露规则》

2.30 现时，在本地按请求而交换资料的安排下，《税务(资料披露)规则》(第 112BI 章)(「《披露规则》」)订有额外保障措施，以保障纳税人的私隐和所交换的资料能予保密。

《披露规则》订明全面性协定及交换协定的缔约伙伴须在交换资料请求中载述的详情。当接获交换资料请求时，税务局会参考提出请求的缔约伙伴所提供的详情，并根据有关全面性协定 / 交换协定所订明的条件及《披露规则》所订明的条件，审视所要求取得的资料是否属可预见相关。全面性协定 / 交换协定的缔约伙伴须在交换资料请求中载述的详情，载于《披露规则》的附表。如交换资料请求未能符合条件，税务局局长将不予批准。

2.31 目前，《披露规则》订有**通知和复核机制**，以处理资料交换请求和相关上诉个案。如资料交换请求获得批准，税务局局长会以书面通知该项请求的当事人(即使所要求取得的资料由第三者管有，当事人也包括有关纳税人)，告知他全面性协定 / 交换协定缔约伙伴所要求取得资料的性质，以及他有权在通知书发出日期起计 14 天内，要求取得一份税务局局长拟向全面性协定 / 交换协定缔约伙伴披露的资料的副本。在税务局局长提供拟披露资料的副本后 21 天内，该名纳税人可以资料与事实不符或与其本人无关为理由，要求税务局局长修订资料的任何部分。税务局局长可修订全部或部分资料，或不作任何修订。如该人仍不满意，可于税务局局长发出决定通知书后 14 天内，进一步要求财政司司长指示税务局局长按要求作出修订。如该人因任何行政决定而感到受屈，可向法院申请司法复核。

2.32 自动交换资料与按要求而提供资料这两项安排的运作模式截然不同。因此，现有的《披露规则》(包括通知和复核机制)**无法直接套用于**自动交换资料的安排。由于所涉及的帐户持有人可能相当多，税务局难以在每次交换资料前，逐一通知每名帐户持有人。据我们从经合组织了解所得，其他税务管辖区主管当局均无意就自动交换资料安排另行设立通知或复核机制。

2.33 拟议的自动交换资料安排，将依靠金融机构与帐户持有人现有的「客户关系」机制来更新 / 查核资料，以确保拟交换的是准确和最新的资料。在自动交换资料的框架下，金

融机构须按现行私隐法例的规定，把搜集得的个人资料拟作用途告知新的及现有帐户持有人；就自动交换资料安排而言，如帐户持有人是另一税务管辖区的税务居民，而该税务管辖区是香港的自动交换资料伙伴，金融机构会向税务局披露该等帐户持有人的个人资料(例如姓名、住址、税务居住地、纳税人识别号、出生日期及地点)，以及金融帐户资料(例如帐户号码及帐户结余)，而税务局会定期(例如每年九月)把有关资料转交该税务管辖区。帐户持有人会更新个人资料及金融帐户资料，确保资料准确无误。由于这些资料属帐户持有人的个人资料，他们可随时向金融机构要求检视相关资料。此外，金融机构也会根据共同汇报标准，持续进行尽职审查程序，以备存最新的客户资料。

香港在自动交换资料框架下对资料符合「可预见相关」标准的立场

2.34 香港一向按请求而交换资料，并强调资料交换请求必须符合资料「可预见相关」标准的先决条件，方可按要求交换资料。在自动交换资料的框架下，税务局会定期与我们的自动交换资料伙伴以整批形式交换资料，有关资料将包含众多个别个案。

2.35 经合组织的税收协定范本的注释订明，交换资料条文第 1 段所述的规则(即就实施协定或与施行或强制执行税务法律而言，所交换的资料属可预见相关的资料)，容许主管当局按请求交换资料或自动交换资料。由税务局搜集并送予相关协定伙伴的资料，只会涉及那些可能须在原属税务管辖区缴税的人士。由于这些纳税人可能未有向其税务当局申报全部应课税入息的资料，以致出现逃税的情况，因此向缔约伙伴提供该等税务资料，仍关乎全面性协定 / 交换协定生效之后的期间，为施行交换资料协定的条文，或施行或强制执行全面性协定 / 交换协定缔约伙伴的税务法律而征收的税项。这做法将继续符合资料「可预见相关」的国际标准。

第三章

香港实施自动交换资料安排的运作架构

申报及尽职审查规定

3.1. 正如第二章第 2.20 段所述，金融机构须参照共同汇报标准的规定向税务局申报所需的资料。为了辨识须予申报帐户，以搜集和申报所需资料，金融机构须进行以下尽职审查程序⁹ –

- (a) **现有个人帐户** – 金融机构应检视帐户，但任何低额门槛安排并不适用。就小额帐户而言，金融机构将依靠按证明文件进行永久住址测试，或金融机构需要根据身分标记搜寻来确定有关居住地。如身分标记有任何不一致时，帐户持有人需提供自我申报证明书。就大额帐户而言，优化的尽职审查程序将适用，当中包括翻查书面纪录及客户关系经理的是否知情测试。
- (b) **新开纳的个人帐户** – 金融机构应要求开纳帐户人士提供自我申报证明书及确定有关自我申报证明书是否合理，低额门槛安排并不适用。
- (c) **现有实体帐户** – 金融机构应按照现有资料，确定实体本身是否属须予申报人士，如未能根据现有资料确定有关状况，则需要求该实体提供自我申报证明书；金融机构亦应确定有关实体是否属被动非金融机构实

⁹ 共同汇报标准就金融机构进行某方面的尽职审查程序提供以下其他程序方式，这些可能会纳入本地法例 –

- (a) 就小额帐户利用住址测试作为确定住址的另一方式；
- (b) 以美金 250,000 元作为现有实体帐户的另一门槛；
- (c) 容许把新开纳帐户及大额帐户的尽职审查程序应用于现有帐户及小额帐户；
- (d) 容许第三方服务提供者作为金融机构达至有关责任，但有关服务提供者若未能达到有关责任，须面对罚则；
- (e) 容许就团体的现金价值保险合同及团体年金合约采用简易的尽职审查程序；
- (f) 扩大现有帐户的定义，让现有客户在同一金融机构开纳新帐户时简化程序；
- (g) 容许部分投资工具可受惠于某些相关实体测试的程序；
- (h) 容许金融机构就尽职审查程序更多利用现行的标准产业分类编码系统；
- (i) 容许跨国企业利用单一货币转换规则；及
- (j) 逐步落实申报出售或赎回金融资产的总收入规定。

如无须订定具体法例条文，税务局会考虑发出行政指引来解释有关安排。

体，如是，需确定有关控制人士的居住地。现有实体帐户如低于 25 万美元，金融机构可选择不出作检视。

- (d) **新实体帐户** – 金融机构应确定实体是否属须予申报人士及有关实体是否被动非金融机构实体。然而，由于从新开纳的帐户较易取得自我申报证明书，因此低额门槛安排并不适用。

3.2 根据尽职审查程序，在开纳帐户或当有关身分标记有任何不一致时，从帐户持有人取得的**自我申报证明书**是一项重要文件，以提供帐户持有人的状况及由金融机构合理要求的任何其他资料，以符合其申报及尽职审查的要求，尤其是确定帐户持有人的税务居住地。自我申报证明书应包括帐户持有人的姓名、住址、税务居住地、就每个须予申报的税务管辖区的纳税人识别号码及出生日期(就个人帐户持有人及控制人士而言)。换言之，个人帐户持有人无须为自动交换资料的目的而在其自我申报证明书上提供其出生地点的资料。

3.3 详情请参阅**附件 B**的共同汇报标准第二至七部分，我们将以**附表**形式把有关部分加入《税务条例》。

确定税务居住地

3.4 在共同汇报标准下，金融帐户持有人的税务居住地是一个根本和重要理念。任何人士如根据其税务管辖区的法律，由于其居所、住所、实际管理机构所在地，或任何其他类似的准则，而在该地有纳税的义务，该税务管辖区便会视作该等人士的税务居住地。我们会跟从共同汇报标准的精神，即帐户持有人在开纳帐户时有责任辨识其税务居住地。他们在开纳帐户时，需向金融机构提供详细的个人资料及自我申报证明书。因此，**确定税务居住地的责任是帐户持有人的责任**。如帐户持有人有疑问，应向其律师或税务顾问咨询意见。

3.5 我们并不预期金融机构须就确定帐户持有人的税务居住地，对有关税务法律作出独立的法律分析。金融机构的角色只是就自我申报证明书作出合理测试，以确认帐户持有人所指的税务居住地。我们也不预期金融机构须为确认自我申报证明书的合理测试，而对有关税务法律作出独立分析。

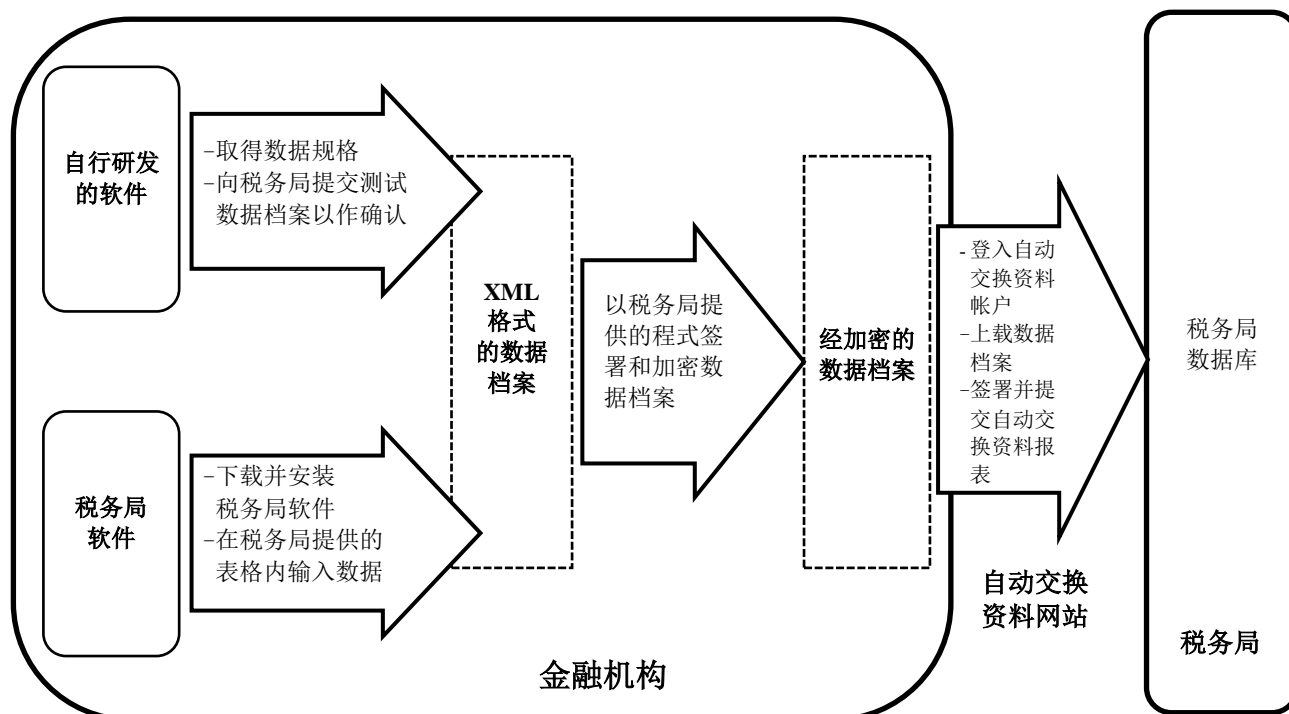
自动交换资料网站

3.6 为了协助金融机构履行责任，税务局会提供一个安全稳妥的平台(即自动交换资料网站)，让金融机构以电子方式提交通知书及自动交换资料报表。金融机构须使用电子证书¹⁰，以供核实身分，并在自动交换资料网站开立网上帐户，以便与税务局联系，处理有关自动交换资料的事宜。金融机构可设定权限，让持有机构电子证书的人员在自动交换资料帐户内执行多项工作，例如更新帐户资料、提交报表和修改已提交的报表。

提交自动交换资料报表

3.7 每年一月，税务局会经自动交换资料网站，向所有已登记的金融机构发出电子通知书，要求有关金融机构提交自动交换资料报表。即使金融机构在该年度并没有须予申报的帐户，仍须提交自动交换资料报表。我们建议，金融机构应在相关资料所属历年完结后五个月内提交有关报表。

3.8 下图显示拟备和提交自动交换资料报表的流程。



¹⁰ 我们提议金融机构应登记使用香港邮政核证机关发出的电子证书(机构)，以作核实身分用途。电子证书(机构)所载资料包括金融机构的名称、商业登记号码、持有证书员工的姓名及其职位。

3.9 拟备和提交自动交换资料报表的四个步骤如下 -

(a) 建立数据档案

金融机构可根据税务局所发出的数据规格¹¹，自行研发可建立数据档案的电脑软件。为免税务局与缔约伙伴交换资料前须把数据重新格式化，我们建议，金融机构所提交的数据档案格式应与共同汇报标准所规定的格式一致，即可扩充标示语言(XML)格式的共同汇报标准数据模式。金融机构在使用自行研发的软件前，须先把测试用的数据档案提交税务局审核并取得其同意，以确保以这些软件建立的档案合乎数据规格。

另一方面，金融机构也可从自动交换资料网站下载税务局所研发的软件(「税务局软件」)，以拟备数据档案。金融机构可使用税务局软件，在该局提供的表格内填写所需资料，并建立 XML 格式的数据档案。

(b) 加密数据档案

为确保资料完整和不可推翻，金融机构须以数码证书加密和签署数据档案，然后才把档案上载至自动交换资料网站。税务局会在该网站提供可供下载的工具，以便金融机构进行签署和加密程序。

(c) 上载数据档案

金融机构可一次过或分多次把经签署的数据档案传送至自动交换资料网站内的帐户。金融机构可根据指明的条件，经系统更新过往提交的资料档或删除错误档案。

¹¹ 自动交换资料网站将提供最新的数据规格，供金融机构下载。

(d) 提交自动交换资料申报表

金融机构应在上载所有数据档案后，填写自动交换资料报表，并把资料档附加在报表内，再以数码证书签署报表。

3.10 税务局会采取严格缜密的运作管理和保安措施，确保不论是从金融机构还是从缔约伙伴所接获的所有资料，均予以保密。只有获授权者才可查阅敏感资料，并须妥为记录，供审计追踪之用。税务局也会定期进行保安风险评估，以及在有需要时更新资料保密政策。任何人如违反资料保密规定，将受处分。

建议实施安排的时间表

3.11 如条例草案在二零一六年年中获立法会通过，我们建议在香港实施自动交换资料安排的时间表如下 -

<u>行动</u>	<u>计划中的时间表</u>
金融机构就新的和现有帐户进行尽职审查程序，以辨识须予申报的帐户，并保存相关资料	二零一七年一月
金融机构向税务局登记	二零一七年九月
金融机构向税务局提交自行研发的测试数据档案，以作确认	二零一七年第四季
税务局向金融机构发出自动交换资料报表	二零一八年一月
金融机构向税务局提交自动交换资料报表	二零一八年五月
税务局把资料转交自动交换资料伙伴	二零一八年年底

第四章

征询意见

4.1 全球论坛表示，预期最迟需于二零一八年年底前进行首次自动交换资料。换言之，金融机构须于二零一七年就其金融帐户展开尽职审查程序。我们现时的目标，是在二零一六年年初向立法会提交修订条例草案。关于香港拟采用的自动交换资料模式的法律框架和运作架构方面，您的意见十分重要，有助我们制订适合香港的模式，以确保自动交换资料安排可根据国际标准有效实施。

4.2 具体而言，请您就以下主要范畴发表意见 –

- (a) **金融机构、无须申报金融机构及获豁免帐户** – 您对根据共同汇报标准框架而建议的金融机构(第 2.12 段)、无须申报金融机构(第 2.15 及 2.16 段)至获豁免帐户(第 2.17 段)的范围有意见吗？
- (b) **申报规定** – 您对第 2.19 段根据共同汇报标准框架而建议的申报规定有意见吗？
- (c) **尽职审查程序** – 您对第 3.1 段根据共同汇报标准框架(包括处理特定情况的其他方式)而建议的尽职审查程序有意见吗？
- (d) **金融机构就辨识及备存关于须予申报税务管辖区资料的规定** – 作为金融机构，即使第 2.20 段建议法例要求金融机构只须向税务局申报须予申报税务管辖区的资料，您会辨识及备存须予申报的税务管辖区的帐户资料(即只限于已与香港签订主管当局协定的税务管辖区)，还是会辨识和备存所有非香港税务居民的帐户持有人的资料？
- (e) **拟议罚则** – 拟议的罚则与相关的罚行(第 2.24 及 2.25 段)是否合乎比例？您是否同意我们应就提供虚假自我申报证明书的个人帐户持有人施加罚则吗？
- (f) **保密及通知** – 贵机构是否已制订机制，以更新客户资料，并符合关于保密的保障措施的要求(第 2.33 段)？

- (g) **资讯科技系统** – 作为金融机构，您会使用自行研发的软件还是税务局的软件，以拟备自动交换资料报表的数据档案？当中涉及什么考虑(第 3.9 段)？

4.3 请在二零一五年六月三十日或之前，以邮寄、传真或电邮方式发表您对上述问题及其他关于自动交换帐户资料的看法及意见：

邮寄： 香港添马
添美道 2 号
政府总部 24 楼
财经事务及库务局(库务科)
收入组

传真： 2179 5848
(经办人：自动交换帐户资料咨询)

电邮： aeoi@fstb.gov.hk

4.4 公众就本咨询文件提交意见时可付上个人资料，此举纯属自愿。搜集所得的意见书和个人资料或会转交有关的政府决策局和部门，用于与是次咨询直接有关的用途。获取资料的决策局和部门只可把该等资料作这些用途。

4.5 我们或会公开就本咨询文件提交意见书的个人及团体(「提交意见者」)的姓名 / 名称及其意见，供公众查阅。我们可能在内部或公开与其他人士讨论时，或日后发表的报告中，引述提交意见者就咨询文件提交的意见。

4.6 为了保障提交意见者的个人资料私隐，我们在刊登其意见书时，会把其提供的有关资料，例如住址 / 回邮地址、电邮地址、身分证号码、电话号码、传真号码和签名等删除。

4.7 提交意见者如不欲公开其姓名 / 名称，以及 / 或全部或部分意见，我们会尊重其意愿。提交意见者如在其意见书中要求把身分保密，我们会在公开意见书时删除其姓名 / 名称。提交意见者如要求把意见书保密，我们将不会公开其意见书。

4.8 如提交意见者并无要求不公开身分或把意见书保密，则视作可公开其姓名 / 名称和其全部意见。

4.9 向本局提交意见书的人士有权查阅所提供的个人资料和予以更正。提交意见者可循上述途径，书面向财经事务及库务局助理秘书长(库务)(收入)¹提出有关要求。

财经事务及库务局
二零一五年四月

A. Model Competent Authority Agreement

MODEL AGREEMENT BETWEEN THE COMPETENT AUTHORITIES OF [JURISDICTION A] AND [JURISDICTION B] ON THE AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION TO IMPROVE INTERNATIONAL TAX COMPLIANCE

Whereas, the Government of [Jurisdiction A] and the Government of [Jurisdiction B] have a longstanding and close relationship with respect to mutual assistance in tax matters and desire to improve international tax compliance by further building on that relationship;

Whereas, the laws of their respective jurisdictions [are expected to require]/[require]/[require or are expected to require] financial institutions to report information regarding certain accounts and follow related due diligence procedures, consistent with the scope of exchange contemplated by Section 2 of this Agreement and the reporting and due diligence procedures contained in the Common Reporting Standard;

Whereas, [Article [...] of the Income Tax Convention between [Jurisdiction A] and [Jurisdiction B]/[Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters] (the “Convention”)/[other applicable legal instrument (the “Instrument”)], authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of [Jurisdiction A] and [Jurisdiction B] (the “Competent Authorities”) to agree the scope and modalities of such automatic exchanges;

Whereas, [Jurisdiction A] and [Jurisdiction B] have in place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used solely for the purposes set out in the [Convention]/[Instrument], and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and

concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement);

Whereas, the Competent Authorities desire to conclude an agreement to improve international tax compliance based on reciprocal automatic exchange pursuant to the [Convention]/[Instrument], and subject to the confidentiality and other protections provided for therein, including the provisions limiting the use of the information exchanged under the [Convention]/[Instrument];

Now, therefore, the Competent Authorities have agreed as follows:

SECTION 1

Definitions

1. For the purposes of this agreement (“Agreement”), the following terms have the following meanings:

- a) the term “[**Jurisdiction A**]” means [...].
- b) the term “[**Jurisdiction B**]” means [...].
- c) the term “[**Competent Authority**]” means:
 - (1) in the case of [Jurisdiction A], [...]; and
 - (2) in the case of [Jurisdiction B], [...].
- d) the term “[**Jurisdiction A**] **Financial Institution**” means (i) any Financial Institution that is resident in [Jurisdiction A], but excludes any branch of that Financial Institution that is located outside [Jurisdiction A], and (ii) any branch of a Financial Institution that is not resident in [Jurisdiction A], if that branch is located in [Jurisdiction A].
- e) the term “[**Jurisdiction B**] **Financial Institution**” means (i) any Financial Institution that is resident in [Jurisdiction B], but excludes any branch of that Financial Institution that is located outside [Jurisdiction B], and (ii) any branch of a Financial Institution that is not resident in [Jurisdiction B], if that branch is located in [Jurisdiction B].
- f) the term “[**Reporting Financial Institution**]” means any [Jurisdiction A] Financial Institution or [Jurisdiction B] Financial Institution, as the context requires, that is not a Non-Reporting Financial Institution.
- g) the term “[**Reportable Account**]” means a [Jurisdiction A] Reportable Account or a [Jurisdiction B] Reportable Account, as the context

requires, provided it has been identified as such pursuant to due diligence procedures, consistent with the Common Reporting Standard, in place in [Jurisdiction A] or [Jurisdiction B].

- h)* the term “[**Jurisdiction A**] **Reportable Account**” means a Financial Account that is maintained by a [Jurisdiction B] Reporting Financial Institution and held by one or more [Jurisdiction A] Persons that are Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a [Jurisdiction A] Reportable Person.
- i)* the term “[**Jurisdiction B**] **Reportable Account**” means a Financial Account that is maintained by a [Jurisdiction A] Reporting Financial Institution and held by one or more [Jurisdiction B] Persons that are Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a [Jurisdiction B] Reportable Person.
- j)* the term “[**Jurisdiction A**] **Person**” means an individual or Entity that is identified by a [Jurisdiction B] Reporting Financial Institution as resident in [Jurisdiction A] pursuant to due diligence procedures consistent with the Common Reporting Standard, or an estate of a decedent that was a resident of [Jurisdiction A].
- k)* the term “[**Jurisdiction B**] **Person**” means an individual or Entity that is identified by a [Jurisdiction A] Reporting Financial Institution as resident in [Jurisdiction B] pursuant to due diligence procedures consistent with the Common Reporting Standard, or an estate of a decedent that was a resident of [Jurisdiction B].
- l)* the term “**TIN**” means a [Jurisdiction A] TIN or a [Jurisdiction B] TIN, as the context requires.
- m)* the term “[**Jurisdiction A**] **TIN**” means a [...].
- n)* the term “[**Jurisdiction B**] **TIN**” means a [...].

2. Any capitalised term not otherwise defined in this Agreement will have the meaning that it has at that time under the law of the jurisdiction applying the Agreement, such meaning being consistent with the meaning set forth in the Common Reporting Standard. Any term not otherwise defined in this Agreement or in the Common Reporting Standard will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the jurisdiction applying this Agreement, any meaning under the applicable tax laws of that jurisdiction prevailing over a meaning given to the term under other laws of that jurisdiction.

SECTION 2

Exchange of Information with Respect to Reportable Accounts

1. Pursuant to the provisions of Article [...] of the [Convention]/ [Instrument] and subject to the applicable reporting and due diligence rules consistent with the Common Reporting Standard, each Competent Authority will annually exchange with the other Competent Authority on an automatic basis the information obtained pursuant to such rules and specified in paragraph 2.
2. The information to be exchanged is, in the case of [Jurisdiction A] with respect to each [Jurisdiction B] Reportable Account, and in the case of [Jurisdiction B] with respect to each [Jurisdiction A] Reportable Account:
 - a) the name, address, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of due diligence procedures consistent with the Common Reporting Standard, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN(s) of the Entity and the name, address, TIN(s) and date and place of birth of each Reportable Person;
 - b) the account number (or functional equivalent in the absence of an account number);
 - c) the name and identifying number (if any) of the Reporting Financial Institution;
 - d) the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;
 - e) in the case of any Custodial Account:
 - (1) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
 - (2) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the

Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;

- f) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
- g) in the case of any account not described in subparagraph 2(e) or (f), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

SECTION 3

Time and Manner of Exchange of Information

1. For the purposes of the exchange of information in Section 2, the amount and characterisation of payments made with respect to a Reportable Account may be determined in accordance with the principles of the tax laws of the jurisdiction exchanging the information.
2. For the purposes of the exchange of information in Section 2, the information exchanged will identify the currency in which each relevant amount is denominated.
3. With respect to paragraph 2 of Section 2, information is to be exchanged with respect to [xxxx] and all subsequent years and will be exchanged within nine months after the end of the calendar year to which the information relates. Notwithstanding the foregoing sentence information is only required to be exchanged with respect to a calendar year if both jurisdictions have in effect legislation that requires reporting with respect to such calendar year that is consistent with the scope of exchange provided for in Section 2 and the reporting and due diligence procedures contained in the Common Reporting Standard.
4. Notwithstanding paragraph 3, the information to be exchanged with respect to [xxxx] is the information described in paragraph 2 of Section 2, except for gross proceeds described in subparagraph 2(e)(2) of Section 2.
5. The Competent Authorities will automatically exchange the information described in Section 2 in a common reporting standard schema in Extensible Markup Language.

6. The Competent Authorities will agree on one or more methods for data transmission including encryption standards.

SECTION 4

Collaboration on Compliance and Enforcement

A Competent Authority will notify the other Competent Authority when the first-mentioned Competent Authority has reason to believe that an error may have led to incorrect or incomplete information reporting or there is non-compliance by a Reporting Financial Institution with the applicable reporting requirements and due diligence procedures consistent with the Common Reporting Standard. The notified Competent Authority will take all appropriate measures available under its domestic law to address the errors or non-compliance described in the notice.

SECTION 5

Confidentiality and Data Safeguards

1. All information exchanged is subject to the confidentiality rules and other safeguards provided for in the [Convention]/[Instrument], including the provisions limiting the use of the information exchanged and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Competent Authority as required under its domestic law.
2. Each Competent Authority will notify the other Competent Authority immediately regarding any breach of confidentiality or failure of safeguards and any sanctions and remedial actions consequently imposed.

SECTION 6

Consultations and Amendments

1. If any difficulties in the implementation or interpretation of this Agreement arise, either Competent Authority may request consultations to develop appropriate measures to ensure that this Agreement is fulfilled.
2. This Agreement may be amended by written agreement of the Competent Authorities. Unless otherwise agreed upon, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the later of the signatures of such written

agreement or the date of the later of the notifications exchanged for purposes of such written agreement.

SECTION 7

Term of Agreement

1. This Agreement will come into effect [...]/[on the date of the later of the notifications provided by each Competent Authority that its jurisdiction has the necessary laws in place to implement the Agreement].

2. A Competent Authority may suspend the exchange of information under this Agreement by giving notice in writing to the other Competent Authority that it has determined that there is or has been significant non-compliance by the other Competent Authority with this Agreement. Such suspension will have immediate effect. For the purposes of this paragraph, significant non-compliance includes, but is not limited to, non-compliance with the confidentiality and data safeguard provisions of this Agreement and the [Convention]/[Instrument], a failure by the Competent Authority to provide timely or adequate information as required under this Agreement or defining the status of Entities or accounts as Non-Reporting Financial Institutions and Excluded Accounts in a manner that frustrates the purposes of the Common Reporting Standard.

3. Either Competent Authority may terminate this Agreement by giving notice of termination in writing to the other Competent Authority. Such termination will become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the [Convention/Instrument].

Signed in duplicate in [...] on [...].

Competent Authority for
[Jurisdiction A]

Competent Authority for
[Jurisdiction B]

B. Common Reporting Standard

COMMON STANDARD ON REPORTING AND DUE DILIGENCE FOR FINANCIAL ACCOUNT INFORMATION

Section I: General Reporting Requirements

- A. Subject to paragraphs C through F, each Reporting Financial Institution must report the following information with respect to each Reportable Account of such Reporting Financial Institution:
1. the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of the due diligence procedures consistent with Sections V, VI and VII, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, jurisdiction(s) of residence and TIN(s) of the Entity and the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth of each Reportable Person;
 2. the account number (or functional equivalent in the absence of an account number);
 3. the name and identifying number (if any) of the Reporting Financial Institution;
 4. the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;

5. in the case of any Custodial Account:
 - a) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
 - b) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
 6. in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
 7. in the case of any account not described in subparagraph A(5) or (6), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.
- B. The information reported must identify the currency in which each amount is denominated.
 - C. Notwithstanding subparagraph A(1), with respect to each Reportable Account that is a Preexisting Account, the TIN(s) or date of birth is not required to be reported if such TIN(s) or date of birth is not in the records of the Reporting Financial Institution and is not otherwise required to be collected by such Reporting Financial Institution under domestic law. However, a Reporting Financial Institution is required to use reasonable efforts to obtain the TIN(s) and date of birth with respect to Preexisting Accounts by the end of the second calendar year following the year in which such Accounts were identified as Reportable Accounts.
 - D. Notwithstanding subparagraph A(1), the TIN is not required to be reported if (i) a TIN is not issued by the relevant Reportable Jurisdiction or (ii) the domestic law of the relevant Reportable Jurisdiction does not require the collection of the TIN issued by such Reportable Jurisdiction.

- E. Notwithstanding subparagraph A(1), the place of birth is not required to be reported unless the Reporting Financial Institution is otherwise required to obtain and report it under domestic law and it is available in the electronically searchable data maintained by the Reporting Financial Institution.
- F. Notwithstanding paragraph A, the information to be reported with respect to [xxxx] is the information described in such paragraph, except for gross proceeds described in subparagraph A(5)(b).

Section II: General Due Diligence Requirements

- A. An account is treated as a Reportable Account beginning as of the date it is identified as such pursuant to the due diligence procedures in Sections II through VII and, unless otherwise provided, information with respect to a Reportable Account must be reported annually in the calendar year following the year to which the information relates.
- B. The balance or value of an account is determined as of the last day of the calendar year or other appropriate reporting period.
- C. Where a balance or value threshold is to be determined as of the last day of a calendar year, the relevant balance or value must be determined as of the last day of the reporting period that ends with or within that calendar year.
- D. Each Jurisdiction may allow Reporting Financial Institutions to use service providers to fulfil the reporting and due diligence obligations imposed on such Reporting Financial Institutions, as contemplated in domestic law, but these obligations shall remain the responsibility of the Reporting Financial Institutions.
- E. Each Jurisdiction may allow Reporting Financial Institutions to apply the due diligence procedures for New Accounts to Preexisting Accounts, and the due diligence procedures for High Value Accounts to Lower Value Accounts. Where a Jurisdiction allows New Account due diligence procedures to be used for Preexisting Accounts, the rules otherwise applicable to Preexisting Accounts continue to apply.

Section III: Due Diligence for Preexisting Individual Accounts

The following procedures apply for purposes of identifying Reportable Accounts among Preexisting Individual Accounts.

- A. **Accounts Not Required to be Reviewed, Identified, or Reported.**
A Preexisting Individual Account that is a Cash Value Insurance

Contract or an Annuity Contract is not required to be reviewed, identified or reported, provided the Reporting Financial Institution is effectively prevented by law from selling such Contract to residents of a Reportable Jurisdiction.

- B. **Lower Value Accounts.** The following procedures apply with respect to Lower Value Accounts.
1. **Residence Address.** If the Reporting Financial Institution has in its records a current residence address for the individual Account Holder based on Documentary Evidence, the Reporting Financial Institution may treat the individual Account Holder as being a resident for tax purposes of the jurisdiction in which the address is located for purposes of determining whether such individual Account Holder is a Reportable Person.
 2. **Electronic Record Search.** If the Reporting Financial Institution does not rely on a current residence address for the individual Account Holder based on Documentary Evidence as set forth in subparagraph B(1), the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the following indicia and apply subparagraphs B(3) through (6):
 - a) identification of the Account Holder as a resident of a Reportable Jurisdiction;
 - b) current mailing or residence address (including a post office box) in a Reportable Jurisdiction;
 - c) one or more telephone numbers in a Reportable Jurisdiction and no telephone number in the jurisdiction of the Reporting Financial Institution;
 - d) standing instructions (other than with respect to a Depository Account) to transfer funds to an account maintained in a Reportable Jurisdiction;
 - e) currently effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction; or
 - f) a “hold mail” instruction or “in-care-of” address in a Reportable Jurisdiction if the Reporting Financial Institution does not have any other address on file for the Account Holder.
 3. If none of the indicia listed in subparagraph B(2) are discovered in the electronic search, then no further action is required

until there is a change in circumstances that results in one or more indicia being associated with the account, or the account becomes a High Value Account.

4. If any of the indicia listed in subparagraph B(2)(a) through (e) are discovered in the electronic search, or if there is a change in circumstances that results in one or more indicia being associated with the account, then the Reporting Financial Institution must treat the Account Holder as a resident for tax purposes of each Reportable Jurisdiction for which an indicium is identified, unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.
5. If a “hold mail” instruction or “in-care-of” address is discovered in the electronic search and no other address and none of the other indicia listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Financial Institution must, in the order most appropriate to the circumstances, apply the paper record search described in subparagraph C(2), or seek to obtain from the Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of such Account Holder. If the paper search fails to establish an indicium and the attempt to obtain the self-certification or Documentary Evidence is not successful, the Reporting Financial Institution must report the account as an undocumented account.
6. Notwithstanding a finding of indicia under subparagraph B(2), a Reporting Financial Institution is not required to treat an Account Holder as a resident of a Reportable Jurisdiction if:
 - a) the Account Holder information contains a current mailing or residence address in the Reportable Jurisdiction, one or more telephone numbers in the Reportable Jurisdiction (and no telephone number in the jurisdiction of the Reporting Financial Institution) or standing instructions (with respect to Financial Accounts other than Depository Accounts) to transfer funds to an account maintained in a Reportable Jurisdiction, the Reporting Financial Institution obtains, or has previously reviewed and maintains a record of:
 - i) a self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction; and
 - ii) Documentary Evidence establishing the Account Holder’s non-reportable status.

- b) the Account Holder information contains a currently effective power of attorney or signatory authority granted to a person with an address in the Reportable Jurisdiction, the Reporting Financial Institution obtains, or has previously reviewed and maintains a record of:
 - i) a self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction; or
 - ii) Documentary Evidence establishing the Account Holder's non-reportable status.

C. **Enhanced Review Procedures for High Value Accounts.** The following enhanced review procedures apply with respect to High Value Accounts.

1. **Electronic Record Search.** With respect to High Value Accounts, the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the indicia described in subparagraph B(2).
2. **Paper Record Search.** If the Reporting Financial Institution's electronically searchable databases include fields for, and capture all of the information described in, subparagraph C(3), then a further paper record search is not required. If the electronic databases do not capture all of this information, then with respect to a High Value Account, the Reporting Financial Institution must also review the current customer master file and, to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the Reporting Financial Institution within the last five years for any of the indicia described in subparagraph B(2):
 - a) the most recent Documentary Evidence collected with respect to the account;
 - b) the most recent account opening contract or documentation;
 - c) the most recent documentation obtained by the Reporting Financial Institution pursuant to AML/KYC Procedures or for other regulatory purposes;
 - d) any power of attorney or signature authority forms currently in effect; and
 - e) any standing instructions (other than with respect to a Depository Account) to transfer funds currently in effect.

3. **Exception To The Extent Databases Contain Sufficient Information.** A Reporting Financial Institution is not required to perform the paper record search described in subparagraph C(2) to the extent the Reporting Financial Institution’s electronically searchable information includes the following:
 - a) the Account Holder’s residence status;
 - b) the Account Holder’s residence address and mailing address currently on file with the Reporting Financial Institution;
 - c) the Account Holder’s telephone number(s) currently on file, if any, with the Reporting Financial Institution;
 - d) in the case of Financial Accounts other than Depository Accounts, whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the Reporting Financial Institution or another Financial Institution);
 - e) whether there is a current “in-care-of” address or “hold mail” instruction for the Account Holder; and
 - f) whether there is any power of attorney or signatory authority for the account.
4. **Relationship Manager Inquiry for Actual Knowledge.** In addition to the electronic and paper record searches described above, the Reporting Financial Institution must treat as a Reportable Account any High Value Account assigned to a relationship manager (including any Financial Accounts aggregated with that High Value Account) if the relationship manager has actual knowledge that the Account Holder is a Reportable Person.
5. **Effect of Finding Indicia.**
 - a) If none of the indicia listed in subparagraph B(2) are discovered in the enhanced review of High Value Accounts described above, and the account is not identified as held by a Reportable Person in subparagraph C(4), then further action is not required until there is a change in circumstances that results in one or more indicia being associated with the account.
 - b) If any of the indicia listed in subparagraph B(2)(a) through (e) are discovered in the enhanced review of High Value Accounts described above, or if there is a subsequent change in circumstances that results in one or more indicia

being associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.

- c) If a “hold mail” instruction or “in-care-of” address is discovered in the enhanced review of High Value Accounts described above, and no other address and none of the other indicia listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Financial Institution must obtain from such Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of the Account Holder. If the Reporting Financial Institution cannot obtain such self-certification or Documentary Evidence, it must report the account as an undocumented account.
6. If a Preexisting Individual Account is not a High Value Account as of 31 December [xxxx], but becomes a High Value Account as of the last day of a subsequent calendar year, the Reporting Financial Institution must complete the enhanced review procedures described in paragraph C with respect to such account within the calendar year following the year in which the account becomes a High Value Account. If based on this review such account is identified as a Reportable Account, the Reporting Financial Institution must report the required information about such account with respect to the year in which it is identified as a Reportable Account and subsequent years on an annual basis, unless the Account Holder ceases to be a Reportable Person.
7. Once a Reporting Financial Institution applies the enhanced review procedures described in paragraph C to a High Value Account, the Reporting Financial Institution is not required to re-apply such procedures, other than the relationship manager inquiry described in subparagraph C(4), to the same High Value Account in any subsequent year unless the account is undocumented where the Reporting Financial Institution should re-apply them annually until such account ceases to be undocumented.
8. If there is a change of circumstances with respect to a High Value Account that results in one or more indicia described in subparagraph B(2) being associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified unless it elects

to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.

9. A Reporting Financial Institution must implement procedures to ensure that a relationship manager identifies any change in circumstances of an account. For example, if a relationship manager is notified that the Account Holder has a new mailing address in a Reportable Jurisdiction, the Reporting Financial Institution is required to treat the new address as a change in circumstances and, if it elects to apply subparagraph B(6), is required to obtain the appropriate documentation from the Account Holder.
- D. Review of Preexisting Individual Accounts must be completed by [xx/xx/xxxx].
- E. Any Preexisting Individual Account that has been identified as a Reportable Account under this Section must be treated as a Reportable Account in all subsequent years, unless the Account Holder ceases to be a Reportable Person.

Section IV: Due Diligence for New Individual Accounts

The following procedures apply for purposes of identifying Reportable Accounts among New Individual Accounts.

- A. With respect to New Individual Accounts, upon account opening, the Reporting Financial Institution must obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Financial Institution to determine the Account Holder's residence(s) for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.
- B. If the self-certification establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account and the self-certification must also include the Account Holder's TIN with respect to such Reportable Jurisdiction (subject to paragraph D of Section I) and date of birth.
- C. If there is a change of circumstances with respect to a New Individual Account that causes the Reporting Financial Institution to know, or have reason to know, that the original self-certification is incorrect or unreliable, the Reporting Financial Institution cannot rely on the original self-certification and must obtain a valid self-certification

that establishes the residence(s) for tax purposes of the Account Holder.

Section V: Due Diligence for Preexisting Entity Accounts

The following procedures apply for purposes of identifying Reportable Accounts among Preexisting Entity Accounts.

- A. **Entity Accounts Not Required to Be Reviewed, Identified or Reported.** Unless the Reporting Financial Institution elects otherwise, either with respect to all Preexisting Entity Accounts or, separately, with respect to any clearly identified group of such accounts, a Preexisting Entity Account with an aggregate account balance or value that does not exceed USD 250 000 as of 31 December [xxxx], is not required to be reviewed, identified, or reported as a Reportable Account until the aggregate account balance or value exceeds USD 250 000 as of the last day of any subsequent calendar year.
- B. **Entity Accounts Subject to Review.** A Preexisting Entity Account that has an aggregate account balance or value that exceeds USD 250 000 as of 31 December [xxxx], and a Preexisting Entity Account that does not exceed USD 250 000 as of 31 December [xxxx] but the aggregate account balance or value of which exceeds USD 250 000 as of the last day of any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph D.
- C. **Entity Accounts With Respect to Which Reporting Is Required.** With respect to Preexisting Entity Accounts described in paragraph B, only accounts that are held by one or more Entities that are Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons, shall be treated as Reportable Accounts.
- D. **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required.** For Preexisting Entity Accounts described in paragraph B, a Reporting Financial Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:
 1. **Determine Whether the Entity Is a Reportable Person.**
 - a) Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine whether the information indicates that the Account Holder is resident

in a Reportable Jurisdiction. For this purpose, information indicating that the Account Holder is resident in a Reportable Jurisdiction includes a place of incorporation or organisation, or an address in a Reportable Jurisdiction.

- b) If the information indicates that the Account Holder is resident in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account unless it obtains a self-certification from the Account Holder, or reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person.
2. **Determine Whether the Entity is a Passive NFE with One or More Controlling Persons Who Are Reportable Persons.** With respect to an Account Holder of a Preexisting Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraphs D(2)(a) through (c) in the order most appropriate under the circumstances.
- a) **Determining whether the Account Holder is a Passive NFE.** For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution must obtain a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.
 - b) **Determining the Controlling Persons of an Account Holder.** For the purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.
 - c) **Determining whether a Controlling Person of a Passive NFE is a Reportable Person.** For the purposes of determining

whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution may rely on:

- i)* information collected and maintained pursuant to AML/KYC Procedures in the case of a Preexisting Entity Account held by one or more NFEs with an aggregate account balance or value that does not exceed USD 1 000 000; or
- ii)* a self-certification from the Account Holder or such Controlling Person of the jurisdiction(s) in which the Controlling Person is resident for tax purposes.

E. Timing of Review and Additional Procedures Applicable to Preexisting Entity Accounts.

1. Review of Preexisting Entity Accounts with an aggregate account balance or value that exceeds USD 250 000 as of 31 December [xxxx] must be completed by 31 December [xxxx].
2. Review of Preexisting Entity Accounts with an aggregate account balance or value that does not exceed USD 250 000 as of 31 December [xxxx], but exceeds USD 250 000 as of 31 December of a subsequent year, must be completed within the calendar year following the year in which the aggregate account balance or value exceeds USD 250 000.
3. If there is a change of circumstances with respect to a Preexisting Entity Account that causes the Reporting Financial Institution to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting Financial Institution must re-determine the status of the account in accordance with the procedures set forth in paragraph D.

Section VI: Due Diligence for New Entity Accounts

The following procedures apply for purposes of identifying Reportable Accounts among New Entity Accounts.

- A. Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required.** For New Entity Accounts, a Reporting Financial Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:

1. **Determine Whether the Entity Is a Reportable Person.**
 - a) Obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Financial Institution to determine the Account Holder's residence(s) for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures. If the Entity certifies that it has no residence for tax purposes, the Reporting Financial Institution may rely on the address of the principal office of the Entity to determine the residence of the Account Holder.
 - b) If the self-certification indicates that the Account Holder is resident in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account unless it reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person with respect to such Reportable Jurisdiction.
2. **Determine Whether the Entity is a Passive NFE with One or More Controlling Persons Who Are Reportable Persons.** With respect to an Account Holder of a New Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraphs A(2)(a) through (c) in the order most appropriate under the circumstances.
 - a) **Determining whether the Account Holder is a Passive NFE.** For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution must rely on a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.

- b) **Determining the Controlling Persons of an Account Holder.** For purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.
- c) **Determining whether a Controlling Person of a Passive NFE is a Reportable Person.** For purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution may rely on a self-certification from the Account Holder or such Controlling Person.

Section VII: Special Due Diligence Rules

The following additional rules apply in implementing the due diligence procedures described above:

- A. **Reliance on Self-Certifications and Documentary Evidence.** A Reporting Financial Institution may not rely on a self-certification or Documentary Evidence if the Reporting Financial Institution knows or has reason to know that the self-certification or Documentary Evidence is incorrect or unreliable.
- B. **Alternative Procedures for Financial Accounts Held by Individual Beneficiaries of a Cash Value Insurance Contract or an Annuity Contract.** A Reporting Financial Institution may presume that an individual beneficiary (other than the owner) of a Cash Value Insurance Contract or an Annuity Contract receiving a death benefit is not a Reportable Person and may treat such Financial Account as other than a Reportable Account unless the Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person. A Reporting Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract or an Annuity Contract is a Reportable Person if the information collected by the Reporting Financial Institution and associated with the beneficiary contains indicia as described in paragraph B of Section III. If a Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person, the Reporting Financial Institution must follow the procedures in paragraph B of Section III.
- C. **Account Balance Aggregation and Currency Rules.**
 - 1. **Aggregation of Individual Accounts.** For purposes of determining the aggregate balance or value of Financial Accounts held by an individual, a Reporting Financial Institution is required to

aggregate all Financial Accounts maintained by the Reporting Financial Institution, or by a Related Entity, but only to the extent that the Reporting Financial Institution’s computerised systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this subparagraph.

2. **Aggregation of Entity Accounts.** For purposes of determining the aggregate balance or value of Financial Accounts held by an Entity, a Reporting Financial Institution is required to take into account all Financial Accounts that are maintained by the Reporting Financial Institution, or by a Related Entity, but only to the extent that the Reporting Financial Institution’s computerised systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this subparagraph.
3. **Special Aggregation Rule Applicable to Relationship Managers.** For purposes of determining the aggregate balance or value of Financial Accounts held by a person to determine whether a Financial Account is a High Value Account, a Reporting Financial Institution is also required, in the case of any Financial Accounts that a relationship manager knows, or has reason to know, are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person, to aggregate all such accounts.
4. **Amounts Read to Include Equivalent in Other Currencies.** All dollar amounts are in US dollars and shall be read to include equivalent amounts in other currencies, as determined by domestic law.

Section VIII: Defined Terms

The following terms have the meanings set forth below:

A. Reporting Financial Institution

1. The term “**Reporting Financial Institution**” means any Participating Jurisdiction Financial Institution that is not a Non-Reporting Financial Institution.

2. The term “**Participating Jurisdiction Financial Institution**” means (i) any Financial Institution that is resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside such Participating Jurisdiction, and (ii) any branch of a Financial Institution that is not resident in a Participating Jurisdiction, if that branch is located in such Participating Jurisdiction.
3. The term “**Financial Institution**” means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.
4. The term “**Custodial Institution**” means any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others. An Entity holds Financial Assets for the account of others as a substantial portion of its business if the Entity’s gross income attributable to the holding of Financial Assets and related financial services equals or exceeds 20% of the Entity’s gross income during the shorter of: (i) the three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or (ii) the period during which the Entity has been in existence.
5. The term “**Depository Institution**” means any Entity that accepts deposits in the ordinary course of a banking or similar business.
6. The term “**Investment Entity**” means any Entity:
 - a) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
 - i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 - ii) individual and collective portfolio management; or
 - iii) otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or
 - b) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subparagraph A(6)(a).

An Entity is treated as primarily conducting as a business one or more of the activities described in subparagraph A(6)(a), or an Entity’s gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of subparagraph A(6)(b), if the Entity’s gross income attributable to the relevant activities equals or exceeds 50% of the Entity’s gross income during the shorter of: (i) the three-year period ending on 31 December of the year preceding the year in which the determination is made; or (ii) the period during which the Entity has been in existence. The term “Investment Entity” does not include an Entity that is an Active NFE because it meets any of the criteria in subparagraphs D(9)(d) through (g).

This paragraph shall be interpreted in a manner consistent with similar language set forth in the definition of “financial institution” in the Financial Action Task Force Recommendations.

7. The term “**Financial Asset**” includes a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), Insurance Contract or Annuity Contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, Insurance Contract, or Annuity Contract. The term “Financial Asset” does not include a non-debt, direct interest in real property.
8. The term “**Specified Insurance Company**” means any Entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.

B. Non-Reporting Financial Institution

1. The term “**Non-Reporting Financial Institution**” means any Financial Institution that is:
 - a) a Governmental Entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;

- b) a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organisation or Central Bank; or a Qualified Credit Card Issuer;
 - c) any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in subparagraphs B(1)(a) and (b), and is defined in domestic law as a Non-Reporting Financial Institution, provided that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard;
 - d) an Exempt Collective Investment Vehicle; or
 - e) a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to Section I with respect to all Reportable Accounts of the trust.
2. The term “**Governmental Entity**” means the government of a jurisdiction, any political subdivision of a jurisdiction (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing (each, a “Governmental Entity”). This category is comprised of the integral parts, controlled entities, and political subdivisions of a jurisdiction.
- a) An “integral part” of a jurisdiction means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of a jurisdiction. The net earnings of the governing authority must be credited to its own account or to other accounts of the jurisdiction, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.
 - b) A controlled entity means an Entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that:
 - i) the Entity is wholly owned and controlled by one or more Governmental Entities directly or through one or more controlled entities;

- ii) the Entity's net earnings are credited to its own account or to the accounts of one or more Governmental Entities, with no portion of its income inuring to the benefit of any private person; and
 - iii) the Entity's assets vest in one or more Governmental Entities upon dissolution.
 - c) Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.
- 3. The term **"International Organisation"** means any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation) (1) that is comprised primarily of governments; (2) that has in effect a headquarters or substantially similar agreement with the jurisdiction; and (3) the income of which does not inure to the benefit of private persons.
- 4. The term **"Central Bank"** means an institution that is by law or government sanction the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the jurisdiction, whether or not owned in whole or in part by the jurisdiction.
- 5. The term **"Broad Participation Retirement Fund"** means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund:
 - a) does not have a single beneficiary with a right to more than five per cent of the fund's assets;
 - b) is subject to government regulation and provides information reporting to the tax authorities; and

- c) satisfies at least one of the following requirements:
- i) the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;
 - ii) the fund receives at least 50% of its total contributions (other than transfers of assets from other plans described in subparagraphs B(5) through (7) or from retirement and pension accounts described in subparagraph C(17)(a)) from the sponsoring employers;
 - iii) distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death (except rollover distributions to other retirement funds described in subparagraphs B(5) through (7) or retirement and pension accounts described in subparagraph C(17)(a)), or penalties apply to distributions or withdrawals made before such specified events; or
 - iv) contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed USD 50 000 annually, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.
6. The term “**Narrow Participation Retirement Fund**” means a fund established to provide retirement, disability, or death benefits to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that:
- a) the fund has fewer than 50 participants;
 - b) the fund is sponsored by one or more employers that are not Investment Entities or Passive NFEs;
 - c) the employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in subparagraph C(17)(a)) are limited by reference to earned income and compensation of the employee, respectively;

- d) participants that are not residents of the jurisdiction in which the fund is established are not entitled to more than 20% of the fund's assets; and
 - e) the fund is subject to government regulation and provides information reporting to the tax authorities.
7. The term “**Pension Fund of a Governmental Entity, International Organisation or Central Bank**” means a fund established by a Governmental Entity, International Organisation or Central Bank to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees (or persons designated by such employees), or that are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the Governmental Entity, International Organisation or Central Bank.
8. The term “**Qualified Credit Card Issuer**” means a Financial Institution satisfying the following requirements:
- a) the Financial Institution is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and
 - b) beginning on or before [xx/xx/xxxx], the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50 000, or to ensure that any customer overpayment in excess of USD 50 000 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.
9. The term “**Exempt Collective Investment Vehicle**” means an Investment Entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through individuals or Entities that are not Reportable Persons, except a Passive NFE with Controlling Persons who are Reportable Persons.

An Investment Entity that is regulated as a collective investment vehicle does not fail to qualify under subparagraph B(9) as

an Exempt Collective Investment Vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that:

- a) the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after [xx/xx/xxxx];
- b) the collective investment vehicle retires all such shares upon surrender;
- c) the collective investment vehicle performs the due diligence procedures set forth in Sections II through VII and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and
- d) the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilised as soon as possible, and in any event prior to [xx/xx/xxxx].

C. Financial Account

1. The term “**Financial Account**” means an account maintained by a Financial Institution, and includes a Depository Account, a Custodial Account and:
 - a) in the case of an Investment Entity, any equity or debt interest in the Financial Institution. Notwithstanding the foregoing, the term “Financial Account” does not include any equity or debt interest in an Entity that is an Investment Entity solely because it (i) renders investment advice to, and acts on behalf of, or (ii) manages portfolios for, and acts on behalf of, a customer for the purpose of investing, managing, or administering Financial Assets deposited in the name of the customer with a Financial Institution other than such Entity;
 - b) in the case of a Financial Institution not described in subparagraph C(1)(a), any equity or debt interest in the Financial Institution, if the class of interests was established with a purpose of avoiding reporting in accordance with Section I; and
 - c) any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a noninvestment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an Excluded Account.

The term “Financial Account” does not include any account that is an Excluded Account.

2. The term “**Depository Account**” includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a Financial Institution in the ordinary course of a banking or similar business. A Depository Account also includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon.
3. The term “**Custodial Account**” means an account (other than an Insurance Contract or Annuity Contract) that holds one or more Financial Assets for the benefit of another person.
4. The term “**Equity Interest**” means, in the case of a partnership that is a Financial Institution, either a capital or profits interest in the partnership. In the case of a trust that is a Financial Institution, an Equity Interest is considered to be held by any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust. A Reportable Person will be treated as being a beneficiary of a trust if such Reportable Person has the right to receive directly or indirectly (for example, through a nominee) a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.
5. The term “**Insurance Contract**” means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.
6. The term “**Annuity Contract**” means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.
7. The term “**Cash Value Insurance Contract**” means an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value.

8. The term “**Cash Value**” means the greater of (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan), and (ii) the amount the policyholder can borrow under or with regard to the contract. Notwithstanding the foregoing, the term “Cash Value” does not include an amount payable under an Insurance Contract:
- a) solely by reason of the death of an individual insured under a life insurance contract;
 - b) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;
 - c) as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an Insurance Contract (other than an investment-linked life insurance or annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;
 - d) as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in subparagraph C(8)(b); or
 - e) as a return of an advance premium or premium deposit for an Insurance Contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract.
9. The term “**Preexisting Account**” means a Financial Account maintained by a Reporting Financial Institution as of [xx/xx/xxxx].
10. The term “**New Account**” means a Financial Account maintained by a Reporting Financial Institution opened on or after [xx/xx/xxxx].
11. The term “**Preexisting Individual Account**” means a Preexisting Account held by one or more individuals.
12. The term “**New Individual Account**” means a New Account held by one or more individuals.

13. The term “**Preexisting Entity Account**” means a Preexisting Account held by one or more Entities.
14. The term “**Lower Value Account**” means a Preexisting Individual Account with an aggregate balance or value as of 31 December [xxxx] that does not exceed USD 1 000 000.
15. The term “**High Value Account**” means a Preexisting Individual Account with an aggregate balance or value that exceeds USD 1 000 000 as of 31 December [xxxx] or 31 December of any subsequent year.
16. The term “**New Entity Account**” means a New Account held by one or more Entities.
17. The term “**Excluded Account**” means any of the following accounts:
 - a) a retirement or pension account that satisfies the following requirements:
 - i) the account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits);
 - ii) the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
 - iii) information reporting is required to the tax authorities with respect to the account;
 - iv) withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and
 - v) either (i) annual contributions are limited to USD 50 000 or less, or (ii) there is a maximum lifetime contribution limit to the account of USD 1 000 000 or less, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirement of subparagraph C(17)(a)(v) will not fail to

satisfy such requirement solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of subparagraph C(17)(a) or (b) or from one or more retirement or pension funds that meet the requirements of any of subparagraphs B(5) through (7).

- b) an account that satisfies the following requirements:
 - i) the account is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market, or the account is subject to regulation as a savings vehicle for purposes other than for retirement;
 - ii) the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
 - iii) withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and
 - iv) annual contributions are limited to USD 50 000 or less, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirement of subparagraph C(17)(b)(iv) will not fail to satisfy such requirement solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of subparagraph C(17)(a) or (b) or from one or more retirement or pension funds that meet the requirements of any of subparagraphs B(5) through (7).

- c) a life insurance contract with a coverage period that will end before the insured individual attains age 90, provided that the contract satisfies the following requirements:
 - i) periodic premiums, which do not decrease over time, are payable at least annually during the period the

- contract is in existence or until the insured attains age 90, whichever is shorter;
- ii)* the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;
 - iii)* the amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and
 - iv)* the contract is not held by a transferee for value.
- d)* an account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate.
 - e)* an account established in connection with any of the following:
 - i)* a court order or judgment.
 - ii)* a sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:
 - i)* the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a Financial Asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
 - ii)* the account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;
 - iii)* the assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee

- (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;
- iv) the account is not a margin or similar account established in connection with a sale or exchange of a Financial Asset; and
 - v) the account is not associated with an account described in subparagraph C(17)(f).
- iii) an obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time.
- iv) an obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.
- f) a Depository Account that satisfies the following requirements:
- i) the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and
 - ii) beginning on or before [xx/xx/xxxx], the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50 000, or to ensure that any customer overpayment in excess of USD 50 000 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.
- g) any other account that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the accounts described in subparagraphs C(17)(a) through (f), and is defined in domestic law as an Excluded Account, provided that the status of such account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard.

D. Reportable Account

1. The term “**Reportable Account**” means an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person, provided it has been identified as such pursuant to the due diligence procedures described in Sections II through VII.
2. The term “**Reportable Person**” means a Reportable Jurisdiction Person other than: (i) a corporation the stock of which is regularly traded on one or more established securities markets; (ii) any corporation that is a Related Entity of a corporation described in clause (i); (iii) a Governmental Entity; (iv) an International Organisation; (v) a Central Bank; or (vi) a Financial Institution.
3. The term “**Reportable Jurisdiction Person**” means an individual or Entity that is resident in a Reportable Jurisdiction under the tax laws of such jurisdiction, or an estate of a decedent that was a resident of a Reportable Jurisdiction. For this purpose, an Entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated.
4. The term “**Reportable Jurisdiction**” means a jurisdiction (i) with which an agreement is in place pursuant to which there is an obligation in place to provide the information specified in Section I, and (ii) which is identified in a published list.
5. The term “**Participating Jurisdiction**” means a jurisdiction (i) with which an agreement is in place pursuant to which it will provide the information specified in Section I, and (ii) which is identified in a published list.
6. The term “**Controlling Persons**” means the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term “Controlling Persons” must be interpreted in a manner consistent with the Financial Action Task Force Recommendations.
7. The term “**NFE**” means any Entity that is not a Financial Institution.

8. The term “**Passive NFE**” means any: *(i)* NFE that is not an Active NFE; or *(ii)* an Investment Entity described in subparagraph A(6)(b) that is not a Participating Jurisdiction Financial Institution.
9. The term “**Active NFE**” means any NFE that meets any of the following criteria:
 - a)* less than 50% of the NFE’s gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
 - b)* the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
 - c)* the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
 - d)* substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
 - e)* the NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;
 - f)* the NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence

operations in a business other than that of a Financial Institution;

- g)* the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or
- h)* the NFE meets all of the following requirements:
 - i)* it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
 - ii)* it is exempt from income tax in its jurisdiction of residence;
 - iii)* it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - iv)* the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
 - v)* the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision thereof.

E. Miscellaneous

1. The term “**Account Holder**” means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of the Common Reporting Standard, and such other person is treated as holding the account. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder.
2. The term “**AML/KYC Procedures**” means the customer due diligence procedures of a Reporting Financial Institution pursuant to the anti-money laundering or similar requirements to which such Reporting Financial Institution is subject.
3. The term “**Entity**” means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation.
4. An Entity is a “**Related Entity**” of another Entity if either Entity controls the other Entity, or the two Entities are under common control. For this purpose control includes direct or indirect ownership of more than 50% of the vote and value in an Entity.
5. The term “**TIN**” means Taxpayer Identification Number (or functional equivalent in the absence of a Taxpayer Identification Number).
6. The term “**Documentary Evidence**” includes any of the following:
 - a) a certificate of residence issued by an authorised government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be a resident.
 - b) with respect to an individual, any valid identification issued by an authorised government body (for example, a government or agency thereof, or a municipality), that includes the individual’s name and is typically used for identification purposes.

- c) with respect to an Entity, any official documentation issued by an authorised government body (for example, a government or agency thereof, or a municipality) that includes the name of the Entity and either the address of its principal office in the jurisdiction in which it claims to be a resident or the jurisdiction in which the Entity was incorporated or organised.
- d) any audited financial statement, third-party credit report, bankruptcy filing, or securities regulator’s report.

Section IX: Effective Implementation

- A. A jurisdiction must have rules and administrative procedures in place to ensure effective implementation of, and compliance with, the reporting and due diligence procedures set out above including:
 - 1. rules to prevent any Financial Institutions, persons or intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures;
 - 2. rules requiring Reporting Financial Institutions to keep records of the steps undertaken and any evidence relied upon for the performance of the above procedures and adequate measures to obtain those records;
 - 3. administrative procedures to verify Reporting Financial Institutions’ compliance with the reporting and due diligence procedures; administrative procedures to follow up with a Reporting Financial Institution when undocumented accounts are reported;
 - 4. administrative procedures to ensure that the Entities and accounts defined in domestic law as Non-Reporting Financial Institutions and Excluded Accounts continue to have a low risk of being used to evade tax; and
 - 5. effective enforcement provisions to address non-compliance.

在香港实施自动交换资料的立法模式示意图

