

香港就稅務事宜
自動交換金融帳戶資料
諮詢文件

摘要

為稅務目的而交換資料是提升稅務透明度和打擊跨境逃稅活動的重要途徑。作為國際金融中心及國際社會負責任的一員，香港已承諾優化稅制，以便根據經濟合作與發展組織（「經合組織」）頒布的國際標準，與其他稅務管轄區交換稅務資料。

2. 一直以來，政府的優先工作是與香港的貿易和投資伙伴簽訂全面性避免雙重課稅協定（「全面性協定」），以促進香港的商業活動和盡量減少雙重課稅的情況。香港簽訂的全面性協定全均載有與締約伙伴交換資料的機制。此外，我們亦簽訂稅務資料交換協定（「交換協定」）。有關協定純粹用作資料交換的工具，並不提供課稅寬免。

3. 經合組織的交換資料標準，容許稅務管轄區按請求交換資料、自動交換資料，或自發交換資料。迄今，香港只選擇按請求交換資料。然而，國際社會在稅務合作方面的發展迅速。二零一四年七月，經合組織公布就稅務事宜自動交換金融帳戶資料（「自動交換資料」）的標準，呼籲各地政府從其金融機構蒐集海外稅務居民的金融帳戶資料，並每年與有關帳戶持有人所屬居住地交換該等資料。

4. 稅務透明化及資料交換全球論壇（「全球論壇」）是倡議提高稅務透明度的組織，轄下共有 120 名成員，當中包括香港。全球論壇已邀請所有成員承諾實施新國際標準，並建立了機制，以監察和審視成員在二零一七年以後實施新國際標準的進度。截至二零一四年十月底，逾 90 個稅務管轄區已承諾實施新標準。香港作為國際社會負責任的一員，並為免被視為「不合作」的稅務管轄區而影響國際金融中心地位，我們在二零一四年九月向全球論壇表示支持實施自動交換資料新標準。我們會在互惠原則下，與合適伙伴實施新標準，以期在二零一八年年底前進行首次自動交換資料。有關伙伴須符合關於保障私隱和資料的保密性及正當使用所交換資料的規定。我們已表明，承諾實施新標準的大前提，是香港可在二零一七年或之前通過所需的本地法例。

5. 香港一直奉行以地域來源為徵稅原則的簡單稅制。要實施自動交換資料的標準，須就我們的政策、法律框架，以及只按請求交換資料的現行安排作出重大的改變。在制訂於

香港實施自動交換資料的模式時，我們須確保所訂定的模式符合國際標準，但不會對金融機構及其屬非香港稅務居民的帳戶持有人造成不必要的合規負擔。我們將採取務實的方式，以期把所有自動交換資料標準的必要規定納入本地法律，以及確保國際標準得以有效實施。

6. 自動交換資料標準的主要元素和規定於本文件第一章概述。我們曾與不同金融機構、專業團體和商會進行了非正式會面，以交換意見。根據他們的初步意見及經研究其他稅務管轄區正考慮的立法建議所得，我們提出了就法律框架(第二章)和運作架構(第三章)兩方面，實施自動交換資料的香港模式的最新構想。我們計劃在二零一五年四月至六月徵詢相關持份者的意見，並提出了須蒐集意見的主要範疇(第四章)。我們的目標是在二零一六年年年初向立法會提交修訂條例草案，在二零一七年前制訂法例，然後在二零一八年年年底進行首次自動交換資料。

第一章

自動交換資料標準的主要元素

什麼是自動交換資料安排？

1.1 根據經合組織頒布的標準，自動交換資料安排涉及把金融帳戶持有人(即非香港稅務居民)的各類投資收入、帳戶結餘或數額，以及從出售金融資產所得收益等金融帳戶資料，定期且有系統地每年從帳戶持有人的資料來源地傳送至其稅務居住地。須予以交換的金融帳戶資料的範圍已根據經合組織的標準而訂明和劃一，而所交換的資料是透過金融機構¹在資料來源地向其主管當局申報而蒐集所得。因此，「自動交換」並不是指資料會在各稅務管轄區內自由互通。

1.2 自動交換資料安排須建基於稅務協定。首先，各有關稅務管轄區之間須已簽訂雙邊協議(即全面性協定或交換協定)或多邊協議(即《稅務事宜行政互助多邊公約》)，作為交換稅務資料的法律基礎。其次，各主管當局須簽訂主管當局協定，藉以規範交換安排，確保資料根據有關標準適當互通。

自動交換資料標準的元素

1.3 具體而言，自動交換資料標準包含下列元素 —

- (a) **主管當局協定範本**：這是主管當局(一般是稅務當局)之間的自動資料交換協定範本。
- (b) **共同匯報標準**：這訂明各項標準和規定如下 —
 - (i) **金融機構**：包括銀行、託管人、保險公司、經紀及投資實體(例如某些集體投資工具)，除非他們被人用作逃稅工具的風險很低，並可獲豁免申報(例如指明的退休計劃)，則作別論。

¹ 根據共同匯報標準，金融機構有「須申報的金融機構」及「無須申報的金融機構」。為了方便起見，除另有所示外，在本文件所指的「金融機構」即「須申報的金融機構」。

(ii) 須申報的帳戶資料：金融機構須申報關於金融帳戶持有人的資料包括 —

■ **個人資料**(即帳戶持有人的姓名、地址、出生日期和地點、稅務居住地及納稅人識別號碼²)；及

■ **財務資料**(即利息、股息、帳戶結餘或數額、從某些保險產品所得的收入、從出售金融資產所得的收益，以及其他由有關帳戶持有資產或存入帳戶的款項所產生的收入)。

(iii) 須予申報的帳戶：涵蓋個人和實體(包括基金會和信託)所持有的帳戶。金融機構須仔細審視被動實體，並申報相關控制人士(即實益擁有人)的資料。

(iv) 盡職審查程序：當中包括各項過程和程序，讓金融機構從個人和實體的現有和新開立帳戶中辨識須予申報的帳戶、確定帳戶持有人的稅務居住地和其他須申報的帳戶資料，以及按訂明申報範圍向主管當局申報在申報期完結時的資料。

(c) 主管當局協定範本及共同匯報標準的註釋：這解釋主管當局協定範本及共同匯報標準的規定。在致力確保自動交換資料標準應用和實施貫徹一致的同時，亦就以下特定情況提供例外處理安排 —

(i) 帳戶結餘或數額：在有關曆年或其他適用的申報期終結時，帳戶的結餘或數額，如帳戶在年內或期間內取消，則帳戶取消時的結餘或數額。然而，就一些稅務管轄區已要求其金融機構在該曆年或其他適用的申報期間申報帳戶的平均結餘或價值，這些稅務管轄區可維持申報此類資料。

(ii) 關於納稅人識別號碼、出生日期及地點的須予申報的資料 —

² 如沒有「納稅人識別號碼」，則指功能相等的資料。

- 就納稅人識別號碼及出生日期而言，如該等資料並非在金融機構的紀錄內及本地法律並沒有要求該等金融機構需蒐集該等資料，金融機構無須申報屬現有帳戶的該等資料。金融機構須作合理努力，在識別的該等為須予以申報的帳戶後的第二個曆年的年底時，取得這些現有帳戶的納稅人識別號碼及出生日期。如有關自動交換資料的伙伴沒有發出納稅人識別號碼或自動交換資料伙伴的當地法律沒有要求蒐集納稅人識別號碼的資料，金融機構無須申報納稅人識別號碼。
- 就出生地點而言，金融機構無須申報現有及新開納帳戶的該等資料，除非金融機構在現行法例下須取得和申報該等資料及可於該等金融機構備存的電子檢索數據中得到。

(d) 技術解決方案的指引：這訂定交換資料的模式及傳送和加密數據的指引，確保資料保密。

主管當局協定範本及共同匯報標準的主要規定分別載於附件 A 及 B(只有英文版)。

第二章

擬議的自動交換資料的香港模式 — 法律框架

政策原意

2.1 我們會採取務實的方式，把所有自動交換資料標準的必要規定納入本地法律，並確保國際標準得以有效實施。我們會盡量降低受影響金融機構的合規成本，同時無損自動交換資料標準的有效實施。我們會擴大稅務局的法定權力至合理程度，以確保自動交換資料標準得以有效實施。

香港現行的資料交換政策

2.2 《稅務條例》容許香港可就提供雙重課稅寬免及／或交換稅務資料³的目的，與其他稅務管轄區訂立安排。香港可與另一稅務管轄區簽訂全面性協定，為香港和該相關稅務管轄區的稅務居民提供雙重課稅寬免。全面性協定包含一項資料交換條文，利便雙方交換稅務資料。為了純粹交換稅務資料，香港也可與另一稅務管轄區簽訂獨立的交換協定。

2.3 《稅務條例》沒有訂明應如何交換資料 — 即按請求還是自動或自發交換資料。香港至今所簽訂的 32 份全面性協定⁴大部分均訂明締約雙方無須自動交換資料，而至今所簽

³ 《稅務條例》第 49(1A)條訂明：

「如行政長官會同行政會議藉命令宣布，已與香港以外某地區的政府訂立該命令中所指明的安排，而該等安排的生效是屬於有利的，則該等安排即屬有效，並尤其—

(a) 對根據本條例徵收的稅項有效，即使任何成文法則另有規定亦然；及
(b) 就該等安排中規定須披露關乎該地區的稅項資料的條文而言，對作為該條文標的之該地區的稅項有效。」

《稅務條例》第 49(1B)條進一步訂明「然而，只有為以下兩個目的或其中之一而訂立的安排，方可在第(1A)款所指的命令中指明—

(a) 給予雙重課稅寬免；
(b) 就香港或有關地區的法律所施加的任何稅項，交換資料。」

⁴ 我們的 32 個全面性協定伙伴包括比利時(2003)、泰國(2005)、中國內地(2006)、盧森堡(2007)、越南(2008)、文萊、荷蘭、印尼、匈牙利、科威特、奧地利、英國、愛爾蘭、列支敦士登、法國、日本、新西蘭(2010)、葡萄牙、西班牙、捷克共和國、瑞士、馬耳他(2011)、澤西島、馬來西亞、墨西哥、加拿大(2012)、意大利、根西島、卡塔爾(2013)、韓國、南非及阿拉伯聯合酋長國(2014)。(註：在括號內標示的年份為簽訂有關全面性協定的年份。)

訂的 7 份交換協定⁵則訂明會按請求交換資料。

自動交換資料安排的法律依據

2.4 我們現時的計劃，是只與全面性協定或交換協定的伙伴訂定雙邊自動交換資料安排。我們會以雙邊全面性協定或交換協定作為法律依據，實施自動交換資料。我們目前並沒有計劃與其他稅務管轄區簽訂多邊協定。

2.5 具體而言，我們會從現有的全面性協定或交換協定伙伴中，辨識可符合經合組織標準的稅務管轄區；該等管轄區須已訂立合適的法規，保障私隱和確保所交換的資料能予保密。我們會訂定與該等稅務管轄區商議主管當局協定的優先次序，以期實施自動交換資料安排。即使香港可與現有全面性協定／交換協定伙伴實施自動交換資料的安排，但我們或需對全面性協定／交換協定作出修訂，而稅務局亦需與該等協定伙伴的有關當局簽訂新的主管當局協定。全面性協定的資料交換條文如無禁止自動交換資料，便無須修訂；但交換協定明文規定只按請求交換資料，因此我們須先藉議定書予以修訂，稅務局才可就自動交換資料安排簽訂新的主管當局協定。

2.6 至於日後與可能成為新伙伴的稅務管轄區商議全面性協定或交換協定時，我們會先考慮他們是否能符合自動交換資料的標準，才決定是否只簽訂全面性協定／交換協定，還是把有關稅務協定連同主管當局協定一併簽訂。

將納入《稅務條例》的主管當局協定及共同匯報標準的主要條款

2.7 儘管主管當局協定是由兩個稅務管轄區的主管當局簽訂的國際協定，其條款屬運作性質，並就兩個稅務管轄區的交換資料安排作出規範(例如須提交資料的範圍，以及向自動交換資料伙伴提供資料的時間和方式)。至於共同匯報標準，則是主管當局協定的附件，載述金融機構須進行的盡職審查程序，以辨識須予申報的帳戶。

⁵ 我們的 7 個交換協定伙伴包括美國、挪威、丹麥、瑞典、冰島、格陵蘭及法羅羣島 (2014)。(註：在括號內標示的年份為簽訂有關交換協定的年份。)

2.8 為賦予主管當局協定和共同匯報標準法律效力，我們擬把主管當局協定和共同匯報標準的主要條款納入香港法例，確保香港能有效實施自動交換資料安排。我們將在《稅務條例》的附表中，載列每個與香港簽訂主管當局協定的稅務管轄區名稱。財經事務及庫務局局長可在憲報刊登公告，以修訂該附表，而有關修訂須經立法會進行先訂立後審議程序。

2.9 建議納入本地法例的主要條款(參考相關的主管當局協定及共同匯報標準)包括 -

- (a) 金融機構及須予申報帳戶的定義(主管當局協定的第一部分及共同匯報標準的第八部分)；
- (b) 金融機構提交稅務局及稅務局隨後與自動交換資料伙伴所交換的資料範圍(主管當局協定的第二部分及共同匯報標準的第一部分)；
- (c) 金融機構為辨識須予申報帳戶而進行的盡職審查程序(共同匯報標準的第二至七部分)；及
- (d) 稅務局確保有效實施有關安排的執法權力(共同匯報標準的第九部分)。

2.10 我們計劃將上文第 2.9(a)、(b)及(d)段所述事項納入主體法例。正如經合組織的自動交換資料標準所述，金融機構的盡職審查程序是必要元素，須納入本地法例。我們參考了《打擊洗錢及恐怖分子資金籌集(金融機構)條例》(第 615 章)所訂的法律框架，當中盡職審查及保存記錄的規定是詳列於該條例的附表，我們建議在《稅務條例》的附表中，載述自動交換資料安排的盡職審查規定(即上文第 2.9(c)段)。財經事務及庫務局局長可在憲報刊登公告，修訂該附表，而有關修訂須經立法會進行先訂立後審議程序。

2.11 附件 C 載述的示意圖顯示擬議在香港實施自動交換資料的立法模式。

金融機構和須予申報帳戶的範圍

2.12 根據共同匯報標準的規定，並參照我們本地法例，我們建議將下述金融機構的定義納入《稅務條例》-

- (a) 「託管機構」 - 根據《受託人條例》(第 29 章)註冊的信託公司；或任何其他人士代他人持有帳戶的金融資產，而該資產佔持有人相當大部分的業務；
- (b) 「存款機構」 - 根據《銀行業條例》(第 155 章)獲發牌或註冊的認可機構；或根據《儲蓄互助社條例》(第 119 章)註冊的儲蓄互助社；
- (c) 「指定保險公司」 - 根據《保險公司條例》(第 41 章)獲授權的保險人，而該保險人發行或有責任支付予現金價值保險合約或年金合約，而在緊接上一曆年從保險、再保險及年金合約所產生的總收入超過該年的總收入 50%，或在緊接上一曆年的任何時間從保險、再保險及年金合約所產生的綜合數額超過該年任何時間的總資產 50%；及
- (d) 「投資實體」 -
 - (i) 根據《證券及期貨條例》(第 571 章)獲發牌而進行以下一項或多於一項的規管活動的法團 -
 - 證券交易；
 - 買賣期貨合約；
 - 槓桿式外匯交易；
 - 資產管理；
 - (ii) 根據《證券及期貨條例》(第 571 章)註冊而進行以下一項或多於一項的規管活動的機構 -
 - 證券交易；
 - 買賣期貨合約；
 - 資產管理；
 - (iii) 根據《受託人條例》(第 29 章)註冊的信託公司；

- (iv) 根據《證券及期貨條例》(第 571 章)獲授權的集體投資計劃或結構性產品；
- (v) 任何實體代客戶主要從事以下一項或多於一項活動或作業作為其業務 –
 - 貨幣市場工具交易、外匯交易、匯兌、利率及指數工具業務、可轉讓證券買賣，或商品期貨交易；
 - 個人及集體投資組合管理；或
 - 以其他方式代他人投資、管理或管控資金或金錢；或
- (vi) 如實體由另一實體(此為上述第(v)段所述的存款機構、託管機構、指定保險公司或投資實體)所管理，而該實體的總收入主要來自投資、再投資或買賣金融資產。

2.13 我們會於本地法例訂明，須予申報的帳戶是由須予申報的稅務管轄區(即我們的自動交換資料的伙伴，而有關伙伴的名稱會載於《稅務條例》的附表中)的稅務居民所持有的帳戶。須予申報的帳戶亦包括被動非金融機構實體所持有的帳戶，而該等被動非金融機構實體的控制人士屬須予申報的稅務管轄區的稅務居民。金融機構須根據法例訂明的盡職審查程序辨識須予申報的帳戶。

無須申報的金融機構及獲豁免帳戶

2.14 共同匯報標準容許稅務管轄區，辨識出一些會被用作逃稅風險較低的金融機構及金融帳戶，豁免他們申報的要求。共同匯報標準就這些獲豁免申報的**金融機構**提供定義，稱為「無須申報的金融機構」，這些金融機構須為被非本地稅務居民用作逃稅的風險不高。同樣地，共同匯報標準訂明只要符合某些指定的要求，一些**金融帳戶**被用作逃稅的風險不高，因此不用申報。這些金融帳戶稱為「獲豁免帳戶」。我們會根據共同匯報標準的規定，制訂「無須申報的金融機構」及「獲豁免帳戶」的清單。

2.15 我們擬把下列機構，定為無須申報的金融機構⁶：

- (a) 政府機構(包括政府全權擁有的法定組織和實體)、國際組織、香港金融管理局；
- (b) 政府機構／國際組織／香港金融管理局的退休金基金；
- (c) 補助學校公積金和津貼學校公積金；及
- (d) 符合共同匯報標準所界定為廣泛參與退休基金、有限參與退休基金、合資格信用卡發行機構、獲豁免的集體投資工具，或由受託人申報的信託基金的任何金融機構。

2.16 《強制性公積金計劃條例》(第 485 章)下的強制性公積金計劃，以及根據《職業退休計劃條例》(第 426 章)設立、並已向強制性公積金計劃管理局註冊的職業退休計劃，被用作逃稅工具的風險應不高。舉例來說，這些計劃均受到規管，並須在若干情況下向稅務局申報資料。然而，這些計劃未必完全符合共同匯報標準的規定。我們擬把這些計劃納入豁免名單內，但須確保計劃符合共同匯報標準的規定。至於由獲豁免的實益擁有人全資擁有的投資實體和投資顧問／經理⁷，由於這些金融機構的帳戶持有人並無申報責任，甚或沒有開立金融帳戶，因此這些金融機構沒有申報責任。

2.17 至於獲豁免帳戶，我們參考了共同匯報標準，擬包括以下帳戶 –

- (a) 退休金帳戶(須符合若干規定)；
- (b) 非退休稅務優惠帳戶；
- (c) 定期人壽保險合約；

⁶ 在本文件的無須申報的金融機構的建議清單不一定詳盡無遺，並會進一步修訂。

⁷ 在香港與美國簽訂的跨政府協定下，實益擁有人全資擁有的投資實體，以及投資顧問／經理獲豁免申報，以便實施《海外帳戶稅收合規法案》。

- (d) 遺產帳戶；
- (e) 託管帳戶；及
- (f) 根據共同匯報標準所定義的存管未退回多付款項的帳戶。

2.18 為方便有需要時作出更新，我們擬把「無須申報的金融機構」及「獲豁免帳戶」名單以附表的形式納入《稅務條例》。財經事務及庫務局局長可在憲報刊登公告，修訂該附表，有關修訂須經立法會進行先訂立後審議的程序。

金融機構提交稅務局及稅務局隨後與自動交換資料伙伴的資料範圍

2.19 稅務局須備存關於須予申報金融機構(連同其須予申報帳戶)資料的記錄冊。為此，我們會在《稅務條例》中加入相關條文，列明金融機構須向稅務局提交周年報表的時間和方式，以及金融機構須就持有任何首個須予申報帳戶和停止持有該等帳戶等事宜通知稅務局的規定。為了讓稅務局可根據主管當局協定與自動交換資料伙伴交換資料，我們會參照主管當局協定的規定，要求金融機構向稅務局就每個須予申報的帳戶申報下列資料 -

- (a) **每名須予申報人士的姓名、地址、所屬居住地、納稅人識別號碼及出生日期和地點**，如屬由個人持有的帳戶或如屬由實體持有的帳戶(經進行盡職審查程序後，確定須予申報帳戶由一位或多位人士控制)。

參照共同匯報標準的註釋提供的例外處理情況，金融機構無須申報現有帳戶的納稅人識別號碼或出生日期，如該等資料不存於金融機構的紀錄內及本地法例並沒有規定相關金融機構需蒐集有關資料。然而，金融機構須作出合理努力，在識別出該等為須予申報的帳戶的第二個曆年的年底時，取得這些現有帳戶的納稅人識別號碼及出生日期。就納稅人識別號碼方面，如有關自動交換資料的伙伴沒有發出納稅人識別號碼或自動交換資料伙伴的當地法律沒有要求蒐集納稅人識別號碼的資料，金融機構無須申報納稅人識別號碼。至於出生地點方面，金融機構無須申報現有及

新開納的帳戶該等資料，除非金融機構在現行法例下須取得及申報該等資料及可於該等金融機構備存的電子檢索數據中得到；

- (b) 帳號(如無帳號，則提供功能相等的資料)；
- (c) 金融機構的名稱及識別編號(如有的話)；
- (d) 在有關曆年或其他適用的申報期終結時，帳戶的結餘或數額(包括現金價值保險合約的現金價值，或年金合約的退保現金價值)，如帳戶在年內或期間內取消，則帳戶取消時的結餘或數額；
- (e) 如屬託管帳戶 –
 - (i) 在該曆年或其他適用的申報期內，付予或存入帳戶(或與該帳戶有關)的利息總額、股息總額及其他由有關帳戶持有資產所產生的收入總額；以及
 - (ii) 在該曆年或其他適用的申報期內，售賣或贖回金融資產後付予或存入帳戶的收益總額，而申報的金融機構為帳戶持有人擔任託管人、經紀、代名人或代理人；
- (f) 如屬存款帳戶：在該曆年或其他適用的申報期內，付予或存入帳戶的利息總額；及
- (g) 如屬(e)及(f)段未有提及的帳戶：在該曆年或其他適用的申報期內，付予帳戶持有人或存入其帳戶的款項總額；申報的金融機構為承擔義務人或債務人，款項包括在該曆年或其他適用的申報期內，向帳戶持有人作出任何贖債付款的合計總額。

金融機構就辨識及備存關於須予申報稅務管轄區資料的規定

2.20 為了讓金融機構蒐集和向稅務局申報上述要求的資料，金融機構須進行盡職審查程序，以辨識須予申報的帳戶；有關程序會以附表形式加入《稅務條例》。我們理解部分金融機構可能傾向採用「更廣泛的方式」立法，讓他們可辨識和備存所有非香港稅務居民的帳戶持有人的資料，不論

香港是否已與有關帳戶持有人的稅務居住地簽訂自動交換資料協定。然而，由於香港現時並無計劃就自動交換資料安排簽訂多邊協定，以及由此方式所蒐集的資料或許未必符合香港資料私隱保障制度的豁免準則，有關立法方式是否合理可能成疑。因此，我們擬只把盡職審查規定的主要條款(即共同匯報標準第 II 至 VII 部)納入本地法例；該等條款訂明程序，讓金融機構按帳戶持有人居住地是否指定須予申報的稅務管轄區(而非香港以外的所有稅務管轄區)，以辨識須予申報的帳戶。當稅務局與某稅務管轄區的主管當局簽訂了主管當局協定，金融機構便須向稅務局辨識、提交和申報該等稅務管轄區的稅務居民的帳戶持有人的資料。

2.21 然而，假如金融機構選擇在上述建議就指定須予申報的稅務管轄區為法律規定之上，辨識及備存有關非香港以外的所有稅務管轄區的帳戶持有人的資料，而其做法又能符合香港資料私隱保障制度的規定，我們對金融機構所採取的安排持開放態度。

2.22 有關盡職審查程序的主要內容於第三章載述。

執行條文 - 權力及罰則

2.23 現時，香港的金融機構無須向稅務局提交和申報非香港稅務居民的客戶的金融帳戶資料，供交換資料之用。為實施自動交換資料安排，我們建議賦予稅務局下列權力 -

- (a) 按訂明的方式，向金融機構蒐集須予申報帳戶的資料；
- (b) 進入金融機構的營業處所和存取其電腦系統；一旦金融機構違反法庭頒布的遵行申報規定的命令時，取得搜查手令；指示金融機構核實是否遵行申報及盡職審查程序，並修正自動交換資料系統欠妥之處；以及指示金融機構或任何人士糾正規避盡職審查程序的安排／做法；
- (c) 使用從金融機構所得的資料，以施行《稅務條例》；及

- (d) 對違反盡職審查規定或故意提供虛假或不正確資料的金融機構，施加罰則。

2.24 為確保有效實施自動資料交換，我們擬對金融機構施加某些罰則，以收阻嚇效果。我們建議對金融機構的罰則為 -

- (a) 在無合理辯解下，未能遵從規定去進行盡職審查程序、向稅務局提交報表，或為利便自動交換資料的有效實施的任何其他義務。此舉屬罪行，一經定罪，可處第 3 級罰款。如定罪後罪行持續，繼續違反規定，則相關者在定罪後罪行持續期間，每天可另處不超過 500 元的罰款(不足一天也作一天計算)；
- (b) 金融機構未能完全遵行法例所訂明的盡職審查規定，提交不正確報表。申報不準確的資料不會自動觸犯罪行。在我們採取最少立法修訂的方式下，金融機構若已遵行盡職審查程序，以及對資料不準確的情況不知情，可作為抗辯理由。金融機構一經定罪，可處第 3 級罰款。如定罪後罪行持續，繼續違反規定，則相關者在定罪後罪行持續期間，每天可另處不超過 500 元的罰款(不足一天也作一天計算)；及
- (c) 蓄意提交報表，以誤導或欺騙。這是關於利用欺詐行為來逃避盡職審查規定或欺詐稅務局。此舉屬罪行 -
 - (i) 一經循簡易程序定罪，可處第 3 級罰款及監禁 6 個月；及
 - (ii) 一經循公訴程序定罪，可處第 5 級罰款及監禁 3 年。

2.25 此外，參照《打擊洗錢及恐怖分子資金籌集(金融機構)條例》，我們建議向屬金融機構的僱員、或受僱為金融機構工作、或關涉金融機構的管理的人士施加罰則 -

- (a) 在沒有合理辯解下，導致或容許金融機構違反施加於金融機構的規定，或導致或/容許金融機構提交不正

確的報表。一經定罪，可處第 3 級罰款。如定罪後罪行持續，繼續違反規定，則相關者在定罪後罪行持續期間，每天可另處不超過 500 元的罰款(不足一天也作一天計算)；及

- (b) 蓄意欺詐，導致或容許金融機構違反施加於金融機構的規定，或導致或/容許金融機構提交不正確的報表。一經循簡易程序定罪，可處第 3 級罰款及監禁 6 個月；或一經循公訴程序定罪，可處第 5 級罰款及監禁 3 年。

2.26 現時，我們無意為實施自動交換資料對非香港稅務居民的帳戶持有人施加一系列新的罰則。在現行《稅務條例》下，任何人如無合理辯解而在影響任何人繳付香港以外某地區(即香港的全面性協定或交換協定伙伴)的稅項的法律責任的事情或事物方面，向稅務局就交換稅務資料提供不正確的資料，即屬犯罪。儘管如此，自我申報證明書對自動交換資料的有效實施十分重要，而且我們注意到經合組織在其關於有效實施的註釋部分訂明，期望稅務管轄區會在當地法律中加入具體條文，就簽署(或確認)虛假的自我申報證明書施加罰則，以提高自我申報證明書的可靠程度。在這方面，視乎其他稅務管轄區的經驗，我們或會考慮擴大現時《稅務條例》的罰則或加入新的特定罰則來涵蓋個人帳戶持有人提供虛假的自我申報證明書，以期提高進行自我申報證明書的可靠程度。

保障納稅人權利和確保所交換資料能予保密的措施

在全面性協定、交換協定及主管當局協定下的保障措施

2.27 在自動交換金融帳戶資料的過程中，我們會確保納稅人的私隱和所交換資料的保密性得到保障，以及確保正當使用所交換的資料。

2.28 全面性協定的資料交換條文及交換協定的有關條文均訂明保障納稅人私隱和確保所交換資料能予保密的保障措施。由於我們會於現行的全面性協定及交換協定的框架下實施自動交換資料，因此該等保障措施均會適用。概括來說，在協定層面的相關保障措施包括 -

- (a) 所交換的資料須為可預見相關的資料，即不得作打探性質的資料交換請求；
- (b) 締約伙伴所獲取的資料必須保密；
- (c) 資料只可向稅務當局披露，不得向其監管當局披露，除非全面性協定／交換協定伙伴提出充分理由，始作別論(即我們已對立法會承諾，該類監管當局必須以正面載列的方式列出)；
- (d) 所交換的資料不得向第三司法管轄區披露；
- (e) 在某些情況下締約雙方沒有責任提供資料，例如資料會披露任何貿易、業務、工業、商業或專業秘密或貿易程序，又或有關資料屬法律專業特權涵蓋範圍等；
- (f) 容許交換所得的資料作其他用途(即非稅務用途)，但有關用途必須為締約雙方的法律所容許，並須經提供資料一方的主管當局批准。換言之，交換資料的大前提是，必須先為了有關全面性協定／交換協定規定的稅務目的而進行。經合組織認為，分享所交換的稅務資料只能為了某些優先考慮事項(例如打擊洗黑錢、貪污及恐怖份子融資)；及
- (g) 我們不會答允締約伙伴所提出的海外稅務調查的請求(即我們並沒有在全面性協定／交換協定內加入這類條款)。

2.29 主管當局協定也需有類似的保障措施。主管當局協定範本第 5 條訂明，所有交換的資料必須符合保密規則及有關公約／工具所訂的其他保障措施。第 7 條訂明，如其他主管當局有或曾有嚴重不遵守主管當局協定的情況，主管當局可向對方發出書面通知而暫停交換資料。主管當局也可向另一主管當局發出終止通知，以終止主管當局協定⁸。在先訂立後審議的程序完成前，終止協定一事可立即生效。

⁸ 經合組織制訂了一套問卷，協助稅務管轄區評估其他稅務管轄區是否符合有關保密及保障資料的規定。如未能達到這些標準(不管是在法例上還是實際操作上)，或締約伙伴違反了有關保密規則，稅務管轄區可暫停與有關締約伙伴交換資料。

《披露規則》

2.30 現時，在本地按請求而交換資料的安排下，《稅務(資料披露)規則》(第 112BI 章)(「《披露規則》」)訂有額外保障措施，以保障納稅人的私隱和所交換的資料能予保密。《披露規則》訂明全面性協定及交換協定的締約伙伴須在交換資料請求中載述的詳情。當接獲交換資料請求時，稅務局會參考提出請求的締約伙伴所提供的詳情，並根據有關全面性協定／交換協定所訂明的條件及《披露規則》所訂明的條件，審視所要求取得的資料是否屬可預見相關。全面性協定／交換協定的締約伙伴須在交換資料請求中載述的詳情，載於《披露規則》的附表。如交換資料請求未能符合條件，稅務局局長將不予批准。

2.31 目前，《披露規則》訂有**通知和覆核機制**，以處理資料交換請求和相關上訴個案。如資料交換請求獲得批准，稅務局局長會以書面通知該項請求的當事人(即使所要求取得的資料由第三者管有，當事人也包括有關納稅人)，告知他全面性協定／交換協定締約伙伴所要求取得資料的性質，以及他有權在通知書發出日期起計 14 天內，要求取得一份稅務局局長擬向全面性協定／交換協定締約伙伴披露的資料的副本。在稅務局局長提供擬披露資料的副本後 21 天內，該名納稅人可以資料與事實不符或與其本人無關為理由，要求稅務局局長修訂資料的任何部分。稅務局局長可修訂全部或部分資料，或不作任何修訂。如該人仍不滿意，可於稅務局局長發出決定通知書後 14 天內，進一步要求財政司司長指示稅務局局長按**要求**作出修訂。如該人因任何行政決定而感到受屈，可向法院申請司法覆核。

2.32 自動交換資料與按**要求**而提供資料這兩項安排的運作模式截然不同。因此，現有的《披露規則》(包括通知和覆核機制)**無法直接套用於**自動交換資料的安排。由於所涉及的帳戶持有人可能相當多，稅務局難以在每次交換資料前，逐一通知每名帳戶持有人。據我們從經合組織了解所得，其他稅務管轄區主管當局均無意就自動交換資料安排另行設立通知或覆核機制。

2.33 擬議的自動交換資料安排，將依靠金融機構與帳戶持有人現有的「**客戶關係**」機制來更新／查核資料，以確保交換的是**準確**和**最新的**資料。在自動交換資料的框架下，金

融機構須按現行私隱法例的規定，把蒐集得的個人資料擬作用途告知新的及現有帳戶持有人；就自動交換資料安排而言，如帳戶持有人是另一稅務管轄區的稅務居民，而該稅務管轄區是香港的自動交換資料伙伴，金融機構會向稅務局披露該等帳戶持有人的個人資料(例如姓名、住址、稅務居住地、納稅人識別號碼、出生日期及地點)，以及金融帳戶資料(例如帳戶號碼及帳戶結餘)，而稅務局會定期(例如每年九月)把有關資料轉交該稅務管轄區。帳戶持有人會更新個人資料及金融帳戶資料，確保資料準確無誤。由於這些資料屬帳戶持有人的個人資料，他們可隨時向金融機構要求檢視相關資料。此外，金融機構也會根據共同匯報標準，持續進行盡職審查程序，以備存最新的客戶資料。

香港在自動交換資料框架下對資料符合「可預見相關」標準的立場

2.34 香港一向按請求而交換資料，並強調資料交換請求必須符合資料「可預見相關」標準的先決條件，方可按要求的交換資料。在自動交換資料的框架下，稅務局會定期與我們的自動交換資料伙伴以整批形式交換資料，有關資料將包含眾多個別個案。

2.35 經合組織的稅收協定範本的註釋訂明，交換資料條文第 1 段所述的規則(即就實施協定或與施行或強制執行稅務法律而言，所交換的資料屬可預見相關的資料)，容許主管當局按請求交換資料或自動交換資料。由稅務局蒐集並送予相關協定伙伴的資料，只會涉及那些可能須在原屬稅務管轄區繳稅的人士。由於這些納稅人可能未有向其稅務當局申報全部應課稅入息的資料，以致出現逃稅的情況，因此向締約伙伴提供該等稅務資料，仍關乎全面性協定／交換協定生效之後的期間，為施行交換資料協定的條文，或施行或強制執行全面性協定／交換協定締約伙伴的稅務法律而徵收的稅項。這做法將繼續符合資料「可預見相關」的國際標準。

第三章

香港實施自動交換資料安排的運作架構

申報及盡職審查規定

3.1. 正如第二章第 2.20 段所述，金融機構須參照共同匯報標準的規定向稅務局申報所需的資料。為了辨識須予申報帳戶，以蒐集和申報所需資料，金融機構須進行以下盡職審查程序⁹ –

- (a) **現有個人帳戶** – 金融機構應檢視帳戶，但任何低額門檻安排並不適用。就小額帳戶而言，金融機構將依靠按證明文件進行永久住址測試，或金融機構需要根據身分標記搜尋來確定有關居住地。如身分標記有任何不一致時，帳戶持有人需提供自我申報證明書。就大額帳戶而言，優化的盡職審查程序將適用，當中包括翻查書面紀錄及客戶關係經理的是否知情測試。
- (b) **新開納的個人帳戶** – 金融機構應要求開納帳戶人士提供自我申報證明書及確定有關自我申報證明書是否合理，低額門檻安排並不適用。
- (c) **現有實體帳戶** – 金融機構應按照現有資料，確定實體本身是否屬須予申報人士，如未能根據現有資料確定有關狀況，則需要求該實體提供自我申報證明書；金融機構亦應確定有關實體是否屬被動非金融機構實

⁹ 共同匯報標準就金融機構進行某方面的盡職審查程序提供以下其他程序方式，這些可能會納入本地法例 –

- (a) 就小額帳戶利用住址測試作為確定住址的另一方式；
 - (b) 以美金 250,000 元作為現有實體帳戶的另一門檻；
 - (c) 容許把新開納帳戶及大額帳戶的盡職審查程序應用於現有帳戶及小額帳戶；
 - (d) 容許第三方服務提供者為金融機構達至有關責任，但有關服務提供者若未能達到有關責任，須面對罰則；
 - (e) 容許就團體的現金價值保險合約及團體年金合約採用簡易的盡職審查程序；
 - (f) 擴大現有帳戶的定義，讓現有客戶在同一金融機構開納新帳戶時簡化程序；
 - (g) 容許部分投資工具可受惠於某些相關實體測試的程序；
 - (h) 容許金融機構就盡職審查程序更多利用現行的標準產業分類編碼系統；
 - (i) 容許跨國企業利用單一貨幣轉換規則；及
 - (j) 逐步落實申報出售或贖回金融資產的總收入規定。
- 如無須訂定具體法例條文，稅務局會考慮發出行政指引來解釋有關安排。

體，如是，需確定有關控制人士的居住地。現有實體帳戶如低於 25 萬美元，金融機構可選擇不作出檢視。

- (d) **新實體帳戶** – 金融機構應確定實體是否屬須予申報人士及有關實體是否被動非金融機構實體。然而，由於從新開納的帳戶較易取得自我申報證明書，因此低額門檻安排並不適用。

3.2 根據盡職審查程序，在開納帳戶或當有關身分標記有任何不一致時，從帳戶持有人取得的**自我申報證明書**是一項重要文件，以提供帳戶持有人的狀況及由金融機構合理要求的任何其他資料，以符合其申報及盡職審查的要求，尤其是確定帳戶持有人的稅務居住地。自我申報證明書應包括帳戶持有人的姓名、住址、稅務居住地、就每個須予申報的稅務管轄區的納稅人識別號碼及出生日期(就個人帳戶持有人及控制人士而言)。換言之，個人帳戶持有人無須為自動交換資料的目的而在其自我申報證明書上提供其出生地點的資料。

3.3 詳情請參閱**附件 B**的共同匯報標準第二至七部分，我們將以附表形式把有關部分加入《稅務條例》。

確定稅務居住地

3.4 在共同匯報標準下，金融帳戶持有人的稅務居住地是一個根本和重要理念。任何人士如根據其稅務管轄區的法律，由於其居所、住所、實際管理機構所在地，或任何其他類似的準則，而在該地有納稅的義務，該稅務管轄區便會視作該等人士的稅務居住地。我們會跟從共同匯報標準的精神，即帳戶持有人在開納帳戶時有責任辨識其稅務居住地。他們在開納帳戶時，需向金融機構提供詳細的個人資料及自我申報證明書。因此，**確定稅務居住地的責任是帳戶持有人的責任**。如帳戶持有人有疑問，應向其律師或稅務顧問諮詢意見。

3.5 我們並不預期金融機構須就確定帳戶持有人的稅務居住地，對有關稅務法律作出獨立的法律分析。金融機構的角色只是就自我申報證明書作出合理測試，以確認帳戶持有人所指的稅務居住地。我們也不預期金融機構須為確認自我申報證明書的合理測試，而對有關稅務法律作出獨立分析。

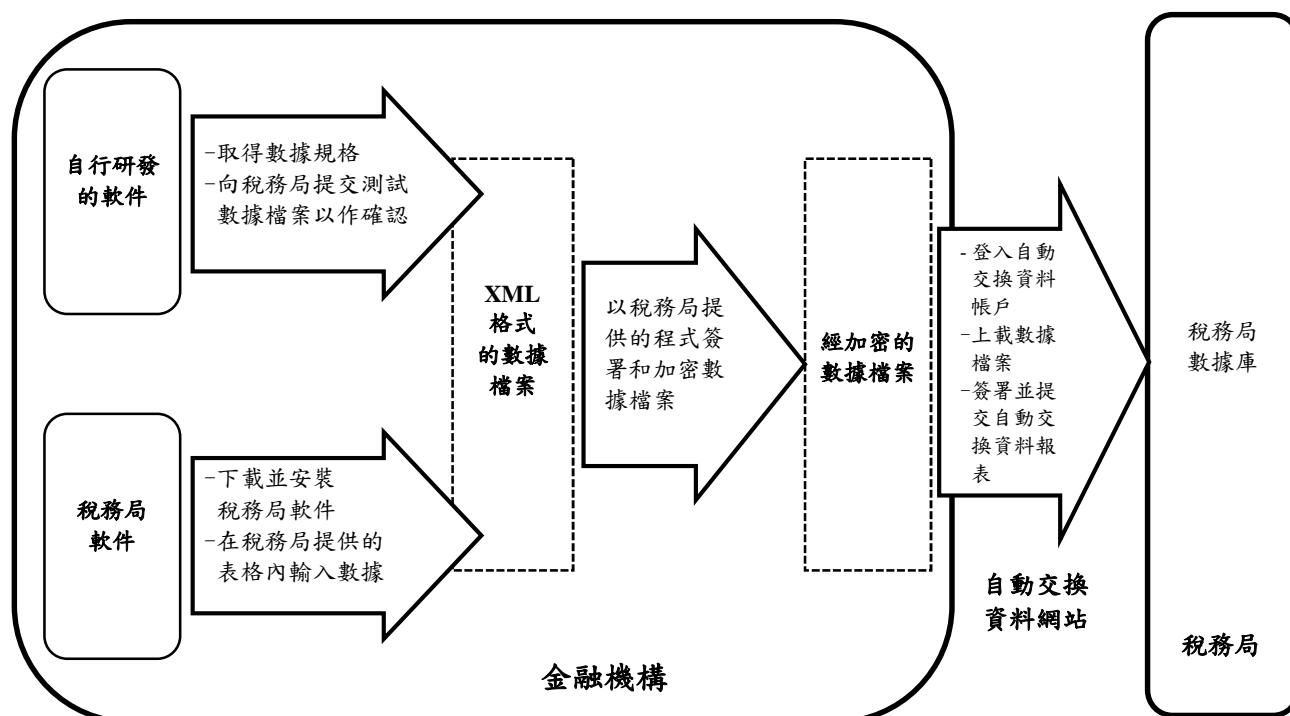
自動交換資料網站

3.6 為了協助金融機構履行責任，稅務局會提供一個安全穩妥的平台(即自動交換資料網站)，讓金融機構以電子方式提交通知書及自動交換資料報表。金融機構須使用電子證書¹⁰，以供核實身分，並在自動交換資料網站開立網上帳戶，以便與稅務局聯繫，處理有關自動交換資料的事宜。金融機構可設定權限，讓持有機構電子證書的人員在自動交換資料帳戶內執行多項工作，例如更新帳戶資料、提交報表和修改已提交的報表。

提交自動交換資料報表

3.7 每年一月，稅務局會經自動交換資料網站，向所有已登記的金融機構發出電子通知書，要求有關金融機構提交自動交換資料報表。即使金融機構在該年度並沒有須予申報的帳戶，仍須提交自動交換資料報表。我們建議，金融機構應在相關資料所屬曆年完結後五個月內提交有關報表。

3.8 下圖顯示擬備和提交自動交換資料報表的流程。



¹⁰ 我們提議金融機構應登記使用香港郵政核證機關發出的電子證書(機構)，以作核實身分用途。電子證書(機構)所載資料包括金融機構的名稱、商業登記號碼、持有證書員工的姓名及其職位。

3.9 擬備和提交自動交換資料報表的四個步驟如下 -

(a) 建立數據檔案

金融機構可根據稅務局所發出的數據規格¹¹，自行研發可建立數據檔案的電腦軟件。為免稅務局與締約伙伴交換資料前須把數據重新格式化，我們建議，金融機構所提交的數據檔案格式應與共同匯報標準所規定的格式一致，即可擴充標示語言(XML)格式的共同匯報標準數據模式。金融機構在使用自行研發的軟件前，須先把測試用的數據檔案提交稅務局審核並取得其同意，以確保以這些軟件建立的檔案合乎數據規格。

另一方面，金融機構也可從自動交換資料網站下載稅務局所研發的軟件(「稅務局軟件」)，以擬備數據檔案。金融機構可使用稅務局軟件，在該局提供的表格內填寫所需資料，並建立 XML 格式的數據檔案。

(b) 加密數據檔案

為確保資料完整和不可推翻，金融機構須以數碼證書加密和簽署數據檔案，然後才把檔案上載至自動交換資料網站。稅務局會在該網站提供可供下載的工具，以便金融機構進行簽署和加密程序。

(c) 上載數據檔案

金融機構可一次過或分多次把經簽署的數據檔案傳送至自動交換資料網站內的帳戶。金融機構可根據指明的條件，經系統更新過往提交的資料檔或刪除錯誤檔案。

¹¹ 自動交換資料網站將提供最新的數據規格，供金融機構下載。

(d) 提交自動交換資料申報表

金融機構應在上載所有數據檔案後，填寫自動交換資料報表，並把資料檔附加在報表內，再以數碼證書簽署報表。

3.10 稅務局會採取嚴格縝密的運作管理和保安措施，確保不論是從金融機構還是從締約伙伴所接獲的所有資料，均予以保密。只有獲授權者才可查閱敏感資料，並須妥為記錄，供審計追蹤之用。稅務局也會定期進行保安風險評估，以及在有需要時更新資料保密政策。任何人如違反資料保密規定，將受處分。

建議實施安排的時間表

3.11 如條例草案在二零一六年年中獲立法會通過，我們建議在香港實施自動交換資料安排的時間表如下 –

| <u>行動</u> | <u>計劃中的時間表</u> |
|---|----------------|
| 金融機構就新的和現有帳戶進行盡職審查程序，以辨識須予申報的帳戶，並保存相關資料 | 二零一七年一月 |
| 金融機構向稅務局登記 | 二零一七年九月 |
| 金融機構向稅務局提交自行研發的測試數據檔案，以作確認 | 二零一七年第四季 |
| 稅務局向金融機構發出自動交換資料報表 | 二零一八年一月 |
| 金融機構向稅務局提交自動交換資料報表 | 二零一八年五月 |
| 稅務局把資料轉交自動交換資料伙伴 | 二零一八年年底 |

第四章

徵詢意見

4.1 全球論壇表示，預期最遲需於二零一八年年底前進行首次自動交換資料。換言之，金融機構須於二零一七年就其金融帳戶展開盡職審查程序。我們現時的目標，是在二零一六年年初向立法會提交修訂條例草案。關於香港擬採用的自動交換資料模式的法律框架和運作架構方面，您的意見十分重要，有助我們制訂適合香港的模式，以確保自動交換資料安排可根據國際標準有效實施。

4.2 具體而言，請您就以下主要範疇發表意見 –

- (a) **金融機構、無須申報金融機構及獲豁免帳戶** – 您對根據共同匯報標準框架而建議的金融機構(第 2.12 段)、無須申報金融機構(第 2.15 及 2.16 段)至獲豁免帳戶(第 2.17 段)的範圍有意見嗎？
- (b) **申報規定** – 您對第 2.19 段根據共同匯報標準框架而建議的申報規定有意見嗎？
- (c) **盡職審查程序** – 您對第 3.1 段根據共同匯報標準框架(包括處理特定情況的其他方式)而建議的盡職審查程序有意見嗎？
- (d) **金融機構就辨識及備存關於須予申報稅務管轄區資料的規定** – 作為金融機構，即使第 2.20 段建議法例要求金融機構只須向稅務局申報須予申報稅務管轄區的資料，您會辨識及備存須予申報的稅務管轄區的帳戶資料(即只限於已與香港簽訂主管當局協定的稅務管轄區)，還是會辨識和備存所有非香港稅務居民的帳戶持有人的資料？
- (e) **擬議罰則** – 擬議的罰則與相關的罰行(第 2.24 及 2.25 段)是否合乎比例？您是否同意我們應就提供虛假自我申報證明書的個人帳戶持有人施加罰則嗎？
- (f) **保密及通知** – 貴機構是否已制訂機制，以更新客戶資料，並符合關於保密的保障設施的要求(第 2.33 段)？

- (g) **資訊科技系統** – 作為金融機構，您會使用自行研發的軟件還是稅務局的軟件，以擬備自動交換資料報表的數據檔案？當中涉及什麼考慮(第 3.9 段)？

4.3 請在二零一五年六月三十日或之前，以郵寄、傳真或電郵方式發表您對上述問題及其他關於自動交換帳戶資料的看法及意見：

郵寄： 香港添馬
添美道 2 號
政府總部 24 樓
財經事務及庫務局(庫務科)
收入組

傳真： 2179 5848
(經辦人：自動交換帳戶資料諮詢)

電郵： aeoi@fstb.gov.hk

4.4 公眾就本諮詢文件提交意見時可付上個人資料，此舉純屬自願。蒐集所得的意見書和個人資料或會轉交有關的政府決策局和部門，用於與是次諮詢直接有關的用途。獲取資料的決策局和部門只可把該等資料作這些用途。

4.5 我們或會公開就本諮詢文件提交意見書的個人及團體(「提交意見者」)的姓名／名稱及其意見，供公眾查閱。我們可能在內部或公開與其他人士討論時，或日後發表的報告中，引述提交意見者就諮詢文件提交的意見。

4.6 為了保障提交意見者的個人資料私隱，我們在刊登其意見書時，會把其提供的有關資料，例如住址／回郵地址、電郵地址、身分證號碼、電話號碼、傳真號碼和簽名等刪除。

4.7 提交意見者如不欲公開其姓名／名稱，以及／或全部或部分意見，我們會尊重其意願。提交意見者如在其意見書中要求把身分保密，我們會在公開意見書時刪除其姓名／名稱。提交意見者如要求把意見書保密，我們將不會公開其意見書。

4.8 如提交意見者並無要求不公開身分或把意見書保密，則視作可公開其姓名／名稱和其全部意見。

4.9 向本局提交意見書的人士有權查閱所提供的個人資料和予以更正。提交意見者可循上述途徑，書面向財經事務及庫務局助理秘書長(庫務)(收入)¹提出有關要求。

財經事務及庫務局
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;

- 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.

在香港實施自動交換資料的立法模式示意圖

