



HONG KONG MONETARY AUTHORITY
香港金融管理局

Our Ref: B10/1C
B1/15C
B9/140C

7 August 2024

The Chief Executive
All Authorized Institutions

Dear Sir / Madam,

Automatic Exchange of Financial Account Information in Tax Matters

In relation to the automatic exchange of financial account information in tax matters (“AEOI”) under the Inland Revenue Ordinance (Cap. 112) (“IRO”), I am writing to draw your attention to a legislative exercise which seeks to amend the list of participating jurisdictions and expand the list of reportable jurisdictions under Schedule 17E to the IRO for the purpose of AEOI.

Legislative amendments

Hong Kong has since June 2016 implemented the Common Reporting Standard (“CRS”) for AEOI promulgated by the Organisation for Economic Co-operation and Development (“OECD”). The international standard on AEOI is an important part of the international effort to enhance tax transparency and combat cross-border tax evasion. It is therefore important for Hong Kong’s reputation as an international financial centre that implementation of AEOI continues to be both timely and effective.

Under the CRS, Hong Kong’s reporting financial institutions (“FIs”) are required to identify reportable accounts held by tax residents of reportable jurisdictions in accordance with the due diligence procedures, and collect required information on those tax residents and furnish a return to the Inland Revenue Department (“IRD”). The IRD will then exchange the information with the tax administrations of Hong Kong’s AEOI partner jurisdictions with which there is

a reciprocal exchange relationship. Currently, 126 reportable jurisdictions are specified in Part 1 of Schedule 17E to the IRO.

A reporting FI in Hong Kong is also required to “look through” an account holder which is a professionally managed investment entity (“Relevant Entity”) but not a FI that is resident in a participating jurisdiction, and see if any controlling persons of the Relevant Entity is a tax resident of a reportable jurisdiction. If affirmative, the reporting FI concerned is required to report relevant information to the IRD for exchange with the reportable jurisdiction concerned. Currently, 100 participating jurisdictions are specified in Part 2 of Schedule 17E to the IRO.

In response to the recommendation made by the OECD, the Government has carried out a legislative exercise to amend the list of participating jurisdictions under Schedule 17E to the IRO. This involves the addition of 11 jurisdictions which have already activated or have committed to activating exchange relationship for AEOI with Hong Kong, and the removal of nine jurisdictions which have not activated exchange relationships with Hong Kong.

The legislative exercise also expands Hong Kong’s AEOI network by including three jurisdictions which have indicated a wish to activate exchange relationships for AEOI with Hong Kong in the list of reportable jurisdictions with the first reporting year being 2026. FIs are expected to commence data collection for tax residents of these additional three jurisdictions starting from 1 January 2025 and file the first submission to the IRD in 2026.

Details of the legislative amendments are set out in **Annex A**. The legislative amendments will come into operation on 1 January 2025.

Taking this opportunity, we would like to remind authorized institutions (“AIs”) of the guidance and expectations in respect of the implementation of AEOI by AIs as set out in the HKMA’s circular of 11 October 2016, which is superseded by this circular.

Compliance with the due diligence and reporting obligations under the IRO

The relevant legal requirements under the IRO in relation to the implementation of AEOI have been in place since 2016 and AIs should already have established processes and controls to comply with the relevant due diligence and reporting obligations. As part of these processes, all AIs should carefully review the amendment to the list of participating jurisdictions and expansion of the list of reportable jurisdictions, in order to ensure ongoing compliance.

Customer communications in relation to the AEOI arrangement

AIs should have already adopted the high-level guiding principles on customer communications for AEOI purposes (which are included as **Annex B** of this circular). In the process of implementing the AEOI arrangement, AIs are expected to adopt a balanced approach in meeting statutory obligations under the AEOI regime while treating customers fairly, and to take into consideration individual circumstances and customer experience when communicating with customers. AIs should continue to pay attention to the key outcomes in the process, including clear customer communication, minimising customers' burden as far as practicable, supporting customers in providing relevant information during the process. Insofar as personal data are involved in the context of AEOI, AIs are also reminded to ensure compliance with the requirements of the Personal Data (Privacy) Ordinance (Cap. 486). The requirements set out in the relevant codes of practice issued by the Privacy Commissioner for Personal Data (if applicable) should also be observed.

With the above in mind, AIs should commence any necessary planning and preparation work required sufficiently early in advance of the expected commencement date of the legislative amendments on **1 January 2025**. AIs should also keep abreast of the implementation of the legislative amendments, and any other future developments in relation to AEOI¹.

Enquiries on this circular may be addressed to Ms Maggie Wong or Mr Desmond Lo (aml@hkma.gov.hk) (on compliance with the statutory obligations under the IRO) and Mr Horus Leung (hkhleung@hkma.gov.hk) (on customer communications) respectively.

Yours faithfully,

Alan Au
Executive Director (Banking Conduct)

¹ The IRD maintains a dedicated webpage on AEOI: https://www.ird.gov.hk/eng/tax/dta_aeoi.htm

The Hong Kong Association of Banks and the Private Wealth Management Association have also developed the "Guidance Notes on Common Reporting Standard for Automatic Exchange of Financial Account Information" to assist AIs in implementing their due diligence and reporting obligations.

Encl.

c.c. The Chairman, Hong Kong Association of Banks
 The Chairman, DTC Association
 The Chairman, Private Wealth Management Association
 Secretary for Financial Services and the Treasury
 (Attn: Mr Justin To and Mr Ian Chin)
 Privacy Commissioner for Personal Data
 (Attn: Ms Ada Chung)



Legislative amendments (with effect from 1 January 2025)

**Jurisdictions to be removed from the list of participating jurisdictions under
Schedule 17E to the Inland Revenue Ordinance**

- | | |
|---|----------------------------------|
| 1 | Bahrain |
| 2 | Belize |
| 3 | Marshall Islands |
| 4 | Montserrat |
| 5 | Nauru |
| 6 | Niue |
| 7 | Saint Vincent and the Grenadines |
| 8 | Seychelles |
| 9 | Trinidad and Tobago |

**Jurisdictions to be added to the list of participating jurisdictions under
Schedule 17E to the Inland Revenue Ordinance**

- | | |
|----|------------|
| 1 | Azerbaijan |
| 2 | Ecuador |
| 3 | Jamaica |
| 4 | Kazakhstan |
| 5 | Kenya |
| 6 | Maldives |
| 7 | Nigeria |
| 8 | Oman |
| 9 | Pakistan |
| 10 | Peru |
| 11 | Thailand |

**Jurisdictions to be added to the list of reportable jurisdictions under
Schedule 17E to the Inland Revenue Ordinance**

- | | <i><u>Reporting year</u></i> |
|---|------------------------------|
| 1 | Ecuador |
| 2 | Oman |
| 3 | Thailand |



High-level guiding principles
on customer communications for AEOI purposes

1. The overarching principle is for AIs to embrace a balanced approach in meeting their CRS/AEOI regulatory obligations while treating customers fairly and taking customers' experience into consideration when designing the AEOI implementation framework, in order to raise customers' awareness and manage customers' expectation with a view to alleviating customers' burden and preventing customer complaints.
2. Adequate emphasis should be given to customers' perspectives when drafting the industry guidelines and supporting customer communication materials for AEOI, apart from observing necessary regulatory and legal perspectives¹.
3. On due diligence scoping, AIs should suitably formulate and design the relevant processes (including but not limited to filters/criteria design) for identifying customers or groups of customers to be approached for AEOI documentation, while keeping in mind the objective of seeking to minimise customers' burden as far as practicable within the bounds of the CRS/AEOI requirements. Among other things, AIs should review whether there is a practical need for sending the AEOI documentation request to all of their pre-existing customers before doing so, and AIs doing so should, in line with Principle 4, clearly explain to their customers the basis of their approach and provide explanatory note(s) that would help proactively address likely questions or concerns of customers.
4. On customer communication approach, AIs should clearly inform customers of the purpose of and expectation in connection with the CRS/AEOI and explain the additional information requirement as a result, in order to improve clarity on what is reasonably expected of their customers and to enhance their customers' understanding on services that are available to them on this front. Where appropriate, AIs could leverage and build upon the subject-based / public education / awareness materials (e.g. AIs to disseminate printed materials) on CRS/AEOI, in order to minimise the

¹ For avoidance of doubt, AIs are not in a position to offer any tax and legal advice to their customers including but not limited to the CRS self-certification.

potential of mixed messages their customers may receive during their involvements in the AEOI regime in Hong Kong. This includes the following scenarios, at a minimum:

- (a) When sending documentation requests to customers, AIs should provide explanatory note(s) that would help proactively address likely questions or concerns of customers. For example, a customer would naturally be curious as to why he/she being a resident in Hong Kong should need to provide any additional information and make any tax reporting to other authorities outside Hong Kong; and if Hong Kong is the sole tax residence of the account holder, whether his/her financial account information will still be reported to the Inland Revenue Department in Hong Kong.
 - (b) AIs should, for instance, through dissemination of the relevant customer communication materials, explain to their customers that financial institutions (except those exempted) in Hong Kong are required by law to implement CRS/AEOI framework and in the process may obtain a self-certification and/or further information, if needed, from customers in order to determine the client's jurisdiction/jurisdictions of tax residence, which is necessary and unavoidable for Hong Kong (just like other international financial centres) as part of its commitment in the global CRS/AEOI efforts in enhancing tax transparency and combatting cross-border tax evasion, and AIs would work with their customers to seek to alleviate concerns. For example, it would be advisable not to simply attribute the arrangements to "regulatory requirements" without providing appropriate explanation on the details and purpose of doing so.
5. On customer communication materials, AIs should exercise professional judgment and pragmatism in the preparation of AEOI customer communication contents, and have in place appropriate management process (including but not limited to reviews and supervision) to manage customer communication materials and channels that would take into consideration all relevant guiding principles.² AIs should also minimise the use of legalese in communication materials e.g. explanation should be matter-of-fact and uncomplicated, where feasible.

² AIs are expected to have their customer communication materials reviewed and commented on by their Quality Assurance or similar functional unit to make sure customers' perspectives are taken into account. Senior management of AIs should exercise professional judgement and take a pragmatic instead of a purely legalistic approach in coming up with the customer communication materials.

6. On customer support, AIs should ensure that appropriate procedures and staff training are in place for responding to customer enquiries in a prompt and user-friendly manner. For example, it is advisable for AIs not to only referring their customers to the bank websites, in order to minimise customers' frustration. AIs should leverage on and make available different business-as-usual account opening and servicing channels for addressing customer enquiries or concerns, while delivering consistent customer experience. For example, AIs should include clear written instructions in the self-certification forms, and should provide user-friendly support or measures to cater for possible customer queries that may arise.