

1. 什麼是《共同匯報標準》(CRS)?

《共同匯報標準》(CRS)是由經濟合作與發展組織(「經合組織」)發佈的準則,旨在構建一個關於稅務事宜自動交換財務帳戶資料(「自動交換資料」)的全球模型以打擊逃稅及確保報告稅務系統的完整性。

超過100個稅務管轄區(包括香港,合稱「參與稅務管轄區」)已正式承諾將實施該準則。根據CRS,參與稅務管轄區的金融機構須執行盡職審查程序,以識辨帳戶持有人的居留司法管轄區(jurisdiction of residence)並識辨財務帳戶是否屬「須申報帳戶」。金融機構需要向當地稅務機構申報「須申報帳戶」的相關資料。當地稅務機構將與「申報稅務管轄區」的稅務機構交換當地稅務居民的相關資料。

1. What is CRS?

The Common Reporting Standard (“CRS”) released by the Organisation for Economic Co-operation and Development (“OECD”) aims to put in place a global model of automatic exchange of financial account information in tax matters (“AEOI”) to combat tax evasion and protect the integrity of taxation systems.

Over 100 jurisdictions, including Hong Kong, have publicly expressed commitment to its implementation (“Participating Jurisdictions”). Under the CRS, a financial institution (“FI”) of a Participating Jurisdiction is required to carry out due diligence procedures to identify the jurisdiction of residence of an Account Holder and identify whether a financial account is a “Reportable Account”. In respect of a Reportable Account, an FI will need to report relevant information to the local tax authorities, who then exchange the relevant information with the tax authorities of the Reportable Jurisdictions where Account Holders are tax residents.

2. 有關CRS的香港法律何時生效?

為了使CRS具有法律效力,香港政府已將自動交換資料標準的所有基本要求納入本地法律中。《2016年稅務(修訂)(第3號)條例》(「修訂條例」)已於2016年6月30日發佈生效。

2. When will the Hong Kong legislation on CRS become effective?

In order to give legal effect to CRS, the Hong Kong Government has included all essential requirements of the AEOI standard into local legislation. The Inland Revenue (Amendment) (No.3) Ordinance 2016 (the “Amendment Ordinance”) was published and came into effect on 30th June 2016.

3. 《共同匯報標準》(CRS)有什麼要求?

在共同匯報標準下,財務機構須根據盡職審查程序,以識辨申報稅務管轄區的稅務居民所持有的財務帳戶。財務機構須收集並向稅務局提交該些帳戶的所需資料。相關資料會每年被交換。

3. Any requirement of CRS?

Under CRS standard, financial institutions are required to identify financial accounts held by tax residents of reportable jurisdictions in accordance with due diligence procedures. Required information of these accounts has to be collected and furnished to the Department. Such information will be exchanged on an annual basis.

4. 金融機構遵從CRS須採取什麼措施?

CRS要求金融機構蒐集並複核資料,以識辨須申報帳戶,並將須申報帳戶的持有人信息及財務資料按年向當地稅務機關(即香港稅務局「稅務局」)進行申報。

4. What do FIs have to do to comply with CRS?

CRS requires FIs to review and collect information that will enable them to identify Reportable Accounts and report the relevant personal and financial data of the Reportable Accounts to the local authority (i.e. the Hong Kong Inland Revenue Department (“IRD”)) on an annual basis.

5. 金融機構遵從CRS會對客戶產生何種影響?

根據CRS,金融機構需對「須申報帳戶」進行申報。若該帳戶持有人為香港納稅人且不屬香港以外任何地區的稅務居民,則無需申報。修訂條例要求金融機構應用盡職審查程序向帳戶持有人收集全部所需資料及文件。為識辨須申報帳戶,金融機構可要求帳戶持有人填寫自我聲明表格,以核實其稅務居民身份。

5. How will the adoption of CRS by FIs impact clients?

Under CRS, FIs will be liable for reporting on Reportable Accounts, i.e. financial accounts held by individuals or entities that are tax residents in jurisdictions that have signed AEOI agreements with Hong Kong. Hong Kong taxpayers who are not tax residents of any territory outside Hong Kong will not be reported. The Amendment Ordinance requires FIs to apply due diligence procedures to collect all required information and documentation from Account Holders. To identify Reportable Accounts, FIs may ask Account Holders to complete self-certification forms for identification of their tax residency status.

6. 哪些客戶將受CRS的盡職審查及申報規定的影響？

在金融機構中持有財務帳戶的客戶將受制於CRS規定的盡職審查程序。受影響的客戶包括個人(不論直接或間接地通過某個實體進行銀行業務)及實體(如法團、合夥企業或信託等)。被識別為申報對象的客戶(即屬已同香港簽訂自動交換資料協議的稅務管轄區的稅務居民)的相關信息，將按照CRS規定被申報。因此，根據CRS，稅務居留司法管轄區僅為香港的客戶無須被申報。

6. Which types of clients are affected by CRS due diligence and reporting?

Clients that hold financial accounts in FIs will be subject to CRS required due diligence procedures. Clients affected include individuals (whether banking directly or indirectly through an entity) and entities such as corporations, partnerships and trusts, etc. Clients that are identified as reportable persons, i.e. tax residents of jurisdictions that have signed AEOI agreements with Hong Kong, will be subject to CRS required reporting. Therefore, clients whose jurisdiction of tax residence is Hong Kong only are not subject to reporting for CRS purposes.

7. 客戶如何及在何處能獲取有關CRS的額外協助？

客戶可於稅務局網站 (http://www.ird.gov.hk/chi/tax/dta_aeoi.htm) 查閱相關參考資料(如自動交換資料單張及常見問題等)。客戶亦可於經合組織建立的AEOI網站參閱有關CRS的資訊，或諮詢其律師或稅務顧問之意見。

7. How and where can clients get additional assistance regarding CRS?

Clients may refer to the AEOI reference materials such as the AEOI Pamphlets and FAQs available at the IRD website (http://www.ird.gov.hk/eng/tax/dta_aeoi.htm) for more information.

8. 如客戶不確定其稅務居留地，該如何處理？

一般而言，要斷定某個人或實體是否屬一個稅務管轄區的稅務居民，會根據有關人士身處之地或逗留於該地的時間(例如是否在一個課稅年度超過183天)；如屬公司的情况，則根據有關公司成立為法團的地點或其集中管理及控制的地點而斷定。

客戶有義務確定其稅務居留地，客戶可於經合組織建立的AEOI網站內

(<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/#d.en.347760>)，尋找更多有關不同稅務管轄區的稅務法律對其稅務居民的定義的資料，或諮詢其律師或稅務顧問。

8. What if the client is unsure about his/her tax residence?

In general, whether or not an individual or entity is a tax resident of a jurisdiction is determined by having regard to the person's physical presence or stay in a place (say, whether over 183 days within a tax year) or, in the case of a company, the place of incorporation or where the central management and control of the entity lies.

Information with respect to the tax residency rules and tax identification numbers ("TINs") of the Participating Jurisdictions is available at the OECD AEOI Portal (<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/>).

9. 獨資經營應填寫個人還是實體自我聲明？

CRS將獨資經營視為個人，故須填寫獨資經營者的個人自我聲明。

9. Sole Proprietorship need to complete individual self-certification or entity self-certification?

CRS regards sole proprietorship as an individual, so it is necessary to complete individual self-declaration.

10. 客戶在自我聲明方面有什麼責任？

客戶須負責自我聲明中申報資料的準確性。根據修訂條例，帳戶持有人在向金融機構提供自我聲明時，若明知或罔顧實情而作出在要項上具誤導性、虛假或不準確的資料，則屬違法且須處第3級罰款。此外，根據現行《稅務條例》，任何人士在無合理辯解下因稅務交換資料要求向稅務局提供不正確資料，而影響該人士在香港以外任何地區(即與香港簽訂《全面性避免雙重課稅協定》或《稅務資料交換協定》的夥伴)的稅務責任，則屬違法。

一般而言，帳戶持有人或其控權人(如相關)的稅務居留地如有任何變更，帳戶持有人需要於30天內向金融機構提供更新的自我聲明。

10. What are the obligations of the clients with respect to the self-certification?

Clients are responsible for the accuracy of information declared in the self-certification. According to the Amendment Ordinance, an Account Holder that knowingly or recklessly provides misleading, false or incorrect information in a material particular, in making a self-certification to the FIs commits an offence and will be subject to a fine at level 3. Furthermore, under the existing Inland Revenue Ordinance ("IRO"), any person who without reasonable excuse gives any incorrect information to IRD for the purpose of exchange of tax information in relation to any matter affecting the person's own liability to any tax of a territory outside Hong Kong (i.e. Hong Kong's Comprehensive Double Taxation Agreement ("CDTA") or / Tax Information Exchange

Agreement (“TIEA”) partners) commits an offence.

Generally, Account Holders should provide FIs with a new updated self-certification within 30 days of any change in their own and their controlling persons’ (where relevant) tax residence⁶.

11. CRS是否有預扣要求？

不同於美國政府的《外國帳戶稅務合規法案》(FATCA)，CRS 並無預扣稅款要求。除非特定稅務管轄區的地方規例另行要求，CRS並不需要預扣。

11. Is there any withholding obligation under CRS?

Unlike FATCA⁷, CRS does not require tax withholding. Unless otherwise stipulated by the local regulations of the Participating Jurisdictions, it is not expected that there will be withholding impact under CRS.

12. 根據CRS要求，哪些資料會被申報？

金融機構需在盡職審查程序中識別每個需申報帳戶的以下資料並作出申報：

個人資料 (包括：帳戶持有人的姓名、地址、出生日期、居留司法管轄區和稅務編碼(TIN)；及

財務資料 (包括：帳戶編號、利息、股息、帳戶餘額或價值、保險產品產生的收入、該帳戶持有的財務資產而產生的、支付予該帳戶的或就該帳戶而支付的其他收入)。

如果帳戶持有人被歸為被動非財務實體，還需取得該帳戶持有人的控權人的個人資料和財務資料。

12. What information will be reported under CRS?

The information to be reported on each reportable account that is identified through the due diligence procedures performed by the FIs, comprises:

Personal data (i.e. name, address, date of birth (if applicable), jurisdiction of residence and taxpayer identification number (“TIN”) of the Account Holder); and

Financial data (i.e. account number, interest, dividends, account balance or value, income from certain insurance products, sales proceeds from financial assets and other income generated with respect to assets held in the account or payment made to the account).

If the Account Holder is classified as a passive NFE, similar personal and financial data of the controlling person(s) of the Account Holder should also be obtained.

13. 客戶能否反對金融機構進行申報？

不能。根據修訂條例規定，金融機構應依法申報帳戶持有人的資料(如適用)。如果客戶不准許金融機構將其資料作自動交換資料用途，金融機構可考慮是否繼續保留其帳戶。

13. Can clients object to FIs making any reporting?

No. It will be a legal requirement for FIs to report the Account Holder’s information, where applicable, in accordance with the Amendment Ordinance requirements.

14. 我在居住地納稅，是否仍需提供這些資料？

根據CRS規定，我們有法律責任確定所有客戶的稅務居民身分，包括稅務居民所在地與持有帳戶所在地相同的客戶。不過就CRS 而言，這種情況一般不需要向稅務機關匯報資料。

14. I live in the same country as I pay tax so why do I need to give you these details?

Under the CRS, we are legally required to establish the tax residency status of all our clients, even if you are tax resident in the same country as where you hold your account. However, typically your details will not be reportable to the tax authorities for CRS purposes.

15. 如果客戶是美國人，是否同時要提供及申報有關FATCA及CRS所需資料？

是。

15. If client is an American, is it necessary to provide and report the information required for FATCA and CRS?

Yes

16. 如客戶對已申報的資料有異議，該如何處理？

根據財務帳戶條款條例(或合約)，客戶(即帳戶持有人)有責任告知金融機構其發現的個人或財務資料錯誤或變更。根據

《個人資料(隱私)條例》，客戶有權要求金融機構更正有關他/她的不準確資料。如果個別客戶不允許金融機構將其資料作自動交換資料用途，金融機構可考慮是否繼續保留其帳戶。

16. What happens if clients disagree with the information that has been reported?

Clients (i.e. Account Holders) are responsible, under financial account terms and conditions (or contracts), for informing the FIs of any changes to and erroneous information, whether personal or financial, that comes to their attention. In accordance with the PDPO, an individual has the right to require the FI to correct any data relating to him/her which is inaccurate. In case an individual refuses to allow the financial institution to release his/her personal data for AEOI purposes, the FI may have to consider whether or not the account should be maintained.

17. 如有任何情況改變而影響客戶的稅務居民身份，要通知嗎？

當影響您稅務居留身份或稅務編號的情況出現時，請在 30 日內向本公司提供一份已更新的自我證明表格。

17. What should I do if there are changes in circumstances that affect my tax residency?

Please provide us with an updated self-certification form within 30 days when there is a change which affects your tax residency status or TIN number.

18. 客戶是否需每年提供一次自我證明表格？

原則上我們只會要求您填寫自我證明表格一次。我們可能會在您更新您的個人資訊或當我們有理由相信您的可報告狀態可能已更改時與您聯繫，填寫另一份表格。

18. Does client need to provide self-certification form once a year?

In principle we will only ask you to fill out a self-certification form once. We might contact you to fill out another form when you update your personal information or when we have a reason to believe that your reportable status may have changed.

作為一家金融機構，我們不得提供稅務或法律意見。As a financial institution, we are not allowed to give tax or legal advice.

如對此自行證明書、指引或釐定您的納稅居住地狀況有任何疑問，請與您的稅務顧問或當地稅務機關聯絡、或瀏覽香港稅務局及經合組織網站。If you have any questions about this form, these instructions, or defining your tax residency status, please speak to your tax adviser or domestic tax authority.