



Dear Valued Client

**Common Reporting Standard ("CRS") for the Automatic Exchange of Financial Account Information ("AEOI") for Tax Reporting Purposes**

Over 100 jurisdictions, including the Government of the Hong Kong SAR, have committed to the implementation of AEOI for tax reporting purposes based on the CRS released by the Organisation of Economic Cooperation and Development ("OECD") in July 2014. AEOI is a new international standard for combating tax evasion, which involves the transmission of financial account information from Hong Kong to an overseas tax jurisdiction with which Hong Kong has entered into an AEOI agreement. While some jurisdictions introduced CRS on January 1, 2016, Hong Kong implemented CRS on January 1, 2017 and commenced the first information exchange in 2018.

Citibank strives to best protect the integrity of our tax system. We have put in place a robust program to support the implementation of CRS and to assist our customers in complying with the relevant laws and regulations.

Pursuant to the Inland Revenue (Amendment) (No.2) Ordinance 2017 (or as may be amended or supplemented from time to time), Financial Institutions ("FIs") are required to identify the jurisdiction(s) of tax residence of their account holders (including individuals and corporate entities). If the account holders are identified to be tax residents of any CRS reportable jurisdiction, FIs are required to report certain account information (i.e. name, address, date and place of birth, jurisdiction of residence, tax identification number, account balance and certain income, etc.) to the Hong Kong Inland Revenue Department ("IRD") which will then exchange the information with the tax administration of the relevant jurisdictions. If Hong Kong is your sole tax residence, your financial account information will not be reported to the IRD.

In respect of customers with accounts opened before January 1, 2017, the bank may require the account holder to submit a self-certification if it has doubts about his/her tax residency based on our system record. Under the CRS framework, self-certification is a formal declaration that the account holder makes in connection with his/her tax residence. All new customers with accounts opened on or after January 1, 2017 will be required to complete self-certification upon account opening.

For an overview of the AEOI and CRS requirements, please refer to the enclosed Frequently Asked Questions or visit the IRD website: [http://www.ird.gov.hk/eng/tax/dta\\_aeoi.htm](http://www.ird.gov.hk/eng/tax/dta_aeoi.htm) . If you are not sure about your tax residence, you are recommended to seek advice from professional tax advisers.

In connection with the implementation of the AEOI, we have updated our Policy Statement relating to the Personal Data (Privacy) Ordinance ("Policy Statement"). Please access the latest Policy Statement through our website [www.citibank.com.hk/dataprivacy](http://www.citibank.com.hk/dataprivacy) for your reference, and we would also like to draw your attention to Clause (d)(x).

Thank you for your cooperation and understanding. If you have any enquiries, please contact our Citiphone banking hotline at (852) 2860-0333.

Yours faithfully

Citibank (Hong Kong) Limited

## FAQs

### 1. What is AEOI?

AEOI is a new system that involves the transmission of financial account information from Hong Kong to an overseas tax jurisdiction with which Hong Kong has entered into an AEOI agreement (or known as an "AEOI partner"). The information relates only to the tax residents of the jurisdiction of the AEOI partner.

### 2. Why does Hong Kong have to implement AEOI?

Exchanging financial account information on an automatic basis is a new international standard, designed to enhance tax transparency and combat cross-border tax evasion. Members of the international community have been advocating AEOI as a more efficient mode of international tax cooperation and have made it a new global standard. The Organisation for Economic Cooperation and Development ("OECD") released in July 2014 the Standard for Automatic Exchange of Financial Account Information in Tax Matters, calling on governments of all jurisdictions to obtain relevant financial account information from their financial institutions and exchange that information automatically with jurisdictions of residence of account holders on an annual basis.

As a responsible international citizen and a leading financial centre, Hong Kong indicated in September 2014 our commitment to implement AEOI and commence the first information exchanges by the end of 2018. The commitment was premised on the condition that Hong Kong could put in place necessary domestic legislation by 2017.

As at 5 May 2017, 100 jurisdictions over the world have committed to the implementation of AEOI.

The Inland Revenue (Amendment) (No. 3) Ordinance 2016 ("the Amendment Ordinance"), which commenced operation on 30 June 2016, has put in place a legislative framework for Hong Kong to implement AEOI. To deliver the commitment, Hong Kong will commence the first exchanges by the end of 2018.

### 3. Who will be the reportable persons for AEOI?

A financial institution resident (or known as "located") in Hong Kong will identify the financial accounts held by individuals or entities liable to tax by reason of residence in the AEOI partner jurisdictions. The financial institution will collect and furnish to the Inland Revenue Department ("IRD") information of the identified account holders (individual or entity) and the financial account information on an annual basis. IRD will then transmit the information to the tax administration of the relevant jurisdiction of which the account holder is tax resident.

### 4. How will individuals and entities be affected by AEOI?

Reporting financial institutions will be liable for reporting on financial accounts held by reportable persons. Hong Kong taxpayers who are not tax residents of any territory outside Hong Kong will not be reported. The Inland Revenue Ordinance ("IRO") requires the reporting financial institutions to apply due diligence procedures to collect all required information and documentation from account holders. To identify reportable persons, reporting financial institutions may ask account holders to complete self-certification forms for verification of their tax residency status. The self-certifications will be kept by the reporting financial institutions for a period of six years.

### 5. What is a self-certification?

This is a formal declaration that the account holder makes in connection with his/her tax residence.

According to the due diligence procedures set out in the Amendment Ordinance (which are based on the international standard required), self-certifications would be required from account holders for all new accounts (i.e. accounts opened on or after 1 January 2017). As for pre-existing accounts (i.e. accounts opened before 1 January 2017), if a reporting financial institution has doubts about the tax residence of an account holder, it can seek a self-certification from the account holder to verify its tax residence. Please also see Item 7 below.

If the account holder has doubts about his/her tax residence, he/she may consider seeking professional advice.

In OECD's AEIOI portal, you can find more information regarding the tax laws of different jurisdictions for defining tax residence. The website address is

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/#d.en.347760>.

An account holder who knowingly or recklessly provides a statement that is misleading, false or incorrect in a material particular in making a self-certification to a reporting financial institutions is liable on conviction to a fine at level 3 (\$10,000). IRD may check the details of the self-certification, if necessary.

### 6. Why am I asked by a reporting financial institution to provide my tax residency in the self-certification?

Under the Amendment Ordinance, reporting financial institutions are required to apply the due diligence procedures to identify the tax residency of the account holders and controlling persons for the purpose of AEIOI. Therefore an account holder is required to provide his tax residency to a reporting financial institution.

### 7. I am a Hong Kong permanent resident and do not hold any foreign passports and only have tax liability in Hong Kong. Do I need to provide a self-certification to a reporting financial institution when opening a new account? Do I need to provide a self-certification to a reporting financial institution for my pre-existing accounts?

According to the due diligence procedures set out in the Amendment Ordinance, which are based on the international standard required, account holders have to provide self-certifications to the reporting financial institution in respect of their personal information, including tax residence, for all new accounts. For pre-existing accounts, financial institutions will be required to conduct due diligence procedures to identify and verify the tax residence of the account holders. In case of doubt,

self-certification from account holders will be sought. Furthermore, financial institutions can opt to apply the due diligence procedures of new accounts to pre-existing accounts. In other words, an account holder may have to provide a self-certification to a reporting financial institution regarding the pre-existing accounts.

**8. What if there are changes in circumstances that affect my tax residency?**

Account holders should advise the reporting financial institutions of any change in circumstances which affects their tax residency status or causes the information contained in a self-certification to become incorrect. Generally, account holders should provide financial institutions with a suitably updated self-certification form within 30 days of such change in circumstances.

**9. How will I know whether or not I am a tax resident of an overseas jurisdiction?**

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. That a person has paid taxes charged by a jurisdiction (say, value-added tax, withholding tax or capital gains tax) does not automatically render that person a tax resident of that jurisdiction.

In OECD's AEOI portal, you can find more information regarding the tax laws of different jurisdictions for defining tax residence. The website address is as follows:

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/#d.en.347760>

**10. Will the IRO specify who are tax residents of an overseas jurisdiction? How can a financial institution know and identify tax residence of their account holders?**

Each jurisdiction has its specific definition of tax residence. Tax laws may differ amongst jurisdictions and the tax residence of individual account holders may change from one year to another. Individual account holders ought to verify and update their tax residence and seek legal advice if necessary.

For new accounts, financial institutions will seek self-certification from account holders in respect of their personal information, including tax residence. For pre-existing accounts, financial institutions will be required to conduct due diligence procedures to identify and verify the tax residence of the account holders. In case of doubt, self-certification from account holders will be sought.

**11. I am a Hong Kong permanent resident and do not hold any foreign passports and only have tax liability in Hong Kong. Will my information be reported by financial institution to other jurisdictions under the AEOI regime?**

If you are not a tax resident in any territory outside Hong Kong, the financial institution is not required and should not report your financial account information to IRD for transmission to any tax administration outside Hong Kong.

**12. I stay and work full-time in Country A, while my spouse is a Hong Kong permanent resident and works in Hong Kong. We have maintained a joint account in Bank-HK, will Bank-HK need to declare my spouse's information to IRD for onward transmission to the tax authority of Country A if Hong Kong signed an AEOI agreement with Country A in future?**

If you are a tax resident of Country A in accordance with its tax law, Bank-HK will report information in the joint account (in entirety, with no apportionment) to IRD for transmission under AEOI to the tax administration of Country A. Bank-HK is not required to report the information of your spouse who is not a tax resident in any territory outside Hong Kong.

**13. I am a Hong Kong permanent resident and live and work in Hong Kong. I bought a property for self-residence in Country B and hold an account in Bank-HK. Will Bank-HK need to provide my financial account information to IRD for transmission to the tax authority of Country B if it becomes an AEOI partner of Hong Kong?**

Provided that you are not a tax resident of Country B under its tax laws, the ownership of a property in Country B and your liability to pay capital gains tax of Country B alone will not automatically render you a tax resident of Country B. Non-Hong Kong tax residents are advised to seek legal advice if in doubt.

**14. I am a tax resident of Country C and I hold a financial account for the benefit of my spouse who is not a tax resident of Country C. Will the financial account information be transmitted to the tax authority of Country C if it becomes an AEOI partner of Hong Kong?**

No. The account holder is the beneficiary, not the agent, of the account. You are not the account holder, but your spouse. Since your spouse is not a tax resident of Country C, the account information will not be exchanged. Only information of a financial account of which the beneficiary, and not the agent, is a tax resident of Country C will be exchanged.

**15. If I am a tax resident of an AEOI partner jurisdiction and hold a financial account at one of the financial institutions in Hong Kong, what information will be exchanged?**

As far as personal data is concerned, the information to be exchanged includes name, address, jurisdiction of residence, taxpayer identification number ("TIN"), and the date and place of birth. As for financial account data, it includes the account number, account balance or value (year-end), and the gross amount of interests, dividends and sale proceeds of financial assets as appropriate for the year concerned.

## 16. What is the definition of Hong Kong tax resident for the AEOL purposes?

For AEOL purposes, a person meeting the following criteria is regarded as a tax resident of Hong Kong:

Individual

- a. An individual ordinarily resides in Hong Kong; or
- b. An individual stays in Hong Kong for more than 180 days during a year of assessment or for more than 300 days in two consecutive years of assessment one of which is the relevant year of assessment.

Entity

- a. (where the entity is a company) the company is incorporated in Hong Kong; or if the company is incorporated outside Hong Kong, being normally managed or controlled in Hong Kong; or
- b. (where the entity is not a company) the entity is constituted under the laws of Hong Kong; or if the entity is constituted outside Hong Kong, being normally managed or controlled in Hong Kong.

For more information, please see the document about the tax residency for Hong Kong tax residents published on the Automatic Exchange Portal developed by the OECD:

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/Hong-Kong-Residency.pdf>

## 17. What is the Taxpayer Identification Number (TIN) of a Hong Kong tax resident for AEOL purposes? Is it the same as the "TIN" printed on the Tax Return-Individuals and related Notice of Assessment?

For AEOL purposes, the following identifiers will be equivalent to the TIN of a Hong Kong tax resident:

- a. Individuals: Hong Kong Identity Card (HKID) number of the Hong Kong tax resident.

The TIN equivalent for individuals includes all letters and numerals of the HKID number, including the letter or numeral in the bracket (but without bracket). The "TIN" shown on the Tax Return-Individuals and related Notice of Assessment is solely for login onto "eTAX" account and access to the e-services provided by the Inland Revenue Department. Such "TIN" is not used as a tax identifier of a Hong Kong tax resident and therefore should not be provided for AEOL purposes.

- b. Entities: Business Registration (BR) number of the Hong Kong tax resident.

The TIN equivalent for entities includes 8 numerals at the front of BR certificate number.

For more information, please see the document about the TIN for Hong Kong tax residents published on the Automatic Exchange Portal developed by the OECD:

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/Hong-Kong-TIN.pdf>

## 18. What types of financial institutions are covered by AEOL?

Financial institutions covered include -

- custodial institutions;
- depository institutions;
- investment entities; and
- specified insurance companies.

A financial institution will not have obligations under the AEOL regime in Hong Kong, unless it is a "reporting financial institution" which is defined to mean a financial institution resident in Hong Kong or a branch of a non-resident financial institution located in Hong Kong.

## 19. What types of accounts are covered by AEOL?

Financial accounts include -

- custodial accounts;
- depository accounts;
- equity or debt interests in investment entities; and
- cash value insurance contracts and annuity contracts.

## 20. What are the due diligence obligations of a reporting financial institution under the AEOL regime?

A reporting financial institution must establish, maintain and apply due diligence procedures to identify account holders (including controlling persons of the accounts) who are tax residents in reportable jurisdictions. The financial institution is also authorized to apply the due diligence procedures in relation to any financial account where the account holder is a tax resident in a territory outside Hong Kong that is not a reportable jurisdiction.

As the due diligence requirements are mandatory only for reportable accounts (but not other accounts held by residents of non-reportable jurisdictions), reporting financial institutions will be sanctioned only if they fail to identify, collect and report information of reportable accounts to IRD.

## 21. How can reporting financial institution verify the information in self-certification provided by an account holder?

Financial institutions are expected to rely on the self-certification if it satisfies the reasonableness test based on the information obtained by the institution in connection with the opening of the account, including any documentation collected pursuant to the prevailing due diligence or know-your-customers procedures.

Financial institutions are not expected to carry out an independent legal analysis of relevant tax laws to determine the residence of an account holder.

**22. If I am a reportable person, how can I know what information of my financial account that IRD has reported to other jurisdiction? Can I object to the financial institution for releasing my information to IRD?**

The IRO imposes legal obligation on financial institutions to establish and apply due diligence procedures to identify tax residents of reportable jurisdictions outside Hong Kong for AEOL purpose and collect specified information for submission to IRD.

Financial institutions are expected to observe requirements under the Personal Data (Privacy) Ordinance. For instance, they should inform the account holders of the purpose of use of the personal data for AEOL. They should take all practicable steps to ensure the accuracy and security of the personal data. Account holders are entitled to request access to and correction of their personal data. In case an individual refuses to allow the financial institution to release his personal data for AEOL purpose, the financial institution may have to consider whether or not the account should be maintained.

**23. Are there any exemptions provided for financial institutions or accounts? If so, are the due diligence and reporting obligations under the AEOL regime waived entirely?**

Yes, exemptions are provided to certain financial institutions and financial accounts which present a low risk of being used to evade tax. They are defined as "non-reporting financial institutions" and "excluded accounts" in the new Schedule 17C of the IRO. Non-reporting financial institutions do not have any due diligence and reporting obligations while excluded accounts are not subject to reporting by financial institutions.

**24. How will the financial institutions transmit the information to IRD?**

Financial institutions will furnish information of reportable financial accounts for a particular year (e.g. 2017) to IRD in May of the following calendar year (i.e. 2018). IRD has set up a secure and dedicated AEOL Portal for access by financial institutions. Online services provided under the Portal include -

- a. account registration (i.e. opening an AEOL account),
- b. filing notification,
- c. lodging financial account information return,
- d. checking return lodgment status, and
- e. submitting amendment to financial account information return.

IRD will issue electronic notices, through the AEOL Portal, to all financial institutions maintaining reportable accounts in January 2018 (and January annually thereafter) for filing the returns.

**25. When will IRD's AEOL Portal be ready for financial institutions to register?**

The AEOL Portal is ready for financial institutions to sign up with effect from 3 July 2017. A financial institution with reportable accounts can only open its AEOL account via the AEOL Portal. A Guide to Account Registration is available in the AEOL Portal.

**26. Can an entity act on behalf of more than one reporting financial institutions to open accounts at IRD's AEOL Portal and perform the due diligence and reporting obligations for the reporting financial institutions?**

Yes, the entity, i.e. the Lead Operator, is authorized to act on behalf of one or more reporting financial institutions to carry out registration via IRD's AEOL Portal; and perform all due diligence and reporting obligations under Part 8A of the IRO that the reporting financial institutions would have been required to perform. The Lead Operator's capacity can only be either a service provider or person acting for the financial institution to maintain financial accounts.

**27. Can the Lead Operator have access to more than one AEOL accounts?**

The Lead Operator will be allotted a unique Lead Operator Reference Number ("LORN"), which will enable the Lead Operator to operate the AEOL Accounts of reporting financial institutions for which it is acting by a single login. Once the registration of each reporting financial institution is completed, the Lead Operator can access each of the reporting financial institution's AEOL Account with a single LORN login. The Lead Operator does not need to log into each of the AEOL Account separately.

**28. How will IRD safeguard taxpayers' privacy and confidentiality of information exchanged?**

IRD will exchange information with AEOL partners only when an arrangement is in place with the relevant jurisdiction (e.g. an arrangement specified in section 49(1A) of IRO that covers comprehensive avoidance of double taxation agreement and tax information exchange agreement) to provide the basis for exchange. Safeguards have been provided to protect taxpayers' privacy and confidentiality of information exchanged as prescribed under the international standard. Such safeguards will apply to the information to be exchanged for AEOL purpose.

In addition, the AEOL agreement provides that all information exchanged is subject to the confidentiality rules and data privacy safeguards. Should there be any breach of such rules or safeguards, Hong Kong may suspend the information exchange or terminate the AEOL agreement with the partner concerned.

**29. What are the sanctions for financial institutions?**

The penalty provisions contained in the IRO seek to provide sufficient deterrent effect to ensure effective implementation of the AEOL regime in Hong Kong while not imposing disproportionately heavy sanction on financial institutions and individuals.

Three major categories of penalty were imposed to sanction non-compliance, "incorrect returns", and fraud with willful intent. The levels of penalties (generally penalty at Level 3/ \$10,000 for the first two categories, and penalties at Level 3 or Level 5/ \$50,000 with imprisonment for six months or three years for the last category) have made reference to other sanctions of similar gravity in the IRO.



### **30. Will individual account holders be sanctioned?**

The focus of the Amendment Ordinance is to ensure compliance by financial institutions; hence, the sanctions for non-compliance of the due diligence requirements and for filing of incorrect returns with intent to defraud were targeted at financial institutions.

As far as individual account holders are concerned, it is an offence for a person to provide, knowingly or in a reckless manner, misleading, false or incorrect information in a material particular, in making a self-certification to financial institutions. The penalty is fine at Level 3/ \$10,000. This is to ensure that we abide by the international standard concerning effective implementation.

### **31. The definition of "investment entity" includes any entity whose gross income is primarily attributable to investing, reinvesting, or trading in financial assets; and it is managed by another entity that is a financial institution (i.e. a professionally managed investment entity). When is an entity considered to be "managed by" another entity?**

An entity is "managed by" another entity if the latter entity performs, either directly or through another service provider, one or more of the following activities or operations on behalf of the first mentioned entity:

- a. trading in money market instruments, including cheques, bills, certificates of deposit, and derivatives; foreign exchanges; exchange, interest rate and index instruments; transferable securities; or commodity futures;
- b. individual and collective portfolio management; or
- c. otherwise investing, administering, or managing financial assets or money on behalf of other entity or individual.

However, an entity does not manage another entity if it does not have the discretionary authority to manage the latter entity's assets either in whole or in part.

### **32. If a Private Investment Company (PIC), which is typically set up for the purpose of investing in financial assets for generation of income, opens a financial account with discretionary mandate in a private bank, would that make the PIC an investment entity (i.e. a financial institution) as the PIC is investing in financial assets and managed by the bank?**

Whether an entity is a professionally managed investment entity depends on the facts and circumstances. Other than meeting the requirement of "managed by a financial institution, the "primarily" test has to be satisfied before an entity is to be considered as a professionally managed investment entity. The "primarily" test is met if an entity's gross income attributable to investing, reinvesting, or trading in financial assets equals or exceeds 50% of the entity's gross income during the shorter of (a) the three-year period ending on 31 December of the year preceding the year in which the determination is made; or (b) the period during which the entity has been in existence.

Despite above, the term "investment entity" does not include an entity that is an active NFE solely because it falls within any of the descriptions in paragraphs (d), (e), (f) and (g) of the definition of active NFE, which are summarized as follows:

- a. holding companies that are members of a non-financial group;
- b. start-up entities;
- c. entities that are liquidating or emerging from bankruptcy; or
- d. treasury centres that are members of a non-financial group.

In addition, the definition of passive NFE includes a professionally managed investment entity that is not a participating jurisdiction financial institution. In other words, if a professionally managed investment entity is resident or located in a non-participating jurisdiction, it will be treated as a passive NFE, rather than a financial institution.

### **33. If a PIC is a financial institution in accordance with the relevant definitions, what are its obligations under AEOI?**

Part 8A of the IRO imposes certain due diligence and reporting obligations on a reporting financial institution, which is defined to mean a financial institution resident in Hong Kong or a branch of a non-resident financial institution located in Hong Kong. Thus, if the PIC is resident in Hong Kong or a branch of a non-resident financial institution, it has the obligation to fulfill the requirements under Part 8A of the IRO.

### **34. The controlling person of a passive NFE that is a trust is defined to include an enforcer. What is an enforcer?**

An enforcer is a person who is given the power and duty to enforce the trust. The appointment of enforcer is commonly found in non-charitable trusts. The enforcer's role is to oversee the actions of the trustee to ensure those actions are in line with the purposes stated in the trust instrument.