

共同匯報標準 Common Reporting Standard (CRS)

常見問題 Frequently Asked Questions

壹、 CRS 簡介 Part I. CRS Introduction

1. CRS 是什麼? What is CRS?

CRS 是 Common Reporting Standard 「共同匯報標準」的簡稱。「共同匯報標準」是經濟合作與發展組織 (The Organisation for Economic Cooperation and Development, 簡稱「OECD」或「經合組織」) 在 2014 年 9 月通過的自動交換金融帳戶資料(Automatic Exchange of Financial Account Information, 簡稱 AEOI)的標準。

CRS, stands for Common Reporting Standard, is a standard endorsed in September 2014 for Organisation for Economic Cooperation and Development (OECD) members to implement under Automatic Exchange of Financial Account Information (AEOI).

AEOI 是一項新機制，涉及把財務機構提交的財務帳戶資料由香港傳送至與香港簽訂了自動交換資料協議的海外稅務管轄區(或稱為「自動交換資料伙伴」)。有關資料只涉及屬自動交換資料伙伴的稅務管轄區的稅務居民。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.

在 AEOI 架構下，CRS 就財務帳戶訂定所需申報的資料和財務機構應採取的盡責審查，並要求財務機構根據 CRS 就財務帳戶進行盡職審查程序及有系統地提交非本地居民客戶的財務資料。

Under AEOI, the type of information and the due diligence to put in place for all financial accounts are defined by the CRS. The CRS requires financial institutions to perform due diligence procedures and to transmit systematically financial data from their non-resident customers.

目前全球超過 100 個稅務當局已同意由 2017 年或 2018 年開始根據「共同匯報標準」每年交換財務資料。Over 100 jurisdictions have committed to an annual automatic exchange of financial account information from 2017 or from 2018 under CRS.

2. 為什麼香港要實施 AEOI/ 遵循 CRS? Why does Hong Kong have to implement AEOI/ follow CRS?

為了提高各稅務管轄區之間的稅務透明度，做為一個負責任的國際社會的成員且為世界金融中心的領導者，香港於 2014 年 9 月承諾在互惠基礎上遵循共同匯報標準(CRS)及參與自動交換金融帳戶資料(AEOI)。

In order to increase tax transparency between jurisdictions, Hong Kong, as a responsible member of the international community and a leading financial centre, indicated in September 2014 commitment to implement AEOI on a reciprocal basis.

3. 何時開始實施 AEOI? When will Hong Kong implement AEOI?

2017 年 1 月 1 日起，所有新帳戶皆須提交自我證明。香港預計於 2018 年年底進行第一次資料交換。

Account holders of all new accounts (i.e. accounts opened on or after 1 January 2017) have to provide self-certifications to the reporting financial institutions. The first exchange of financial account information for Hong Kong is expected to be commenced by the end of 2018.

4. 香港的自動交換資料伙伴有那些? Which country is the Hong Kong's AEOI partner?

香港會在互惠原則下，與相關的全面性協定/交換協定伙伴簽訂主管當局協定，進行自動交換資料，有關主管當局協定就自動交換資料標準所收集資料的傳送安排作出規範。最新的自動交換資料伙伴請參考香港稅務局網

頁。

Hong Kong conducts AEOI on a reciprocal basis with partners with which Hong Kong has signed a comprehensive avoidance of double taxation agreement (CDTA) or tax information exchange agreement (TIEA). The bilateral CDATAs or TIEAs signed provide the legal basis for AEOI. In addition, Hong Kong and the relevant CDTA/TIEA partners will have to sign a competent authority agreement (CAA), which sets out the modalities of transfer of information collected pursuant to the AEOI standard. For the latest news, please refer to Hong Kong Inland Revenue Department (“IRD”) website.

5. 是否香港所有的金融機構皆須遵循 CRS?

Are all the financial institutions in Hong Kong required to follow CRS?

依據《2016年稅務(修訂)(第3號)條例》(《修訂條例》)，在香港的自動交換資料框架下，居於香港的財務機構，或某財務機構位於香港的分支機構(而該財務機構本身並非居於香港)，即屬於「申報財務機構」定義的機構，須履行自動交換資料安排下的責任。

Under the Inland Revenue (Amendment) (No. 3) Ordinance 2016 (the “Amendment Ordinance”), a financial institution will not have obligations under the AEOI 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.

貳、 AEOI 資料交換簡介

Part II. AEOI Introduction

6. 那些賬戶持有人的資料會被交換?

What kind of account holders whose information will be exchanged?

申報財務機構有責任申報由申報對象持有的財務帳戶。香港的納稅人如非任何香港以外地區的稅務居民，不會被申報。

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.

任何個人或實體若因其居民身分而在某稅務管轄區有繳稅責任，而該稅務管轄區為香港的自動交換資料伙伴，該個人或實體便為申報對象。位於香港的財務機構須識辨由申報對象所持有的財務帳戶。財務機構須每年蒐集和向稅務局提交已識辨的帳戶持有人(個人或實體)的資料及其財務帳戶資料。稅務局會將有關資料傳送至該帳戶持有人作為稅務居民所屬的相關稅務管轄區的稅務機關。

Individuals or entities liable to tax by reason of residence in the AEOI partner jurisdictions are reportable persons. A financial institution located in Hong Kong will identify the financial accounts held by reportable persons. The financial institution will collect and furnish to 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.

7. 帳戶持有人什麼資料會被交換?

What information of account holders will be exchanged?

就個人資料而言，交換的資料包括帳戶持有人或控權人姓名、地址、居留司法管轄區、稅務編號 (TIN)、出生日期及出生地點。至於財務帳戶資料，交換的資料包括帳戶編號、帳戶的年終結餘或價值，以及相關年度的利息、股息及出售財務資產所得收益(視乎情況而定)的總款額。

As far as personal data is concerned, the information to be exchanged includes account holders’ or controlling persons’ 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.

參、 CRS 自我證明簡介

Part III. CRS Self-Certification Introduction

8. 什麼是自我證明？那些帳戶持有人需要填寫自我證明表格？
What is Self-Certification? Who has obligation to fill out Self-Certification Form?

這是帳戶持有人就其稅務居民身份作出的一份正式聲明。

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

根據《修訂條例》訂明的盡職審查程序，所有 2017 年 1 月 1 日起開立的新帳戶，帳戶持有人須就其個人資料(包括稅務居民身份)向申報財務機構提供自我證明。

According to the due diligence procedures set out in the Amendment Ordinance, which are based on the international standard required, account holders of all new accounts (i.e. accounts opened on or after 1 January 2017) have to provide self-certifications to the reporting financial institution in respect of their personal information, including tax residence, for all new accounts.

2017 年 1 月 1 日以前開立的先前帳戶，申報財務機構須進行盡職審查，以識辨及核實帳戶持有人的稅務居民身份。若相關申報財務機構就有關帳戶持有人的稅務居民身分存疑，可要求帳戶持有人提供自我證明以確認其稅務居民身分。

For pre-existing accounts (i.e. accounts opened on or before 1 January 2017), reporting financial institutions will be required to conduct due diligence procedures to identify and verify the tax residence of the account holders. 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.

如果帳戶持有人不清楚其稅務居民身分，帳戶持有人可考慮尋求獨立專業稅務意見。

Account holder may consider seeking professional advice from independent tax advisor, if there are doubts about tax residence.

9. 帳戶持有人需要提供什麼 CRS 文件？
What kind of CRS document account holders should provide?

帳戶持有人依其帳戶類別及狀況，填寫自我證明表格 – 個人或實體及控權人(如適用)。如為聯名帳戶或多人聯名帳戶，每名實體帳戶持有人需分別填寫一份表格。

Account holders should provide self-certification for individual, for entity, or for controlling person (if applicable), depending on account holders' status. For joint or multiple account holders, each individual account holder should complete a separate form.

10. 如果賬戶持有人不提供自我證明會有什麼影響？
What if account holders do not provide self-certificate?

《稅務條例》要求財務機構設立及應用盡職審查程序，識辨香港以外地區的稅務居民作自動交換資料用途及蒐集指定資料，提交給稅務局。

The Inland Revenue Ordinance (“IRO”) requires financial institutions to establish and apply due diligence procedures to identify tax residents of territories outside Hong Kong for AEOI purpose and collect specified information for submission to IRD.

財務機構亦須遵守《個人資料(私隱)條例》的要求告知帳戶持有人，所蒐集的個人資料可能會用作自動交換資料用途，並須採取所有切實可行的措施，確保有關個人資料準確無誤及安全穩妥。若個別人士拒絕填寫或拒絕提供其個人資料，財務機構可考慮應否接受其開戶或維持該帳戶。

Financial institutions are expected to observe requirements under the Personal Data (Privacy) Ordinance. They should inform the account holders of the purpose of use of the personal data for AEOI and take all practicable steps to ensure the accuracy and security of the personal data. In case an individual refuses to release his personal data for AEOI purpose, the financial institution may have to consider whether or not to accept the account opening request or maintain the account.

11. 賬戶持有人需要每年填寫自我證明文件嗎？
Do account holders have the obligation to provide self-certification on an annual basis?

一般而言，如情況沒有改變，自我證明上的資料正確，帳戶持有人毋需每年填寫自我證明文件。如情況有所改變，帳戶持有人需要在發生改變後三十天內，向有關申報財務機構提供一份已適當更新的自我證明。

Generally, account holders are not required to provide self-certificate on an annual basis provided nothing is changed in circumstances and the information contained in self-certificate is correct. Otherwise, account holders should provide financial institutions with a suitably updated self-certification form within 30 days of any change in circumstances which affects their tax residency status or causes the information contained in a self-certification to become incorrect.

12. 帳戶持有人是否因為填寫自我證明而需要繳稅？需要繳什麼稅？

Will account holders be obligated to tax payment as a result of self-certification? If yes, what kind of tax?

稅務局會在每年的 9 月向自動交換資料伙伴傳送財務機構申報之須財務帳戶資料。若帳戶持有人已遵守所屬居留司法管轄區的規定，提供最新的稅務資料，便毋須擔心。帳戶持有人如不確定自己的稅務責任，應盡快向稅務專業人士尋求意見，以覆檢帳戶持有人的稅務事宜是否妥當及查看是否需要更新有關資料。

IRD will transmit the information of reportable financial accounts, furnished by financial institutions, to the relevant AEOI partner by around September yearly from 2018. If account holder is confident that his/her tax affairs are up to date and compliant for his/her jurisdiction of residence, then he/she does not need to worry. Where account holder is unsure about his/her tax liabilities, he/she is recommended to seek advice from a tax professional as soon as possible, to check that his/her tax affairs are in order and find out whether he/she need to act now to update his/her tax affairs.

13. 帳戶持有人是否因為填寫自我證明而被申報其帳戶資訊？

Will an account holder be a reportable person if the account holder provides self-certification to financial institutions?

申報財務機構有責任申報由申報對象持有的財務帳戶，要求帳戶持有人提供自我證明是為了確認其稅務居民身份。香港的納稅人如非任何香港以外地區的稅務居民，不會被申報。

Reporting financial institutions will be liable for reporting on financial accounts held by reportable persons. Self-certification is required by financial institution to identify the tax resident of an account holder. Hong Kong taxpayers who are not tax residents of any territory outside Hong Kong will not be reported.

請同時參閱以上第 6 項。

Please also refer to item 6.

14. 關於資產的要求是如何計算的？

How will the balance or value of the reportable account be calculated?

申報財務機構須為了斷定某名個人持有的各財務帳戶的總結餘或總價值，而將該機構或有關連實體所維持的所有帳戶總合。

For the purpose of determining the aggregate balance or value of financial accounts held by an individual, a reporting financial institution must aggregate all financial accounts maintained by the institution, or by a related entity.

在釐定帳戶的結餘或價值時，須以有關公曆年的最後一日(或其他適當的申報期的最後一日)的結餘或價值為準。

The balance or value of the reportable account is to be determined as of the last day of the calendar year or other appropriate reporting period.

肆、 CRS 自我證明填寫內容

Part IV. CRS Self-Certification Contents

15. 表格填寫問題

Questions about filling out self-certificate

A. 何謂主動或被動非財務實體？

What are active NFE and Passive NFE?

「主動非財務實體」指符合任何以下準則的非財務實體，總括而言，有關準則指：

- 符合相關收入及資產規定的主動非財務實體；
- 其股票被公開進行買賣的非財務實體；
- 政府實體、國際組織、中央銀行或其全權擁有的實體；
- 屬並非財務集團成員的控權非財務實體；
- 新成立的非財務實體；
- 正進行清盤或出現破產的非財務實體；
- 屬並非財務集團成員的財資中心；或
- 非牟利的非財務實體。

An NFE is an Active NFE if it meets any of the criteria listed below. In summary, those criteria refer to:

- active NFEs by reason of income and assets;
- publicly traded NFEs;
- Governmental Entities, International Organisations, Central Banks, or their wholly owned Entities;
- holding NFEs that are members of a nonfinancial group;
- start-up NFEs;
- NFEs that are liquidating or emerging from bankruptcy;
- treasury centres that are members of a nonfinancial group; or
- non-profit NFEs.

「被動非財務實體」指任何：(i) 不屬主動非財務實體的非財務實體；及(ii) 位於非參與稅務管轄區並由另一財務機構管理的投資實體。

A “Passive NFE” means any: (i) NFE that is not an Active NFE; and (ii) Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution.

詳情請參考「自我證明表格內採用的名詞及措辭釋義」。

<http://www.ird.gov.hk/chi/pdf/2016/terms.pdf>

Please refer to “Meaning of terms and expressions used in Self-Certification Forms” for more details.

<http://www.ird.gov.hk/eng/pdf/2016/terms.pdf>

B. 如何判斷被動非財務實體的控權人有哪些？

Who are the controlling persons of Passive NFE?

申報財務機構會先斷定帳戶持有人是否為被動非財務實體，再斷定帳戶持有人的控權人。因此，申報財務機構須向該持有人取得確立其身分的自我證明，並倚賴該項自我證明，確立該持有人的身份。申報財務機構並可倚賴依據打擊洗錢暨認識客戶程序收集和備存的資料。

First of all, a reporting financial institution will determine whether the account holder is a passive NFE, and then determine controlling persons of an account holder. For these purposes, a reporting financial institution must obtain and rely on a self-certification from the account holder to establish the account holder’s status and may rely on information collected and maintained pursuant to AML/KYC procedures.

C. 控權人類別有哪些？

Who are the controlling persons?

「控權人」指對該實體行使控制權的自然人。就信託而言，「控權人」指屬該信託的財產授予人、受託人、保護人(如有的話)、受益人或某類別受益人的成員的個人；或任何自然人對該信託的管理行使最終控制權(包括透過一連串的控制或擁有權)。財產授予人、受託人、保護人(如有的話)、受益人或某類別受益人的成員的個人會被視為信託的「控權人」，不論該等人士是否對該信託的活動行使控制權。

“Controlling Persons” are the natural person(s) who exercise control over an Entity. In the case of a trust, the Controlling Person(s) are the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, or any other natural person(s) exercising ultimate effective control over the trust (including through a chain of control or ownership). The settlor(s), the trustee(s), the protector(s) (if any), and the beneficiary(ies) or class(es) of beneficiaries, must always be treated as Controlling Persons of a trust, regardless of whether or not any of them exercises control over the activities of the trust.

如財產授予人、受託人、保護人或受益人為實體，財產授予人、受託人、保護人或受益人的「控權人」會被視為信託的「控權人」。

Where the settlor, trustee, protector or beneficiary of a trust are themselves Entities then the Controlling Persons of the settlor, trustee, protector or beneficiary must be treated as Controlling Persons of the trust.

就並非信託的法律安排，「控權人」指相等於或處於一個相類於信託的人士。

In the case of a legal arrangement other than a trust, “Controlling Person(s) means persons in equivalent or similar positions to those of a trust.

16. 如果賬戶持有人作出誤導性自我證明會有什麼影響？

What if an account holder provides a statement that is misleading in making a self-certification?

賬戶持有人向申報財務機構在作出自我證明時，如明知或罔顧實情地作出在要項上具誤導性、虛假或不正確的陳述，便屬違法。一經定罪，可處第三級罰款(即 10,000 元)。稅務局如有需要會查閱自我證明內的資料。

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.

17. 賬戶持有人如何得知自己的是否有海外稅務管轄區的稅務居民身份？

How will account holders know whether or not they are tax residents of overseas jurisdictions?

每個稅務管轄區就其稅務居民均有特定的定義。稅務法律可能因稅務管轄區而異，而個別賬戶持有人作為稅務居民的身分也可能每年有變。個別賬戶持有人須核實和更新其稅務居民的身分，如有需要，應尋求法律意見。

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.

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中央管理及控制的地點。任何人士即使在某稅務管轄區繳稅(例如預扣稅、消費稅或資本增值稅)，並不會使該人士自動成為該稅務管轄區的稅務居民。

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.

閣下 可在經合組織建立的自動交換資料網站內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，網址為：

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

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>

伍、 AEOI 資料傳輸及保障

Part V. AEOI Data Transmission and Safeguards

18. 財務機構所提交的財務帳戶資料何時會被傳送給自動交換資料夥伴？

When will the financial account information collected by financial institutions be transmitted to AEOI partner?

財務機構會將須申報財務帳戶在某一年(例如 2017 年)的資料在下一公曆年(即 2018 年)的 5 月提交予稅務局。稅務局會在同一年度(即 2018 年)的 9 月向自動交換資料伙伴傳送有關資料。

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 will then transmit the information to the relevant AEOI partner by around September of that year (i.e. 2018).

19. 財務機構是否需要每年向香港稅務局提交財務帳戶資料？

Do financial institutions have the obligation to transmit financial account information to IRD on an annual basis?

是。

Yes.

20. 稅務局如何確保帳戶持有人的資料不會洩露?

How will IRD safeguard account holders' privacy and confidentiality of information exchanged?

與稅務局進行自動交換資料的伙伴，只會為香港有簽訂全面性避免雙重課稅協定或稅務資料交換協定的伙伴。兩類協定均就保障納稅人私隱及所交換資料能予以保密方面，提供國際標準所訂明的保障。這些保障將適用於為自動交換資料目的而交換的資料。

IRD will exchange information with AEOI partners, which are only those with which Hong Kong has signed a comprehensive avoidance of double taxation agreement (CDTA) or tax information exchange agreement (TIEA). Both treaties have provided for safeguards 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 AEOI purpose.

此外，自動交換資料協定訂明，所有交換的資料均須符合有關保密規則及資料私隱的保障措施。如有任何違反相關規則或保障措施，香港可暫停有關資料交換安排，甚或可終止與相關伙伴的自動交換資料協定。

In addition, the AEOI 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 AEOI agreement with the partner concerned.

陸、 參考資料
Part VI. Reference

請參考下列網頁以尋求更多資訊：

經合組織 CRS 網頁：

<http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/>

香港稅務局網頁：

http://www.ird.gov.hk/chi/tax/dta_aeoi.htm

Please refer to the websites listed below for more information:

OECD CRS Portal:

<http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/>

Hong Kong Inland Revenue Department:

http://www.ird.gov.hk/eng/tax/dta_aeoi.htm