Inland Revenue (Amendment) (No. 3) Ordinance 2016

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Part 8A

Returns by Reporting Financial Institutions

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An Ordinance to amend the Inland Revenue Ordinance to enable Hong Kong to comply with the international standard for automatic exchange of financial account information regarding tax matters; and to provide for related matters.

Enacted by the Legislative Council.

1. **Short title**
   This Ordinance may be cited as the Inland Revenue (Amendment) (No. 3) Ordinance 2016.

2. **Inland Revenue Ordinance amended**
   The Inland Revenue Ordinance (Cap. 112) is amended as set out in sections 3 to 11.

3. **Section 2 amended (interpretation)**
   (1) Section 2(1), definition of _financial institution_, after “(財務機構),”—
   Add
   “except in Part 8A and Schedules 17C and 17D,”.
(2) Section 2(1)—
Add in alphabetical order
“banking business (銀行業務) has the meaning given by section 2(1) of the Banking Ordinance (Cap. 155);
reportable account (須申報帳戶) has the meaning given by section 50A;
reportable jurisdiction (申報稅務管轄區) has the meaning given by section 50A;
reporting financial institution (申報財務機構) has the meaning given by section 50A;
service provider (服務提供者) has the meaning given by section 50A;”.

4. Part 8A added
After Part 8—
Add

“Part 8A

Returns by Reporting Financial Institutions

50A. Interpretation
(1) In this Part—
account holder (帳戶持有人), in relation to a financial account maintained by a financial institution—

(a) subject to paragraphs (b) and (c), means the individual or entity listed or identified by the financial institution as the holder of the account;
公曆年 (calendar year) 指自 1 月 1 日起至 12 月 31 日為止的一年；

主動非財務實體 (active NFE) 指符合任何以下描述的非財務實體——

(a) 以該非財務實體的總收入及其資產而言——

(i) 凡須在某年斷定該非財務實體是否主動非財務實體——在該年的對上一個公曆年或其他適當申報期的總收入中，少於 50% 屬被動收入；及
(ii) 該非財務實體在該公曆年或該申報期內持有的資產中，少於 50% 屬產生被動收入的資產，或屬為產生被動收入而持有的資產；

(b) 該非財務實體的股票，或該實體的有關連結實體的股票，在某具規模證券市場中，被經常買賣；

(c) 該非財務實體屬——

(i) 政府實體；
(ii) 國際組織；
(iii) 中央銀行；或
(iv) 由第 (i)、(ii) 及 (iii) 節所述的一個或多於一個實體全權擁有的實體；

(b) 如果賬戶由個體或實體持有，而非金機構，為他人利益或賬戶而作為代理人、保管人、承租人、簽名者、投資顧問或中介人，則指其他個體或實體；

(c) 如果賬戶為現金價值保險合同或年金合同中的尚未到期者，則指——

(i) 對於有權訪問現金價值，或變更受益人的合同個體或實體；或
(ii) 若 (i) 中未提及，則
(A) 對於主頁的命名個體或實體；或
(B) 有資格的支付人，根據合同的條件有資格的支付人；

(d) 如果賬戶為現金價值保險合同或年金合同中的已經到期者，則指個體或實體，根據合同的條件有資格接受於成熟期的支付；

active NFE (主動非財務實體) 指符合任何以下描述的非財務實體——

(a) 以該 NFE 的總收入及其資產而言——
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(i) for the calendar year or other appropriate reporting period preceding the year in which the determination as to whether the NFE is an active NFE is made, less than 50% of the NFE's gross income is passive income; and

(ii) less than 50% of the assets held by the NFE during that calendar year or period are assets that produce, or are held for the production of, passive income;

(b) the stock of the NFE or the related entity of the NFE is regularly traded on an established securities market;

(c) the NFE is—

(i) a governmental entity;

(ii) an international organization;

(iii) a central bank; or

(iv) an entity wholly owned by one or more of the entities mentioned in subparagraphs (i), (ii) and (iii);

(d) the NFE does not function, or does not hold itself out, as an investment fund (including a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies, and then to hold interests in those companies as capital assets for investment purposes) and—
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(i) 80% or more 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 (holding or group finance activities); or

(ii) if less than 80% of the activities of the NFE consist of the NFE’s holding or group finance activities, the sum of the NFE’s holding or group finance activities and the NFE’s other activities that generate income other than passive income constitute in total 80% or more of the activities of the NFE;

(e) not more than 24 months have elapsed since the date of the incorporation, formation or constitution of the NFE and the NFE—

(i) is not yet operating a business and has no prior operating history; and

(ii) is investing capital into assets with the intent to operate a business other than that of a financial institution;

(f) the NFE was not a financial institution in the past 5 years, and is in the process of—

(i) liquidating its assets; or

(ii) is reorganizing with the intent to continue or recommence operations in a business other than that of a financial institution;
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(g) the NFE falls within all of the following descriptions—

(i) the NFE is primarily engaged in financing and hedging transactions with or for its related entities that are not financial institutions;

(ii) the group of the related entities mentioned in subparagraph (i) is primarily engaged in a business other than that of a financial institution;

(iii) the NFE does not provide financing or hedging services to any entity that is not its related entity;

(h) the NFE falls within all of the following descriptions—

(i) the NFE is established and operated in its jurisdiction of residence, and—

(A) is established and operated exclusively for religious, charitable, scientific, artistic, cultural, athletic or educational purposes; or

(B) is a professional organization, business league, chamber of commerce, labour organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare;

(ii) the NFE is exempt from income tax in its jurisdiction of residence;
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(iii) the NFE 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—

(A) pursuant to the conduct of the NFE’s charitable activities;

(B) as payment of reasonable compensation for services rendered;

or

(C) as payment representing the fair market value of a property which the NFE has purchased;

(v) the applicable laws of the NFE’s jurisdiction of residence or the NFE’s formation documents require that, on the NFE’s liquidation or dissolution, all of its assets are to be distributed to a governmental entity or other non-profit organization, or be escheated to the government of that jurisdiction or any political subdivision of that government;

Note—
See also subsection (4).
申报税务管辖区 (reportable jurisdiction) 指符合以下说明的在香港以外的地区——
(a) 是根据第 49(1A) 條屬有效的安排的一方，而該安排規定須披露關乎該地區的稅項資料；及
(b) 在附表 17E 第 1 部第 1 欄指明；

申报对象 (reportable person)——
(a) 指——
(i) 屬某申报税务管辖区的税务居民的個人或實體；或
(ii) 一名已去世的人的遺產，而該人在生前，屬某申报税务管辖区的税务居民；但
(b) 不包括——
(i) 本身的股票在具規模證券市場中被經常買賣的法團；
(ii) 屬第 (i) 節所述法團的有關連實體的法團；
(iii) 政府實體；
(iv) 國際組織；
(v) 中央銀行；或
(vi) 財務機構；

AML/KYC procedures (打擊洗錢暨認識客戶程序) 意指客戶盡職審查程序所需由進行報告之金融機構根據任何反洗錢或類似的規例所須執行的客戶盡職審查程序，包括有關識別客戶的規例；

年金合約 (年金合約) 指於當中承諾支付不論部分或全部於被保人的生命期終了時，由發起人承諾支付不論部分或全部於被保人的生命期終了時，由發起人承諾支付的金額；

公曆年 (公曆年) 意指由 1 月 1 日起至 12 月 31 日止的一年；

現金值 (現金值)—
(a) 意指下列中較高者一
(i) 政策持有者於退保時，於投保合約或年金合約中於保費不計減退保金時可獲取之金額；
(ii) 政策持有者於退保時，於投保合約或年金合約中於保費不計減退保金時可獲取之金額；

(b) 不包括於下列投保合約中可獲取之金額—
(i) 僅因被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人的死亡而生而於被保人
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(iii) 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;

(iv) as a policyholder dividend (other than a termination dividend) if the dividend relates to an insurance contract under which the only benefits payable are described in subparagraph (ii); or

(v) 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 returned amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract;

_cash value insurance contract_ (現金值保險合約) means an insurance contract, other than an indemnity reinsurance contract between 2 insurance companies, that has a cash value;
central bank (中央銀行) means an institution in a jurisdiction that is, by law or government sanction, the principal authority in the jurisdiction, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency, and includes an instrumentality that is separate from the government of the jurisdiction, whether or not owned, in whole or in part, by the government of the jurisdiction;

controlled entity (受控制實體), in relation to a jurisdiction, means an entity that falls within all of the following descriptions—

(a) the entity is separate in form from the jurisdiction or otherwise constitutes a separate juridical entity;

(b) the entity is wholly owned and controlled by one or more governmental entities of the jurisdiction directly or through other controlled entities;

(c) the entity’s net earnings are credited to its own account or to the accounts of other governmental entities of the jurisdiction, with no portion inuring to the benefit of any private person;

(d) the entity’s assets are vested in other governmental entities of the jurisdiction on dissolution of the entity;

Note—
See also subsection (5).

controlling person (控權人)—
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(a) in relation to an entity, subject to paragraphs (b) and (c), means an individual who exercises control over the entity;

(b) in relation to an entity that is a trust—

(i) means an individual who is the settlor, trustee, protector (if any), or a beneficiary or a member of the class of beneficiaries, of the trust; or

(ii) if the settlor, trustee, protector, or the beneficiary or the member of the class of beneficiaries, of the trust is another entity, means an individual who exercises control over that other entity;

(c) in relation to an entity that is a legal arrangement equivalent or similar to a trust but not in the name of a trust—

(i) means an individual who, in relation to the legal arrangement, is in a position similar to the settlor, trustee, protector (if any), or a beneficiary or a member of the class of beneficiaries, of a trust; or

(ii) if, in relation to the legal arrangement, another entity is in a position similar to the settlor, trustee, protector, or a beneficiary or a member of the class of beneficiaries, of a trust, means an individual who exercises control over that other entity;

Note—
See also subsection (6).

custodial account (託管帳戶) means an account, other than an insurance contract or annuity contract,
maintained by a financial institution to hold one or more financial assets for the benefit of an individual or entity;

custodial institution (託管機構) means an entity that holds, as a substantial portion of its business, financial assets for the account of another individual or entity;

Note—
See also subsection (9).

depository account (存款帳戶) includes the following accounts maintained by a financial institution in the ordinary course of a banking business or similar business—

(a) a commercial, checking, savings, time and thrift account;

(b) an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument; and

(c) an amount held by an insurance company to pay or credit interest pursuant to a guaranteed investment contract or similar agreement;

depository institution (存款機構) means—

(a) an authorized institution as defined by section 2(1) of the Banking Ordinance (Cap. 155); or

(b) an entity that accepts deposits in the ordinary course of a banking business or similar business;

entity (實體) means a body of persons (corporate or unincorporate) or a legal arrangement, and includes—

(a) a corporation;
(e) 指符合以下說明的實體——
(i) 該實體由託管機構、存款機構、指明保險公司或 (a)、(b)、(c) 或 (d) 段所述的實體管理；及
(ii) 其總收入主要可歸因於財務資產的投資、再投資或買賣，
但如某實體純粹因為符合本款中主動非財務實體的定義的 (d)、(e)、(f) 及 (g) 段的任何描述，而屬主動非財務實體，則投資實體不包括該實體；

附註——
請亦參閱第 (13) 款。

具規模證券市場 (established securities market) 指符合以下說明的交易所——
(a) 其所在地區的政府的某主管當局，正式認可和監管該交易所；及
(b) 須在某公曆年中，斷定該交易所是否屬具規模證券市場，而在該年的對上 3 個公曆年的每年中，於該交易所 (或其前身) 交易的股份按年計算的價值，均超過 78 億元；

附註——
請亦參閱第 (11) 款。

受控制實體 (controlled entity) 就某司法管轄區而言，指符合所有以下描述的實體——
(a) 在形式上，是獨立於該司法管轄區，或以其他方式構成獨立的法人實體；

(b) a partnership; and
(c) a trust;

equity interest (股權權益)—
(a) in relation to a partnership that is a financial institution, means either a capital or profits interest in the partnership;
(b) in relation to a trust that is a financial institution, means—
(i) an interest held by a settlor or beneficiary of the whole, or any part, of the trust; or
(ii) an interest held by an individual exercising ultimate control over the trust; or
(c) in relation to a company or corporation that is a financial institution, means an ownership interest in the company or corporation;

Note—
See also subsection (10).

established securities market (具規模證券市場) means an exchange—
(a) that is officially recognized and supervised by a government authority of a territory in which the exchange is located; and
(b) that has an annual value of shares traded on it (or on its predecessor) exceeding $7.8 billion during each of the 3 calendar years immediately preceding the calendar year in which the determination as to whether the exchange is an established securities market is made;

Note—
See also subsection (11).
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excluded account (豁除帳戶) means an account that is described as an excluded account in Part 3 of Schedule 17C;

financial account (財務帳戶) means any of the following accounts maintained by a financial institution—
(a) a custodial account;
(b) a depository account;
(c) (if the financial institution is an investment entity but not an advising manager within the meaning of subsection (12)) any equity interest or debt interest in the financial institution;
(d) (if the financial institution is not an investment entity) any equity interest or debt interest in the financial institution, if the class of interests was established with the purpose of avoiding reporting the required information under section 50F(1) and (2);
(e) any cash value insurance contract and any annuity contract issued or maintained by the financial institution, other than a non-investment-linked, non-transferable immediate life annuity that is issued to an individual and monetizes a pension or disability benefit provided under an account that is an excluded account,

but does not include an excluded account;

Note—
See also subsection (12).

financial asset (財務資產) includes—
(a) any security (including share units of a stock in a corporation; partnership or beneficial
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ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness);
(b) partnership interest;
(c) commodity;
(d) swap (including interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements);
(e) insurance contract or annuity contract; and
(f) any interest (including a futures or forward contract or option) in any of the assets mentioned in paragraphs (a), (b), (c), (d) and (e), but does not include a non-debt direct interest in real property;

financial institution (財務機構) means—
(a) a custodial institution;
(b) a depository institution;
(c) an investment entity; or
(d) a specified insurance company;

governmental entity (政府實體) means—
(a) the government of a jurisdiction;
(b) the political subdivision of a jurisdiction, including a state, a province, a county, and a municipality;
(c) a wholly owned agency or instrumentality of a jurisdiction, or of any of the entities mentioned in paragraphs (a) and (b); or

保險合約 (insurance contract) 指符合以下說明的合約（年金合約除外）：發出該合約的人，同意在涉及死亡、患病、意外、法律責任或財產風險的指明事件發生時，支付款額；

指明保險公司 (specified insurance company) 指屬保險公司的實體，或屬某保險公司的控股公司的實體，而該實體發出現金值保險合約或年金合約，或有責任就現金值保險合約或年金合約付款，包括以下實體—

(a) 根據《保險公司條例》(第 41 章) 獲授權的保險人；
(b) 符合以下說明的實體：須在某公曆年中，斷定該實體是否屬指明保險公司，而於緊接該年的對上一個公曆年中，該實體發出保險、再保險及年金合約的總收入，佔該實體在該對上公曆年中的總收入超過 50%；
(c) 符合以下說明的實體：須在某公曆年中，斷定該實體是否屬指明保險公司，而於緊接該年的對上一個公曆年中，該實體涉及保險、再保險及年金合約的資產的總價值，佔該實體在該對上公曆年中的任何時間的總資產價值超過 50%；

政府實體 (governmental entity) 指—

(a) 某司法管轄區的政府；
(b) 某司法管轄區的政治分部，包括州、邦、省、郡、縣及市；
(c) 某司法管轄區全權擁有的機關或部門，或 (a) 及 (b) 段所述的任何實體全權擁有的機關或部門；或
(d) an integral part, controlled entity or political subdivision of a jurisdiction;

*insurance contract* (保險合約) means a contract, other than an annuity contract, the issuer of which agrees to pay an amount on the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk;

*integral part* (組成部分), in relation to a jurisdiction—

(a) means a person, organization, agency, bureau, fund, instrumentality, or other body, however described—

(i) that constitutes the jurisdiction’s governing authority; and

(ii) the net earnings of which 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; but

(b) does not include an individual who is a sovereign, official, or administrator of the jurisdiction acting in a private or personal capacity;

Note—

See also subsection (5).

*international organization* (國際組織)—

(a) means an international organization or its wholly owned agency or instrumentality; and

(b) includes any inter-governmental organization (including a supranational organization)—

(i) that is composed primarily of governments;
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(ii) that has in effect a headquarters agreement, or substantially similar agreement, applicable to Hong Kong; and

(iii) the income of which does not inure to the benefit of private persons;

investment entity (投資實體) means—

(a) a corporation licensed under the Securities and Futures Ordinance (Cap. 571) to carry out one or more of the following regulated activities (as defined by section 1 of Part 1 of Schedule 1 to that Ordinance)—

(i) dealing in securities;

(ii) trading in futures contracts;

(iii) leveraged foreign exchange trading;

(iv) asset management;

(b) an institution registered under the Securities and Futures Ordinance (Cap. 571) to carry out one or more of the following regulated activities (as defined by section 1 of Part 1 of Schedule 1 to that Ordinance)—

(i) dealing in securities;

(ii) trading in futures contracts;

(iii) asset management;

(c) a collective investment scheme authorized under the Securities and Futures Ordinance (Cap. 571);

(d) an entity that primarily conducts as its business one or more of the following activities or operations for its customers—

(i) trading in—
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Ord. No. 22 of 2016

A2301

(A) money market instruments, including cheques, bills, certificates of deposit, and derivatives;

(B) foreign exchange;

(C) exchange, interest rate and index instruments;

(D) transferable securities; or

(E) commodity futures;

(ii) individual and collective portfolio management;

(iii) otherwise investing, administering, or managing financial assets or money on behalf of other entity or individual; or

(e) an entity—

(i) that is managed by a custodial institution, a depository institution, a specified insurance company, or an entity mentioned in paragraph (a), (b), (c) or (d); and

(ii) whose gross income is primarily attributable to investing, reinvesting, or trading in financial assets,

but 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 in this subsection;

Note—

See also subsection (13).

jurisdiction of residence (居留司法管轄區) means a territory of which an individual or entity is a resident for tax purposes;
NFE (非財務實體) means an entity that is not a financial institution;
non-reporting financial institution (免申報財務機構) means
a financial institution that is described as a non-reporting financial institution in Part 2 of Schedule 17C;

participating jurisdiction (參與稅務管轄區) means a
territory outside Hong Kong that is specified in Part 2 of Schedule 17E;

participating jurisdiction financial institution (參與稅務管轄區財務機構) means—
(a) a financial institution that is resident in a
participating jurisdiction (excluding any branch
of the financial institution located outside the
participating jurisdiction); or
(b) a branch located in a participating jurisdiction
of a financial institution that is not resident in
the participating jurisdiction;

passive income (被動收入) means the portion of gross
income that consists of—
(a) dividend;
(b) interest;
(c) income equivalent to interest;
(d) rent and royalties (other than rents and royalties
derived from the active conduct of a business
undertaken, at least in part, by the employees
of an NFE);
(e) annuities;
(f) the excess of gains over losses from the sale or
exchange of financial assets that gives rise to the
(b) passive income mentioned in any of paragraphs (a), (b), (c), (d) and (e);

(g) the excess of gains over losses from transactions (including futures, forwards, options and similar transactions) in any financial assets;

(h) the excess of foreign currency gains over foreign currency losses;

(i) net income from swaps; or

(j) amounts received under cash value insurance contracts;

*passive NFE* (被動非財務實體) means—

(a) an NFE that is not an active NFE; or

(b) a financial institution that—

(i) falls within the description in paragraph (e) of the definition of *investment entity* in this subsection;

(ii) is not a participating jurisdiction financial institution; and

(iii) is not a financial institution in Hong Kong;

*pre-existing account* (先前帳戶) means—

(a) a financial account of an account holder maintained by a reporting financial institution as at 31 December 2016 (*old financial account*); or

(b) a financial account of an account holder opened and maintained by a reporting financial institution on or after 1 January 2017 (*subsequent account*), if all of the following conditions are met—
(i) the account holder holds with the institution, or its related entity within Hong Kong, any old financial account;

(ii) on the opening of the subsequent account, the institution (and, as applicable, its related entity within Hong Kong) treats the subsequent account and the following financial accounts as a single financial account—

(A) one or more old financial accounts of the account holder maintained by the institution; and

(B) (if there exist one or more subsequent accounts that are treated as pre-existing accounts because all of the conditions in this subparagraph and subparagraphs (iii), (iv) and (v) are met) all of the subsequent accounts that are so treated;

(iii) the institution (and, as applicable, its related entity within Hong Kong) acts in the manner described in subparagraph (ii) for the purposes of—

(A) satisfying the requirement set out in section 2 of Part 7 of Schedule 17D; and

(B) calculating the balance or value of any of the accounts mentioned in that subparagraph to determine any of the account thresholds;

(iv) the subsequent account is subject to AML/KYC procedures and the institution is
permitted to carry out such AML/KYC procedures for the subsequent account by relying on the AML/KYC procedures carried out for the old financial account mentioned in subparagraph (ii)(A);

(v) on the opening of the subsequent account, no new, additional or amended customer information is required to be provided by the account holder other than for the purpose of complying with sections 50B, 50C, 50F and 50G;

regularly traded (經常買賣), in relation to a class of stock traded during a calendar year, means that—

(a) trades in the class of stock are effected, other than in de minimis quantities, on one or more established securities markets for at least 60 business days during the prior calendar year; and

(b) the aggregate number of shares in the class of stock that are traded on such market or markets during the prior calendar year are at least 10% of the average number of shares outstanding in that class during the prior calendar year;

reportable account (須申報帳戶)—

(a) means a financial account—

(i) that has been identified as such under the due diligence requirements in Schedule 17D; and

(ii) that is held by—

(A) at least one reportable person; or
(B) a passive NFE with at least one controlling person being a reportable person; and

(b) for the purposes of sections 50C, 50D, 50F and 50G, includes a pre-existing account that must be reported as an undocumented account under the due diligence requirements in Schedule 17D;

reportable jurisdiction (申报税务管辖区) means a territory outside Hong Kong—

(a) that is a party to an arrangement having effect under section 49(1A) and requiring disclosure of information concerning tax of the territory; and

(b) that is specified in column 1 of Part 1 of Schedule 17E;

reportable person (申报对象)—

(a) means—

(i) an individual or entity that is a resident for tax purposes of a reportable jurisdiction; or

(ii) an estate of a decedent who was a resident for tax purposes of a reportable jurisdiction; but

(b) does not include—

(i) a corporation the stock of which is regularly traded on an established securities markets;

(ii) a corporation that is a related entity of a corporation mentioned in subparagraph (i);

(iii) a governmental entity;
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(iv) an international organization;
(v) a central bank; or
(vi) a financial institution;

reporting financial institution (申报財務機構) means—
(a) a financial institution that is resident in Hong Kong (excluding any branch of the financial institution located outside Hong Kong); or
(b) a branch located in Hong Kong of a financial institution that is not resident in Hong Kong, but does not include a non-reporting financial institution;

Note—
See also subsection (15).

reporting year (申報年), in relation to a reportable jurisdiction, means the year specified in column 2 of Part 1 of Schedule 17E opposite that jurisdiction;

resident for tax purposes (稅務居民), in relation to a territory, means—
(a) an individual who is subject to taxation as a resident in the territory; or
(b) an entity that—
(i) is subject to taxation as a resident in the territory; or
(ii) has its effective management situated in the territory and is not subject to taxation as a resident in any other territory;

service provider (服務提供者) means a service provider engaged to carry out the obligations of a reporting financial institution as referred to in section 50H(1);
specified insurance company (指明保險公司) means an entity that is an insurance company, or the holding company of an insurance company, that issues, or is obliged to make payments with respect to, a cash value insurance contract or an annuity contract, including the following—

(a) an insurer authorized under the Insurance Companies Ordinance (Cap. 41);
(b) an entity the gross income of which arising from insurance, reinsurance and annuity contracts exceeds 50% of the entity’s total gross income for the calendar year immediately preceding the calendar year in which the determination as to whether the entity is a specified insurance company is made;
(c) an entity the aggregate value of the assets of which associated with insurance, reinsurance and annuity contracts exceeds 50% of the entity’s total assets at any time during the calendar year immediately preceding the calendar year in which the determination as to whether the entity is a specified insurance company is made;

TIN (稅務編號) means—

(a) a taxpayer identification number; or
(b) (if there is no taxpayer identification number) the functional equivalent to such number.

(2) An entity is a related entity of another entity if—

(a) either entity controls the other entity;
(b) the 2 entities are under common control; or
(c) 雙個實體均屬第 (1) 款中投資實體的定義的 (c) 段所描述的投資實體，而——
(i) 它們共同受同一管理層所管理；及
(ii) 該管理層符合附表 17D 所指的關於該兩個實體的盡職審查規定。

(3) 就第 (2)(a) 及 (b) 款而言，控制某實體，指直接或間接地擁有以下兩者——
(a) 該實體超過 50% 的表決權；
(b) 該實體超過 50% 的股份的價值。

(4) 就第 (1) 款中主動非財務實體的定義的 (d) 段而言，
如某實體 (前者) 的全部或部分已發行股份，由某非財務實體所直接或間接持有，則前者是該非財務
實體的附屬公司。

(5) 就第 (1) 款中受控制實體的定義的 (c) 段及組成部分的定義的 (a) 段而言——
(a) (除 (b) 段另有規定外) 在以下情況下，某項收
入不屬歸於私人的利益——
(i) 有關的人屬政府項目的預定受益人；及
(ii) 該項目是就共同福祉而為公眾人士進行，
或是關乎政府某部分的施政的；及

(c) the 2 entities are investment entities as described in paragraph (e) of the definition of investment entity in subsection (1) and—
(i) the entities are under common management; and
(ii) the management fulfils the due diligence requirements for the entities under Schedule 17D.

(3) For subsection (2)(a) and (b), control of an entity means direct or indirect ownership of both of the following—
(a) more than 50% of the voting rights in the entity;
(b) more than 50% of the value of the shares in the entity.

(4) For paragraph (d) of the definition of active NFE in subsection (1), a subsidiary of an NFE is an entity whose outstanding stock is either directly or indirectly held, in whole or in part, by the NFE.

(5) For paragraph (c) of the definition of controlled entity, and paragraph (a) of the definition of integral part, in subsection (1)—
(a) (subject to paragraph (b)) an income does not inure to the benefit of a private person if—
(i) the person is the intended beneficiary of a governmental programme; and
(ii) the programme is performed for the general public with respect to the common welfare, or related to the administration of some phase of government; and
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(b) an income is taken to inure to the benefit of a private person if the income is derived from the use of a governmental entity to conduct a commercial business that provides financial services to that private person.

(6) For the definition of controlling person in subsection (1)—

(a) where an entity is a corporation, an individual exercises control over the entity if—

(i) the individual—

(A) owns or controls, directly or indirectly, including through a trust or bearer share holding, not less than the specified percentage of the issued share capital of the entity;

(B) is, directly or indirectly, entitled to exercise or control the exercise of not less than the specified percentage of the voting rights at general meetings of the entity; or

(C) exercises ultimate control over the management of the entity; or

(ii) the entity is acting on behalf of another person over whom the individual exercises control;

(b) where an entity is a partnership, an individual exercises control over the entity if—

(i) the individual—
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(A) is entitled to or controls, directly or indirectly, not less than the specified percentage of the capital or profits of the entity;

(B) is, directly or indirectly, entitled to exercise or control the exercise of not less than the specified percentage of the voting rights in the entity; or

(C) exercises ultimate control over the management of the entity; or

(ii) the entity is acting on behalf of another person over whom the individual exercises control;

(c) where an entity is a trust, an individual exercises control over the entity if the individual—

(i) is entitled to a vested interest in not less than the specified percentage of the capital of the property of the entity, whether the interest is in possession or in remainder or reversion and whether it is defeasible or not;

(ii) is the settlor of the entity;

(iii) is the protector of the entity; or

(iv) exercises ultimate control over the management of the entity; or

(d) where an entity is not a corporation, partnership or trust, an individual exercises control over the entity if—

(i) the individual ultimately owns or controls the entity; or

(ii) the entity is acting on behalf of another person over whom the individual exercises control;
(ii) the entity is acting on behalf of another person over whom the individual exercises control.

(7) For subsection (6), the specified percentage is 25%.

(8) The Secretary for Financial Services and the Treasury may, by notice published in the Gazette, amend the percentage in subsection (7).

(9) For the definition of custodial institution in subsection (1), an entity holds financial assets for the account of another individual or entity 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 the following—

(a) the 3-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 as to whether the entity is a custodial institution is made;

(b) the period during which the entity has been in existence.

(10) For paragraph (b)(i) of the definition of equity interest in subsection (1), a person is the beneficiary of all, or a portion, of a trust if the person—

(a) has the right to receive, directly or indirectly (including through a nominee), a mandatory distribution from the trust; or

(b) may receive, directly or indirectly, a discretionary distribution from the trust.
(11) For paragraph (b) of the definition of established securities market in subsection (1), if an exchange has more than one tier of market level on which stock may be separately listed or traded, each such tier is to be treated as a separate exchange.

(12) For paragraph (c) of the definition of financial account in subsection (1), an advising manager is an entity that falls within the definition of investment entity in that subsection solely because it—

(a) renders investment advice to, and acts on behalf of; or

(b) manages portfolios for, and acts on behalf of, a customer for the purpose of investing, administering, or managing financial assets deposited in the name of the customer with a financial institution other than the entity.

(13) In relation to the definition of investment entity in subsection (1)—

(a) for the purposes of paragraph (d) of the definition, an entity is treated as primarily conducting as its business one or more of the activities mentioned in that paragraph if it meets the criterion set out in subsection (14); or

(b) for the purposes of paragraph (e) of the definition, an entity’s gross income is treated as primarily attributable to investing, reinvesting, or trading in financial assets if it meets the criterion set out in subsection (14).

(14) For subsection (13)(a) and (b), the criterion is that the entity’s gross income attributable to the relevant activities equals or exceeds 50% of the entity’s gross income during the shorter of the following—
(a) the 3-year period that ends on 31 December prior to the year in which the determination as to whether the entity is an investment entity is made;

(b) the period during which the entity has been in existence.

(15) For paragraph (a) of the definition of reporting financial institution in subsection (1), a financial institution is resident in Hong Kong if—

(a) where the financial institution is a company—it is incorporated in Hong Kong or, if incorporated outside Hong Kong, is normally managed or controlled in Hong Kong;

(b) where the financial institution is a trust—

(i) it is constituted under the laws of Hong Kong;

(ii) if constituted outside Hong Kong, it is normally managed or controlled in Hong Kong; or

(iii) if both of the descriptions in subparagraphs (i) and (ii) are not met, one or more of its trustees are resident in Hong Kong; or

(c) where the financial institution is not a company or trust—it is constituted under the laws of Hong Kong or, if constituted outside Hong Kong, is normally managed or controlled in Hong Kong.

(16) For subsection (15)(b), a trustee is resident in Hong Kong if—
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(a) (where the trustee is an individual) the trustee ordinarily resides in Hong Kong or stays in Hong Kong for—
(i) more than 180 days during a year of assessment; or
(ii) more than 300 days in 2 consecutive years of assessment one of which is the relevant year of assessment;

(b) (where the trustee is a company) the trustee—
(i) is incorporated in Hong Kong; or
(ii) (if incorporated outside Hong Kong) is normally managed or controlled in Hong Kong; or

(c) (where the trustee is any other entity) the trustee—
(i) is constituted under the laws of Hong Kong; or
(ii) (if constituted outside Hong Kong) is normally managed or controlled in Hong Kong.

(17) A note located in the text of this section is provided for information only and has no legislative effect.

50B. Due diligence obligations on reporting financial institutions

(1) A reporting financial institution must—
(a) establish procedures that are designed to—
(i) identify the jurisdiction of residence of—
(A) the account holder of a financial account maintained with the institution; and
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(B) (if the account holder is a passive NFE) the controlling person of the passive NFE;

(ii) identify whether a financial account is a reportable account;

(iii) secure that any evidence relied on, or a record of the steps taken, for carrying out the procedures in relation to a financial account is kept for a period of 6 years beginning on the date on which the procedures are completed; and

(iv) enable the institution to identify and collect the required information within the meaning of section 50C(3) (required information); and

(b) incorporate into those procedures the due diligence requirements in Schedule 17D.

(2) A reporting financial institution must maintain and, for carrying out its obligations under this Part, apply the procedures established in compliance with subsection (1)(a) and (b) (required procedures)—

(a) to identify reportable accounts, and to identify and collect the required information; and

(b) to ensure that the purpose mentioned in subsection (1)(a)(iii) can be achieved.

(3) A reporting financial institution may, in carrying out its obligations under this Part, apply the required procedures—

(a) in relation to any financial account, even if—
(i) the account holder of the financial account is a resident for tax purposes in a territory outside Hong Kong that is not a reportable jurisdiction; or

(ii) (if the account holder of the financial account is a passive NFE) any controlling person of the account holder is a resident for tax purposes in a territory outside Hong Kong that is not a reportable jurisdiction; and

(b) for identifying and collecting the required information in respect of any financial account as referred to in paragraph (a).

50C. Obligations of reporting financial institutions to furnish returns

(1) A reporting financial institution must furnish a return in accordance with a notice given by an assessor under subsection (2) and in compliance with subsections (4) and (5).

(2) An assessor may give a notice in writing to a reporting financial institution requiring it to furnish a return reporting the information referred to in subsection (3) (required information) in relation to reportable accounts with respect to any reportable jurisdiction that are maintained by the institution at any time during the period specified in the notice (specified information period), which must be either of the following—

(a) the calendar year preceding the year in which the date of the notice falls;
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(b) such other period as the Commissioner may decide in appropriate cases.

(3) The required information is—

(a) the information referred to in sections 50F and 50G; and

(b) any other information that the Board of Inland Revenue specifies.

(4) The return under subsection (1) must be furnished—

(a) within the time specified in the notice;

(b) in the manner specified in the notice; and

(c) in the form of an electronic record that—

(i) is sent by using a system specified by the Board of Inland Revenue; or

(ii) contains the required information arranged in a form specified by the Board of Inland Revenue.

(5) If, during the specified information period, the reporting financial institution maintains no reportable accounts, the institution must state that fact in the return.

50D. Further obligations of reporting financial institutions relating to returns

(1) A reporting financial institution must keep sufficient records to enable the correctness and accuracy of the return furnished under section 50C(1) to be readily ascertained for a period of 6 years beginning on the date on which the return is furnished.
(2) A reporting financial institution must give a notice to the Commissioner when any of the following events occur—
(a) the first occasion on which it commences to maintain a reportable account;
(b) one year has lapsed after it ceased to maintain even a single reportable account;
(c) the first occasion on which it commences to maintain a reportable account following the occurrence of an event described in paragraph (b).

(3) If a reporting financial institution—
(a) has given a notice to the Commissioner under subsection (2)(a) or (c) (first notice); and
(b) has changed its address after the first notice but before a notice is given under subsection (2)(b), it must notify the Commissioner of its new address.

(4) A notice under subsection (2) or (3) must be given—
(a) in the form of an electronic record that is sent by using a system designated by the Commissioner;
(b) in the manner that the Commissioner specifies; and
(c) within the following period—
(i) for a notice under subsection (2)—3 months from the date on which the event occurred;
(ii) for a notice under subsection (3)—1 month from the change of the address.
50E. Application of due diligence and other obligations to non-corporate reporting financial institutions

In relation to a reporting financial institution that is not a corporation, sections 50B, 50C and 50D apply to a person who acts for the institution to maintain financial accounts as if the obligations under those sections were imposed on that person.

50F. Required information under section 50C(3)

(1) A return furnished under section 50C must include the name and identifying number (if any) of the reporting financial institution.

(2) The return must also include the following information in relation to each reportable account—

(a) if the account holder is an individual who is a reportable person—the name, address, jurisdiction of residence, TIN, and the date and place of birth, of the individual;

(b) if the account holder is an entity that is a reportable person—the name, address, jurisdiction of residence and TIN of the entity;

(c) if the account holder is an entity and at least one controlling person of the entity is a reportable person—

(i) the name, address, jurisdiction of residence and TIN of the entity; and

(ii) the name, address, jurisdiction of residence, TIN, and the date and place of birth, of each reportable person;

(d) the account number or (if there is no such number) its functional equivalent;
(e) the account balance or value (including, for a cash value insurance contract or an annuity contract, the cash value or surrender value) as at the end of the specified information period or other appropriate reporting period, or (if the account was closed during such period) the closure of the account;

(f) for a custodial account—

(i) the total gross amount of interest paid to the account, or in respect of the account, during the specified information period or other appropriate reporting period;

(ii) the total gross amount of dividends paid to the account, or in respect of the account, during the specified information period or other appropriate reporting period;

(iii) the total gross amount of other income generated in respect of the financial assets held in the account, and paid to the account, or in respect of the account, during the specified information period or other appropriate reporting period; and

(iv) the total gross proceeds from the sale or redemption of financial assets paid to the account during the specified information period or other appropriate reporting period in respect of which the reporting financial institution acts as a custodian, broker, nominee, or otherwise as an agent for the account holder;
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(g) for a depository account—the total gross amount of interest paid to the account during the specified information period or other appropriate reporting period;

(h) for any account in respect of which the reporting financial institution is the obligor or debtor, other than a custodial account or a depository account—the total gross amount paid to the account holder in respect of the account during the specified information period or other appropriate reporting period, including the aggregate amount of any redemption payments made to the account holder during that period.

(3) For reporting the information referred to in subsection (2)—

(a) references to the balance or value of a reportable account include a nil balance or value;

(b) references to paying an amount include crediting an amount; and

(c) in any reference to an amount, the currency in which the amount is denominated must be identified.

(4) For subsection (2)(e), (f), (g) and (h)—

(a) the specified information period means the period specified under section 50C(2); and

(b) the appropriate reporting period is the period of 12 months as may be elected by the financial institution, and once the election is made, it is irrevocable.
50G. Modifications of required information

(1) Despite section 50F(2)(a), (b) and (c)—

(a) for a reportable account that is a pre-existing account maintained by a reporting financial institution—

(i) if the TIN or date of birth is not kept in the records of the institution and is not otherwise required to be collected by the institution under the laws of Hong Kong, the TIN or date of birth is not required to be reported; but

(ii) subject to paragraph (b), the institution is required to use reasonable efforts to obtain the TIN and date of birth by the end of the second calendar year following the year in which the account is identified as a reportable account;

(b) for a reportable account, the TIN is not required to be reported if—

(i) a TIN is not issued by the relevant reportable jurisdiction; or

(ii) (where a TIN is issued by the relevant reportable jurisdiction) such TIN is not required to be collected under the domestic law of the jurisdiction;

(c) the place of birth is not required to be reported unless the reporting financial institution is otherwise required to obtain and report it under the laws of Hong Kong and it is available in the electronically searchable data maintained by the institution.
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(2) Despite section 50F(2)(f)(iv), the information under that section—
(a) is not required to be reported with respect to the calendar year of 2017; and
(b) is only required to be reported with respect to the calendar year of 2018 and onwards.

50H. Engagement of service provider

(1) A service provider may be engaged to carry out, for or on behalf of a reporting financial institution, the institution’s obligations under any, or all, of the following provisions—
(a) section 50B(1);
(b) section 50B(2);
(c) section 50C(1).

(2) To avoid doubt, even if a service provider has been engaged under subsection (1), the reporting financial institution is not relieved from its obligation under section 50B(1) or (2) or 50C(1), as the case requires.

50I. Commissioner may designate system or specify requirements for electronic record, etc.

(1) The Commissioner may designate any system in respect of any communication with the Commissioner for the purposes of section 50C or 50D.

(2) The Commissioner may by notice published in the Gazette specify requirements as to—
(a) the manner of generating or sending an electronic record or any attachment required to be furnished with an electronic record;
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50J. Power to amend Schedules 17C, 17D and 17E
The Secretary for Financial Services and the Treasury may, by notice published in the Gazette, amend Schedule 17C, 17D or 17E.

50K. Use of information provided by reporting financial institutions
To avoid doubt, any information reported in a return furnished under section 50C may be used for the administration or enforcement of this Ordinance.

5. Section 51 amended (returns and information to be furnished)
Section 51(4)(a)—
Repeal
“in the notice”
Substitute
“in the notice, and in the form and manner specified in it,”.

6. Section 51B amended (power to issue search warrant)
(1) After section 51B(1)—
Add

(b) how a digital signature is to be affixed to a return furnished under section 50C(1); and
(c) the software and communication in relation to any attachment required to be furnished with an electronic record.

(3) A notice under subsection (2) is not subsidiary legislation.

(b) 如何將數碼簽署附貼於根據第 50C(1) 條提交的報表；及
(c) 關於任何按規定須與電子紀錄一併提交的附件的軟件及通訊。

(3) 第 (2) 款所指的公告並非附屬法例。

50J. 修訂附表 17C、17D 及 17E 的權力
財經事務及庫務局局長可藉於憲報刊登的公告，修訂附表 17C、17D 或 17E。

50K. 使用申報財務機構所提供的資料
為免生疑問，根據第 50C 條提交的報表所申報的任何資料，均可用於施行或強制執行本條例。”。

5. 修訂第 51 條 (須提交的報稅表及資料)
第 51(4)(a) 條，在“合理時間內，”之後——
加入
“按該通知所指明的形式及方式，”。

6. 修訂第 51B 條 (發出搜查令的權力)
(1) 在第 51B(1) 條之後——
加入
“(1AAA) If the Commissioner or authorized officer satisfies a magistrate, by statement made on oath—

(a) that a reporting financial institution or its service provider (if any) has failed to comply with an order of a court made under section 80B(3)(a) or 80D(9)(a) directing the institution or its service provider (if any) to comply with a requirement under section 50C(1); or

(b) that there are reasonable grounds for suspecting that a reporting financial institution or its service provider (if any) has failed to comply with section 50B(1) or (2) or 50C(1) and has done so without reasonable excuse and not through an innocent oversight or omission,

the magistrate may by warrant authorize the Commissioner or authorized officer to exercise the powers specified in subsection (1AAAB).

(1AAAB) The powers are for the Commissioner or authorized officer—

(a) without previous notice at any reasonable time during the day, to enter and have free access to any land, buildings, or place where the Commissioner or authorized officer suspects there to be any articles or data of the reporting financial institution or its service provider (if any), or of any other person, that may afford evidence material in assessing—

(i) the liability of the institution or its service provider (if any) under this Ordinance; or

(ii) the liability of any other person for tax of a reportable jurisdiction,
and there to search for and examine such articles or data;

(b) in carrying out any such search, to open or cause to be removed and opened, any article which the Commissioner or authorized officer suspects to be containing any articles or data;

(c) to—

(i) take possession of any articles or data of the reporting financial institution or its service provider (if any); and

(ii) make copies of such parts of any articles or data of any other person, as may afford evidence material in assessing the liability of the institution or its service provider (if any) under this Ordinance or the liability of any other person for tax of a reportable jurisdiction;

(d) to retain any such articles or data for as long as they may be reasonably required for any assessment to be made or for any proceedings under this Ordinance to be completed.

(1AAAC) If the Commissioner or authorized officer retains any articles or data for a period of more than 14 days, the person aggrieved may apply in writing to the Board of Review for an order directing the return of such articles or data, and the Board, after hearing the applicant or the applicant’s authorized representative and the Commissioner or the Commissioner’s representative, may so order, either unconditionally or subject to any condition that the Board considers proper to impose.
(1AAAD) If, on entering the land, buildings or place under the warrant issued under subsection (1AAA), an authorized officer is of the opinion that the reporting financial institution or service provider is likely to fail to carry out the obligations under section 50B(1) or (2) or 50C(1) referred to in subsection (1), the Commissioner or authorized officer may give notice to the institution or service provider requiring it, within a reasonable time and in a manner specified in the notice, to take any action as specified in the notice that is necessary for rectifying its compliance system and process as defined by section 51BA(1)).

(1AAAE) In subsections (1AAAB) and (1AAAC), references to articles or data are references to books, records, accounts or documents, or any information or data of the compliance system and process as defined by section 51BA(1).”.

(2) Section 51B(1A)—
Repeal
“under subsection (1)”
Substitute
“under subsection (1) or (1AA)”.

(3) Section 51B(1A)—
Repeal
“subsection (1)(i), (ii) and (iii)”
Substitute
“subsection (1)(i), (ii) and (iii) or (1AAAB)(a), (b) and (c)”.

(4) Section 51B(2)—
Repeal
7. **Section 51BA added**

After section 51B—

**Add**

“51BA. **Assessor’s power to enter business premises of reporting financial institutions and service providers and inspect**

(1) In this section—

**business premises** (業務處所) means the premises that an assessor has reason to believe—

(a) in relation to a reporting financial institution, are used in connection with the carrying on of a business by or on behalf of the institution; or

(5) Section 51B(3)—

**Repeal**

“or documents taken possession of under subsection (1)”

**Substitute**

“or documents, or any information or data of a compliance system and process as defined by section 51BA(1), as the case requires, taken possession of under subsection (1) or (1AAAB)”.

(6) Section 51B(4)—

**Repeal**

“subsection (1)”

**Substitute**

“subsection (1) or (1AAAB)”.

(5) 第 51B 條——

廢除第 (3) 款

代以

“(3) 凡根據第 (1) 或 (1AAAB) 款被接管的簿冊、紀錄、帳目或文件、或第 51BA(1) 條所界定的合規系統及程序的資料或數據(視情況所需而定), 是關乎某人的事務的, 則該人有權在局長所決定的時間, 按局長所決定的條件, 查閱該等簿冊、紀錄、帳目、文件、資料或數據, 或摘錄其中的內容。”。

(6) 第 51B(4) 條, 在 “第 (1)” 之後——

加入

“或 (1AAAB)”。

7. **加入第 51BA 條**

在第 51B 條之後——

加入

“51BA. **評稅主任進入申報財務機構及服務提供者的業務處所和檢查的權力**

(1) 在本條中——

合規系統及程序 (compliance system and process) 指符合以下說明的系統及程序：該系統及程序是關於某申報財務機構或某服務提供者 (視情況所需而定) 為履行第 50B(1) 或 (2) 或 50C(1) 條所指的責任而須應
用的程序，並包括以可閱形式或非可閱形式（不論是使用電腦或其他器材）記錄的資料或數據；

業務處所 (business premises) 指稅務主任有理由相信是在與以下活動相關的情況下使用的處所——

(a) 就某申報財務機構而言，該機構經營業務，或代該機構經營業務；或
(b) 就服務提供者而言，該服務提供者為有關的申報財務機構履行第 50B(1) 或 (2) 或 50C(1) 條所指的責任。

(2) 申報財務機構或服務提供者如接獲評稅主任的通知，要求該機構或服務提供者容許評稅主任進入其業務處所，並檢查其合規系統及程序，以查核該機構或服務提供者是否正履行、已履行或相當可能能夠履行第 50B(1) 或 (2) 或 50C(1) 條所指的責任，則該機構或服務提供者須如此行事。

(3) 只有在有關檢查對第 (2) 款指明的目的屬合理所需的情況下，該款所指的通知方可發出。

(4) 上述檢查只可——

(a) 如有關通知是向某申報財務機構或服務提供者發出——在該機構或服務提供者所同意的時間進行；或
(b) 在向有關申報財務機構或服務提供者發出通知之後進行，而該通知須於檢查時間最少 7 日前發出。

(b) in relation to a service provider, are used in connection with the carrying out of the obligations under section 50B(1) or (2) or 50C(1) by the service provider for a reporting financial institution concerned;

compliance system and process (合規系統及程序) means the system and process, including any information or data that is recorded (whether by means of a computer or otherwise) in a legible or non-legible form, that relate to the procedures required to be applied by a reporting financial institution or service provider (as the case requires) for carrying out the obligations under section 50B(1) or (2) or 50C(1).

(2) A reporting financial institution or service provider must allow an assessor to enter its business premises, and inspect its compliance system and process for the purpose of checking whether it is carrying out or has carried out, or is likely to be able to carry out, the obligations under section 50B(1) or (2) or 50C(1) if it receives a notice from an assessor requiring it to do so.

(3) The notice under subsection (2) may be given only if the inspection is reasonably required for the purposes specified in that subsection.

(4) The inspection may only be carried out—

(a) at a time agreed to by the reporting financial institution or service provider to whom the notice is given; or
(b) on a notice given to the reporting financial institution or service provider at least 7 days before the time of the inspection.
8. 

Section 61C added

After section 61B—

Add

"61C. Avoidance arrangement of no effect

If—

(a) a person enters into an arrangement; and

(b) the main purpose, or one of the main purposes, of the arrangement is to avoid any obligation under section 50B(1) or (2) or 50C(1), then those sections are to have effect as if the arrangement had not been entered into.”.

9. 

Section 80 amended (penalties for failure to make returns, making incorrect returns, etc.)

After section 80(2D)—

Add
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A person commits an offence if the person, in making a self-certification that is required to be collected under Schedule 17D by a reporting financial institution—

(a) makes a statement that is misleading, false or incorrect in a material particular; and

(b) knows, or is reckless as to whether, the statement is misleading, false or incorrect in a material particular.

(2F) A person who commits an offence under subsection (2E) is liable on conviction to a fine at level 3.”.

10. Sections 80B to 80F added

Before section 81—

Add—

“80B. Penalties for offences relating to reporting financial institutions

(1) A reporting financial institution commits an offence if the institution, without reasonable excuse—

(a) fails to comply with a requirement under—
(i) section 50B(1) or (2); or
(ii) section 50C(1); or
(iii) section 50D(1), (2), (3) or (4); or
(b) fails to comply with a requirement of a notice given to it under section 51B(1AAAD) or 51BA(6); or
(c) obstructs or hinders an assessor in the exercise of the powers under section 51BA(2).
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(2) For subsection (1)(a)(i) and (ii), engaging a service provider under section 50H does not in itself constitute a reasonable excuse.

(3) A reporting financial institution that commits an offence under subsection (1) is liable on conviction to a fine at level 3, and the court may order the institution, within the time specified in the order—

(a) (for subsection (1)(a) or (b)) to do the act that the institution has failed to do; or

(b) (for subsection (1)(c)) to allow and facilitate an assessor to exercise the powers under section 51BA(2).

(4) In the case of an offence under—

(a) subsection (1)(a)(ii) for contravening section 50C(1); or

(b) subsection (1)(b) for contravening section 51B(1AAAD) or 51BA(6),

the reporting financial institution is liable to a further fine of $500 for every day or part of a day during which the offence continues after conviction.

(5) A reporting financial institution commits an offence if the institution does not comply with an order of the court under subsection (3), and is liable on conviction to a fine at level 4.

(6) A reporting financial institution commits an offence if the institution—

(a) in purported compliance with the requirement to furnish a return under section 50C(1), provides any information in the return that is misleading, false or inaccurate in a material particular, and—
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(i) knows the information is misleading, false or inaccurate in a material particular;

(ii) is reckless as to whether the information is misleading, false or inaccurate in a material particular; or

(iii) has no reasonable ground to believe that the information is true or accurate; or

(b) after a return has been furnished to the Commissioner in purported compliance with section 50C(1)—

(i) discovers misleading, false or inaccurate information in the return; and

(ii) without reasonable excuse, fails to notify the Commissioner of the discovery within a reasonable time.

(7) A reporting financial institution that commits an offence under subsection (6) is liable on conviction to a fine at level 3.

(8) A reporting financial institution commits an offence if the institution, with intent to defraud, provides any information that is misleading, false or inaccurate in a material particular in a return furnished under section 50C(1).

(9) A reporting financial institution that commits an offence under subsection (8) is liable—

(a) on summary conviction to—

(i) a fine at level 3; and

(ii) imprisonment for 6 months; or

(b) on conviction on indictment to—

(i) a fine at level 5; and
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(ii) imprisonment for 3 years.

(10) In relation to a reporting financial institution that is not a corporation, this section applies to a person who acts for the institution to maintain financial accounts as if the references to a reporting financial institution were references to that person.

80C. Offences of persons employed by reporting financial institutions, etc.

(1) If a person—

(a) is an employee of a reporting financial institution or, as the case requires, an individual employed as an employee in respect of a reporting financial institution that is not a corporation;

(b) other than a service provider, is engaged to work for a reporting financial institution; or

(c) is concerned in the management of a reporting financial institution,

the person commits an offence if the person, with intent to defraud, causes or allows the institution to provide any information that is misleading, false or inaccurate in a material particular in a return furnished under section 50C(1).

(2) A person who commits an offence under subsection (1) is liable—

(a) on summary conviction to—

(i) a fine at level 3; and

(ii) imprisonment for 6 months; or

(b) on conviction on indictment to—
80D. Offences of service provider

(1) A person who is a service provider engaged to carry out a reporting financial institution’s obligations under section 50B(1) commits an offence if the person, without reasonable excuse, fails to—

(a) establish the procedures described in section 50B(1)(a); or

(b) incorporate into those procedures the due diligence requirements in Schedule 17D.

(2) A person who is a service provider engaged to carry out a reporting financial institution’s obligations under section 50B(2) commits an offence if the person, without reasonable excuse, fails to maintain or apply the procedures established in compliance with section 50B(1)(a) and (b)—

(a) to identify reportable accounts, and to identify and collect the required information within the meaning of section 50C(3); or

(b) to ensure that the purpose mentioned in section 50B(1)(a)(iii) can be achieved.

(3) A person who is a service provider engaged to carry out a reporting financial institution’s obligations under section 50C(1) commits an offence if the person, without reasonable excuse, fails to cause a return to be furnished as required by that section.
(4) A person who is a service provider engaged to carry out a reporting financial institution’s obligations under section 50B(1) or (2) or 50C(1) commits an offence if the person—

(a) causes or allows the institution to provide, or in purported compliance with the requirement on the institution to furnish a return under section 50C(1), provides any information in the return that is misleading, false or inaccurate in a material particular, and—

(i) knows the information is misleading, false or inaccurate in a material particular;

(ii) is reckless as to whether the information is misleading, false or inaccurate in a material particular; or

(iii) has no reasonable ground to believe that the information is true or accurate; or

(b) after a return has been furnished to the Commissioner in purported compliance with section 50C(1)—

(i) discovers misleading, false or inaccurate information in the return; and

(ii) without reasonable excuse, fails to notify the Commissioner of the discovery within a reasonable time.

(5) A person who is a service provider commits an offence if the person, without reasonable excuse—

(a) fails to comply with a requirement of a notice given to it under section 51B(1A) or 51BA(6); or
(b) obstructs or hinders an assessor in the exercise of the powers under section 51BA(2).

6. A person who commits an offence under subsection (1), (2), (3), (4) or (5) is liable on conviction to a fine at level 3.

7. A person who is a service provider engaged to carry out a reporting financial institution’s obligations under section 50B(1) or (2) or 50C(1) commits an offence if the person, with intent to defraud, causes or allows the institution to provide any information that is misleading, false or inaccurate in a material particular in a return furnished under section 50C(1).

8. A person who commits an offence under subsection (7) is liable—
   (a) on summary conviction to—
       (i) a fine at level 3; and
       (ii) imprisonment for 6 months; or
   (b) on conviction on indictment to—
       (i) a fine at level 5; and
       (ii) imprisonment for 3 years.

9. The court may order a service provider that commits an offence under subsection (1), (2), (3) or (5), within the time specified in the order—
   (a) (for subsection (1), (2), (3) or (5)(a)) to do the act that the service provider has failed to do; or
   (b) (for subsection (5)(b)) to allow and facilitate an assessor to exercise the powers under section 51BA(2).
80E. Offences of directors, etc. of corporations

If—

(a) any of the following persons is a corporation—

(i) a reporting financial institution that commits an offence under section 80B(1), (5), (6) or (8); 
(ii) a person who commits an offence under section 80B(1), (5), (6) or (8) pursuant to section 80B(10); 
(iii) a service provider that commits an offence under section 80D(1), (2), (3), (4), (5), (7) or (10); and

(b) the offence was committed with the consent or connivance of a director, or other officer concerned in the management, of the corporation, or any person purporting to act as such director or officer (that person), 

the director or officer or that person, as the case requires, also commits the offence and is liable on conviction to the penalty provided for that offence.
80F. Miscellaneous provisions for certain offences relating to reporting financial institutions, etc.

(1) Despite section 26 of the Magistrates Ordinance (Cap. 227), proceedings in respect of an offence under section 80B, 80C, 80D or 80E, other than an indictable offence, may be brought within 6 years after the date on which the offence was committed.

(2) The Commissioner may compound an offence under section 80B, 80C, 80D or 80E, and may before judgment stay or compound any proceedings instituted for the offence.”.

11. Schedules 17C, 17D and 17E added

Before Schedule 18—

Add

“Schedule 17C

[ss. 2(1), 50A(1) & 50J]

Non-reporting Financial Institutions and Excluded Accounts

Part 1

Interpretation

1. Interpretation

In this Schedule—

account holder (帳戶持有人) has the meaning given by section 50A;
申报对象 (reportable person) 具有第 50A 條所给予的涵義；
存款帐户 (depository account) 具有第 50A 條所给予的涵義；
年金合约 (annuity contract) 具有第 50A 條所给予的涵義；
免申报財務機構 (non-reporting financial institution) 具有第 50A 條所给予的涵義；
投資實體 (investment entity) 具有第 50A 條所给予的涵義；
具規模證券市場 (established securities market) 具有第 50A 條所给予的涵義；
政府實體 (governmental entity) 具有第 50A 條所给予的涵義；
被動非財務實體 (passive NFE) 具有第 50A 條所给予的涵義；
財務帳户 (financial account) 具有第 50A 條所给予的涵義；
財務資產 (financial asset) 具有第 50A 條所给予的涵義；
財務機構 (financial institution) 具有第 50A 條所给予的涵義；
國際組織 (international organization) 具有第 50A 條所给予的涵義；
帳户持有人 (account holder) 具有第 50A 條所给予的涵義；
控權人 (controlling person) 具有第 50A 條所给予的涵義；
現金值保險合約 (cash value insurance contract) 具有第 50A 條所给予的涵義；

annuity contract (年金合約) 具有第 50A 條所给予的涵義；
cash value insurance contract (現金值保險合約) 具有第 50A 條所给予的涵義；
central bank (中央銀行) 具有第 50A 條所给予的涵義；
controlling person (控權人) 具有第 50A 條所给予的涵義；
depository account (存款帳戶) 具有第 50A 條所给予的涵義；
entity (實體) 具有第 50A 條所给予的涵義；
established securities market (具規模證券市場) 具有第 50A 條所给予的涵義；
financial account (財務帳戶) 具有第 50A 條所给予的涵義；
financial asset (財務資產) 具有第 50A 條所给予的涵義；
financial institution (財務機構) 具有第 50A 條所给予的涵義；
governmental entity (政府實體) 具有第 50A 條所给予的涵義；
international organization (國際組織) 具有第 50A 條所给予的涵義；
investment entity (投資實體) 具有第 50A 條所给予的涵義；
non-reporting financial institution (免申报財務機構) 具有第 50A 條所给予的涵義；
passive NFE (被動非財務實體) 具有第 50A 條所给予的涵義；
regularly traded (經常買賣) has the meaning given by section 50A;
reportable person (申報對象) has the meaning given by section 50A.

Part 2

Non-reporting Financial Institutions

1. Governmental entity

A governmental entity, 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, is a non-reporting financial institution.

2. International organization

An international organization, 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, is a non-reporting financial institution.

3. Central bank

A 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, is a non-reporting financial institution.
4. **Hong Kong Monetary Authority**

The Hong Kong Monetary Authority, 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, is a non-reporting financial institution.

5. **Pension fund of governmental entity, international organization, central bank or Hong Kong Monetary Authority**

A fund is a non-reporting financial institution if it is established by a governmental entity, international organization, central bank or the Hong Kong Monetary Authority to provide retirement, disability, or death benefits to beneficiaries or participants who—

(a) are current or former employees (or persons designated by such employees); or

(b) are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services rendered for the governmental entity, international organization, central bank or the Hong Kong Monetary Authority.

6. **Broad participation retirement fund**

A fund is a non-reporting financial institution if—

(a) it is established to provide retirement, disability or death benefits, or any combination of the above, to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered; and
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(b) 該基金——

(i) 沒有一個單一受益人受權得到該基金超過 5%的資產；
(ii) 受政府規管，並向稅務當局作資料申報；及
(iii) 符合任何以下條件——

(A) 基於該基金屬退休計劃或退休金計劃，該基金的投資收入，一般是獲豁免繳稅的，或該項收入獲按後徵稅，或按一個經調低的稅率徵收；

(B) 該基金收取的總供款（從本條或本部第 5 或 7 條所描述的其他基金；或從本附表第 3 部第 1 條所描述的退休及退休金帳戶作出的資產轉讓除外）中，至少 50% 是來自營辦僱主的；

(C) 僅在關乎退休、傷残或死亡的指明事件發生的情況下，方容許從該基金分發或提取款項（轉接時分發予本條或本部第 5 或 7 條所描述的其他退休基金，或分發予本附表第 3 部第 1 條所描述的退休及退休金帳戶的款項除外），或有罰則適用於在該等指明事件發生前進行的分發或提取款項；

(b) it——

(i) does not have a single beneficiary with a right to more than 5% of the fund’s assets; 
(ii) is subject to government regulation and provides information reporting to the tax authorities; and 
(iii) meets any of the following conditions—

(A) the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, owing to its status as a retirement or pension plan;

(B) the fund receives at least 50% of its total contributions (other than transfers of assets from other funds described in this section or section 5 or 7 of this Part or from a retirement and pension account described in section 1 of Part 3 of this Schedule) from the sponsoring employers;

(C) distributions or withdrawals from the fund are allowed only on the occurrence of specified events related to retirement, disability or death (except rollover distributions to other retirement funds described in this section or section 5 or 7 of this Part or to a retirement and pension account described in section 1 of Part 3 of this Schedule), or penalties apply to distributions or withdrawals made before such specified events;
(D) contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to the earned income of the employee, or may not exceed $390,000 annually, applying the rules of account aggregation and currency set out in the due diligence requirements in Schedule 17D.

7. Narrow participation retirement fund
A fund is a non-reporting financial institution if—

(a) it is 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; and

(b) it—

(i) has less than 50 participants;

(ii) is sponsored by an employer that is not an investment entity or a passive NFE; and

(iii) meets all of the following conditions—

(A) the employee and employer contributions to the fund (other than transfers of assets from a retirement and pension account described in section 1 of Part 3 of this Schedule) are limited by reference to the earned income and compensation of the employee;
8. Qualified credit card issuer

(1) An entity is a non-reporting financial institution if—

(a) the entity is a financial institution and it is so 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 credit card of the customer and the overpayment is not immediately returned to the customer; and

(b) by 1 January 2017, the entity has begun to implement policies and procedures—

(i) to prevent a customer from making an overpayment in excess of $390,000; or

(ii) to ensure that any customer overpayment in excess of $390,000 is refunded to the customer within 60 days,

in each case applying the rules of account aggregation and currency set out in the due diligence requirements in Schedule 17D.

(2) For the purposes of subsection (1)(b)(ii), a customer overpayment does not refer to credit balances to the extent of disputed charges but includes credit balances resulting from merchandise returns.
9. Exempt collective investment vehicle

(1) An investment entity is a non-reporting financial institution if—

(a) the investment entity is regulated as a collective investment vehicle; and

(b) all of the interests in the investment entity are held by or through any of the following—

(i) individuals who are not reportable persons;

(ii) entities that—

(A) are not reportable persons; and

(B) are passive NFEs with controlling persons who are not reportable persons.

(2) An investment entity that is regulated as a collective investment vehicle does not fail to qualify under subsection (1) as a non-reporting financial institution solely because the investment entity has issued physical shares in bearer form, if—

(a) the investment entity has not issued, and does not issue, any physical shares in bearer form after 1 January 2017;

(b) the investment entity retires all such shares on surrender;

(c) the investment entity applies the due diligence requirements in Schedule 17D 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
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(d) the investment entity has in place policies and procedures to ensure that such shares are redeemed or immobilized as soon as possible, and in any event prior to 1 January 2018.

10. Trustee-documented trust

A trust is a non-reporting financial institution if it is established to the extent that the trustee of the trust is a reporting financial institution and reports all information required to be reported pursuant to this Ordinance with respect to all reportable accounts of the trust.

11. Grant Schools Provident Fund and Subsidized Schools Provident Fund

(1) The Grant Schools Provident Fund maintained for teachers under the Grant Schools Provident Fund Rules (Cap. 279 sub. leg. C) is a non-reporting financial institution.

(2) The Subsidized Schools Provident Fund maintained for teachers under the Subsidized Schools Provident Fund Rules (Cap. 279 sub. leg. D) is a non-reporting financial institution.

12. Mandatory provident fund schemes and occupational retirement schemes

(1) A mandatory provident fund scheme registered under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (MPF scheme) is a non-reporting financial institution.

(2) An occupational retirement scheme registered under the Occupational Retirement Schemes Ordinance (Cap. 426) (ORSO scheme) is a non-reporting financial institution.
(3) A pooling agreement as defined by section 2(4) of the Occupational Retirement Schemes Ordinance (Cap. 426) that only applies to 2 or more participating ORSO schemes is a non-reporting financial institution.

(4) An approved pooled investment fund as defined by section 2 of the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 sub. leg. A), in which only either or both of the following schemes are invested, is a non-reporting financial institution—
(a) MPF schemes;
(b) ORSO schemes.

13. Credit union

A credit union registered under the Credit Unions Ordinance (Cap. 119) is a non-reporting financial institution.

Part 3

Excluded Accounts

1. Retirement and pension account

(1) A retirement or pension account is an excluded account if all of the following conditions are met—
(a) 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);
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(b) 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 are taxed at a reduced rate, or taxation of the investment income from the account is deferred or made at a reduced rate);

c) information reporting to the tax authorities is required in respect of the account;

d) withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such events;

e) either—

(ii) there is a maximum lifetime contribution limit to the account of $7,800,000 or less, in each case applying the rules of account aggregation and currency set out in the due diligence requirements in Schedule 17D.

A financial account that does not meet the condition under subsection (1)(e) does not fail to meet the condition solely because the financial account may receive assets or funds transferred from one or more financial accounts as described in this section and section 2 of this Part or from one or more retirement or pension funds as described in sections 5, 6 and 7 of Part 2 of this Schedule.
2. Non-retirement tax-favoured accounts

(1) An account is an excluded account if all of the following conditions are met—

(a) the account is, for purposes other than for retirement, subject to regulation as an investment vehicle that is regularly traded on an established securities market, or the account is, for purposes other than for retirement, subject to regulation as a savings vehicle;

(b) 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 are taxed at a reduced rate, or taxation of the investment income from the account is deferred or made at a reduced rate);

(c) withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (including the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met;

(d) the annual contributions are limited to $390,000 or less, applying the rules of account aggregation and currency set out in the due diligence requirements in Schedule 17D.

(2) A financial account that does not meet the condition under subsection (1)(d) does not fail to meet the condition solely because the financial account may receive assets or funds transferred from one or more financial accounts as described in this section and section 1 of this Part or from one or more retirement
3. Term life insurance contracts

A life insurance contract with a coverage period that will end before the insured individual attains age 90 is an excluded account if all of the following conditions are met—

(a) 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;

(b) the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;

(c) the amount (other than a death benefit) payable on 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;

(d) the contract is not held by a transferee for value.

4. Estate account

An account held solely by an estate is an excluded account if its documentation includes a copy of the deceased’s will or death certificate.
5. 代管帳戶

任何帳戶如在與任何下述項目相關的情況下設立，即屬豁除帳戶——

(a) 法院命令或判決；

(b) 出售、交換或租賃土地財產或非土地財產，前提是該帳戶符合以下條件——

(i) 該帳戶的資金，純粹來自首期付款、誠意金、款額對確保履行直接關乎有關交易的責任屬適當的訂金，或相類付款，或該帳戶的資金，是來自在與出售、交換或租賃該財產相關的情況下存於該帳戶的財務資產；

(ii) 設立該帳戶，是純粹為確保有關支付的責任得以履行，而該帳戶亦純粹用作確保該等責任得以履行；上述有關支付，指以下支付：買方支付該財產的售價，賣方支付任何或有負債，或出租人或承租人根據租約議定，支付關乎租賃物業的賠償；

(iii) 該帳戶的資產（包括該等資產賺取的收入）在該財產出售、交換或交還時，或在有關租約終止時，將會為買方、賣方、出租人或承租人的利益（包括履行買方、賣方、出租人或承租人的責任）而作出支付，或以其他方法分配；

5. Escrow account

An account established in connection with any of the following is an excluded account—

(a) a court order or judgment;

(b) a sale, exchange, or lease of real or personal property, provided that the account meets the following conditions—

(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 on the assets, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor or lessee (including satisfying the obligation of the purchaser, seller, lessor or lessee) when the property is sold, exchanged, or surrendered, or the lease terminates;
6. Depository account owing to not-returned overpayments

(1) A depository account is an excluded account if both of the following conditions are met—

(a) 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

(b) beginning on or before 1 January 2017, the financial institution implements policies and procedures either to prevent a customer from making an overpayment in excess of $390,000, or to ensure that any customer overpayment in excess of $390,000 is refunded to the customer within 60 days, in each case applying the rules of account aggregation and currency set out in the due diligence requirements in Schedule 17D.
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(2) For the purpose of subsection (1)(b), a customer overpayment does not refer to credit balances to the extent of disputed charges but includes credit balances resulting from merchandise returns.

7. Dormant account

An account (other than an annuity contract) with a balance that does not exceed $7,800 is an excluded account if—

(a) the account holder has not initiated a transaction with regard to the account or any other account held by the account holder with a reporting financial institution in the previous 3 years;

(b) the account holder has not communicated with the reporting financial institution regarding the account or any other account held by the account holder with the reporting financial institution in the previous 6 years;

(c) the account is treated as a dormant account in accordance with the reporting financial institution’s normal operating procedures; or

(d) (for the account being a cash value insurance contract) the reporting financial institution has not communicated with the account holder regarding the account or any other account held by the account holder with the reporting financial institution in the previous 6 years.
Due Diligence Requirements

Part 1

Interpretation

1. Interpretation

In this Schedule—

a. account holder (帳戶持有人) has the meaning given by section 50A;

b. active NFE (主動非財務實體) has the meaning given by section 50A;

c. AML/KYC procedures (打擊洗錢及識別顧客程序) has the meaning given by section 50A;

d. annuity contract (年金合約) has the meaning given by section 50A;

e. cash value insurance contract (現金值保險合約) has the meaning given by section 50A;

f. controlling person (控制人) has the meaning given by section 50A;

g. depository account (存款帳戶) has the meaning given by section 50A;

documentary evidence (文件證據) includes—
(a) a certificate of residence issued by an authorized government body (including a government, a government agency and a municipality) of the jurisdiction of which the payee claims to be a resident for tax purposes;

(b) for an individual, a valid identification issued by an authorized government body (including a government, a government agency and a municipality) of a jurisdiction that includes the individual’s name and is typically used for identification purposes;

(c) for an entity, an official documentation issued by an authorized government body (including a government, a government agency and a municipality) of a jurisdiction that includes the entity’s name and—

(i) the address of the entity’s principal office in the jurisdiction of which it claims to be a resident for tax purposes; or

(ii) the jurisdiction in which the entity was incorporated or organized; and

(d) an audited financial statement, third-party credit report, bankruptcy filing, or securities regulator’s report;

entity (實體) has the meaning given by section 50A;

financial account (財務帳戶) has the meaning given by section 50A;

financial institution (財務機構) has the meaning given by section 50A;

high value account (高值帳戶) means a pre-existing individual account with an aggregate balance or
value that exceeds $7,800,000 as at 31 December of the second year before the reporting year or 31 December of any subsequent year;

jurisdiction of residence (居留司法管轄區) has the meaning given by section 50A;

low value account (低值帳戶) means a pre-existing individual account with an aggregate balance or value that does not exceed $7,800,000 as at 31 December of the second year before the reporting year;

new account (新帳戶) means a financial account opened and maintained by a reporting financial institution on or after 1 January 2017;

new entity account (新實體帳戶) means a new account held by one or more entities;

new individual account (新個人帳戶) means a new account held by one or more individuals;

participating jurisdiction (參與稅務管轄區) has the meaning given by section 50A;

participating jurisdiction financial institution (參與稅務管轄區財務機構) has the meaning given by section 50A;

passive NFE (被動非財務實體) has the meaning given by section 50A;

pre-existing account (先前帳戶) has the meaning given by section 50A;

pre-existing entity account (先前實體帳戶) means a pre-existing account held by one or more entities;

pre-existing individual account (先前個人帳戶) means a pre-existing account held by one or more individuals;
Part 2

General Due Diligence Requirements

1. An account is to be treated as a reportable account beginning as at the date it is identified as such pursuant to the due diligence requirements in this Part and Parts 3, 4, 5, 6 and 7 of this Schedule and information in relation to a reportable account must be reported as required under section 50C.

2. The balance or value of an account is to be determined as at the last day of the calendar year or other appropriate reporting period of 12 months.

3. If a balance or value threshold is to be determined as at the last day of a calendar year, the relevant balance or value must be determined as at the last day of the reporting period that ends with or within that calendar year.

4. A reporting financial institution may—
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Due Diligence Requirements for Pre-existing Individual Accounts

1. Application
   This Part specifies the requirements that apply to pre-existing individual accounts in identifying a reportable account.

2. Accounts not required to be reviewed, identified, or reported
   A pre-existing individual account that is a cash value insurance contract or an annuity contract is not required to be reviewed, identified or reported, if the reporting financial institution is effectively prevented by law from selling the contract to residents for tax purposes of a reportable jurisdiction.
3. Low value accounts

(1) The requirements in this section apply to low value accounts.

(2) If a reporting financial institution has in its records a current residence address for the individual account holder based on documentary evidence, the institution may treat the individual account holder as a resident for tax purposes of the jurisdiction in which the address is located for the purpose of determining whether the individual account holder is a reportable person.

(3) If a reporting financial institution does not rely on the current residence address for the individual account holder based on documentary evidence as mentioned in subsection (2), the institution must review electronically searchable data maintained by the institution for any of the following indicia and apply the provisions in subsections (4), (5), (6), (7), (8) and (9)—

(a) identification of the account holder as a resident for tax purposes 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 outside Hong Kong with no telephone number in Hong Kong;
(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;
(f) a hold mail instruction or in-care-of address in a reportable jurisdiction if the institution does not have any other address on file for the account holder.

(4) If none of the indicia described in subsection (3) is discovered in the electronic search, then no further action is required until—

(a) there is a change in circumstances that results in one or more indicia being associated with the account; or

(b) the account becomes a high value account.

(5) If any of the indicia described in subsection (3)(a), (b), (c), (d) and (e) is 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 a reportable jurisdiction for which an indicium is identified, unless it elects to apply subsection (8) or (9), or both, and any of the exceptions in subsections (8) and (9) applies to the account.

(6) 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 described in subsection (3)(a), (b), (c), (d) and (e) is identified for the account holder, the reporting financial institution must—

(a) in the order most appropriate to the circumstances, perform the paper record search described in section 4(4) of this Part; or
(b) 須尋求向帳戶持有人取得自我證明或文件證據，以確立該帳戶持有人的居留司法管轄區。

(7) 如——
(a) 已進行第 (6)(a) 款所指的紙張紀錄搜尋，但不能確立任何身分標記；及
(b) 已嘗試取得第 (6)(b) 款所指的自我證明或文件證據，但沒有成果，
則有關申報財務機構須申報有關帳戶為無文件佐證帳戶。

(8) 即使就某財務帳戶找到第 (3)(b)、(c) 或 (d) 款所描述的身分標記，在以下情況下，申報財務機構亦無須將其帳戶持有人，視為某申報稅務管轄區的稅務居民：該機構取得以下兩項材料，或之前已覆核並備存以下兩項材料的紀錄——
(a) 該帳戶持有人提供的自我證明，顯示其居留司法管轄區並不包括該申報稅務管轄區；
(b) 確立該帳戶持有人的居留司法管轄區（不屬該申報稅務管轄區者）的文件證據。

(9) 即使就某財務帳戶找到第 (3)(e) 款所描述的身分標記，在以下情況下，申報財務機構亦無須將其帳戶持有人，視為某申報稅務管轄區的稅務居民：該機構取得以下任何一項材料，或之前已覆核並備存以下任何一項材料的紀錄——
(b) seek to obtain from the account holder a self-certification or documentary evidence to establish the jurisdiction of residence for the account holder.

(7) If—
(a) the paper record search under subsection (6)(a) fails to establish an indicium; and
(b) the attempt to obtain the self-certification or documentary evidence under subsection (6)(b) is not successful,
the reporting financial institution must report the account as an undocumented account.

(8) Despite any finding of an indicium described in subsection (3)(b), (c) or (d) for a financial account, a reporting financial institution is not required to treat its account holder as a resident for tax purposes of a reportable jurisdiction if it obtains, or has previously reviewed and maintains a record of, both of the following—
(a) a self-certification from the account holder showing that his or her jurisdiction of residence does not include that reportable jurisdiction;
(b) documentary evidence establishing the jurisdiction of residence for the account holder other than that reportable jurisdiction.

(9) Despite any finding of an indicium described in subsection (3)(e) for a financial account, a reporting financial institution is not required to treat its account holder as a resident for tax purposes of a reportable jurisdiction if it obtains, or has previously reviewed and maintains a record of, any of the following—
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(a) a self-certification from the account holder showing that his or her jurisdiction of residence does not include that reportable jurisdiction;
(b) documentary evidence establishing the jurisdiction of residence for the account holder other than that reportable jurisdiction.

4. Enhanced review procedures for high value accounts

(1) This section provides for enhanced review procedures and applies to high value accounts.

(2) With respect to a high value account, the reporting financial institution must review electronically searchable data maintained by the institution for any of the indicia described in section 3(3) of this Part.

(3) If the reporting financial institution’s electronically searchable databases (e-databases) include fields for, and capture all of the information described in, subsection (5), then a further paper record search is not required.

(4) However, if the e-databases do not capture all of the information described in subsection (5), 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 institution within the last 5 years for any of the indicia described in section 3(3) of this Part—
(a) the most recent documentary evidence collected with respect to the account;
(b) the most recent account opening contract or documentation;

(5)与该账户有关联的以下文件——
(a) 该账户的最新文件证据；
(b) 最新的开立账户合约或文件；
(5) A reporting financial institution is not required to perform the paper record search described in subsection (4) if its electronically searchable information includes the following information—
(a) the account holder’s residence status;
(b) the account holder’s mailing and residence address currently on file with the reporting financial institution;
(c) the account holder’s telephone number currently on file, if any, with the reporting financial institution;
(d) for 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 hold mail instruction or in-care-of address for the account holder;
(f) whether there is any power of attorney or signatory authority for the account.
(6) Apart from conducting the electronic and paper record searches described in subsections (2) and (4), the reporting financial institution must treat as a reportable account any high value account assigned to a relationship manager of the institution (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.

(7) After an enhanced review of a high value account under subsection (2) or (4) is performed—

(a) If—

(i) none of the indicia described in section 3(3) of this Part is discovered; and

(ii) the account is not identified as held by a resident for tax purposes of a reportable jurisdiction in subsection (6),

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—

(i) any of the indicia described in section 3(3)(a), (b), (c), (d) and (e) of this Part is discovered; or

(ii) 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 holder as a resident for tax purposes of each reportable jurisdiction for which an indicium is identified unless it elects to apply subsection (8) or (9), or both, of section 3 of this Part and any of the exceptions in subsections (8) and (9) of that section applies to the account; and

(c) if—

(i) a hold mail instruction or in-care-of address is discovered; and

(ii) no other address and none of the other indicia described in section 3(3)(a), (b), (c), (d) and (e) of this Part is identified for the account holder,

then the reporting financial institution must obtain from the account holder a self-certification or documentary evidence to establish the jurisdiction of residence for the account holder and (if it cannot obtain such self-certification or documentary evidence) must report the account as an undocumented account.

(8) If a pre-existing individual account is not a high value account as at 31 December of the second year before the reporting year, but becomes a high value account as at the last day of a subsequent calendar year—
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(a) the reporting financial institution must complete the enhanced review procedures under this section with respect to the account within the calendar year following the year in which the account becomes a high value account; and

(b) (if based on the review under paragraph (a), the account is identified as a reportable account) the reporting financial institution must report the required information about the 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.

(9) Once a reporting financial institution applies the enhanced review procedures under this section to a high value account, the reporting financial institution is not required to reapply the procedures, other than the procedure in subsection (6), to the same high value account in any subsequent year unless the account is undocumented where the reporting financial institution must reapply them annually until the account ceases to be undocumented.

(10) If there is a change of circumstances with respect to a high value account that results in one or more indicia described in subsection (3) of section 3 of this Part 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 subsection (8) or (9), or both, of section 3 of this Part and any of the exceptions in subsections (8) and (9) of that section applies to the account.
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(11) A reporting financial institution must implement procedures to ensure that a relationship manager of the institution identifies any change in circumstances of an account.

(12) Without limiting subsection (11), if a relationship manager is notified that the account holder has a new mailing address in a reportable jurisdiction, the reporting financial institution—

(a) must treat the new address as a change in circumstances; and

(b) if the institution elects to apply subsection (8) or (9), or both, of section 3 of this Part, must obtain the appropriate documentation from the account holder.

5. Review of pre-existing individual accounts

(1) Review of a pre-existing individual account that is a high value account must be completed on or before 31 December of the year before the reporting year for the account.

(2) Review of a pre-existing individual account that is a low value account must be completed on or before 31 December of the reporting year for the account.

Part 4

Due Diligence Requirements for New Individual Accounts

1. Application

This Part specifies the requirements that apply to new individual accounts in identifying a reportable account.
2. Requirements

(1) On the opening of a new individual account, a reporting financial institution must—

(a) obtain a self-certification, which may be part of the account opening documentation, that allows the institution to determine the jurisdiction of residence for the account holder; and

(b) confirm the reasonableness of the self-certification based on the information obtained by the institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC procedures.

(2) If the self-certification establishes that the account holder is a resident for tax purposes of a reportable jurisdiction—

(a) the reporting financial institution must treat the account as a reportable account; and

(b) the self-certification must also include the account holder’s date of birth and (subject to section 50G(1)(b)) the account holder’s TIN with respect to the reportable jurisdiction.

(3) 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 institution—

(a) cannot rely on the original self-certification; and

(b) must obtain a valid self-certification that establishes the jurisdiction of residence for the account holder.
Part 5
Due Diligence Requirements for Pre-existing Entity Accounts

Division 1—General

1. Application
This Part specifies the requirements that apply to pre-existing entity accounts in identifying a reportable account.

Division 2—Entity Accounts subject to Review

2. Entity accounts not required to be reviewed, identified or reported

(1) A pre-existing entity account with an aggregate account balance or value that does not exceed $1,950,000 as at 31 December of the second year before the reporting year, is not required to be reviewed, identified, or reported as a reportable account until the aggregate account balance or value exceeds $1,950,000 as at the last day of any subsequent calendar year.

(2) Subsection (1) does not apply if the reporting financial institution elects otherwise, whether with respect to all pre-existing entity accounts or, separately, with respect to any clearly identified group of such accounts.
3. Entity accounts subject to review

A pre-existing entity account must be reviewed in accordance with the review procedures under section 4 of this Part if—

(a) the account has an aggregate account balance or value that exceeds $1,950,000 as at 31 December of the second year before the reporting year; or

(b) the account does not exceed $1,950,000 as at 31 December of the second year before the reporting year but the aggregate account balance or value of the account exceeds $1,950,000 as at the last day of any subsequent calendar year.

Division 3—Review Procedures

4. Review procedures for identifying entity accounts with respect to which reporting may be required

For a pre-existing entity account described in section 3 of this Part, a reporting financial institution must apply the review procedures under this Division.

5. Determining residence of entity that holds pre-existing entity account

(1) The reporting financial institution must review information maintained for regulatory or customer relationship purposes (including information collected and maintained pursuant to AML/KYC procedures) to determine the account holder’s residence.
6. 於定被動非財務實體的控權人的居留地

(1) 對於先前實體帳戶的帳戶持有人(包括屬申報對象的實體)、申報財務機構須識辨該持有人是否屬有一名或多於一名控權人的被動非財務實體，並斷定該等控權人的居留地。

(2) 如某被動非財務實體的任何控權人屬申報對象，則有關帳戶須視為須申報帳戶。

(3) 申報財務機構在斷定上述事項時，須按在有關情況下屬最適當的次序，依循本部第7、8及9條的指引行事。

(2) For the purpose of subsection (1), information indicating the account holder’s residence includes a place of incorporation or organization, or an address in a reportable jurisdiction.

(3) If the information indicates that the account holder is a reportable person, 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.

6. Determining residence of controlling persons of passive NFE

(1) With respect to an account holder of a pre-existing entity account (including an entity that is a reportable person), the reporting financial institution must identify whether the account holder is a passive NFE with one or more controlling persons, and determine the residence of the controlling persons.

(2) If any of the controlling persons of a passive NFE is a reportable person, then the account is to be treated as a reportable account.

(3) In making the determinations, the reporting financial institution must follow the guidance in sections 7, 8 and 9 of this Part in the order most appropriate under the circumstances.
7. Determining whether account holder is passive NFE

For the purpose of determining whether the account holder is a passive NFE, the reporting financial institution must obtain and rely on a self-certification from the account holder to establish the account holder's 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—

(a) an active NFE; or

(b) a financial institution other than an investment entity within the meaning of paragraph (e) of the definition of investment entity in section 50A(1) that is not a participating jurisdiction financial institution.

8. Determining controlling persons of an account holder

For the purpose 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.

9. Determining residence of controlling person of passive NFE

(1) For the purpose of determining the residence of a controlling person of a passive NFE, a reporting financial institution may rely on—

(a) information collected and maintained pursuant to AML/KYC procedures in the case of a pre-existing entity account held by one or more passive NFEs with an aggregate account balance or value that does not exceed $7,800,000; or
(b) a self-certification from the account holder or the controlling person of the jurisdiction for which the controlling person is a resident for tax purposes.

(2) For the purpose of subsection (1)(b), if a self-certification is not provided, the reporting financial institution must establish the residence by applying the review procedures under section 4 of Part 3 of this Schedule.

Division 4—Timing of Review, etc.

10. Timing of review

(1) Review of a pre-existing entity account with an aggregate account balance or value that exceeds $1,950,000 as at 31 December of the second year before a reporting year must be completed on or before 31 December of the reporting year for the account.

(2) Review of a pre-existing entity account with an aggregate account balance or value that does not exceed $1,950,000 as at 31 December of the second year before the reporting year, but exceeds $1,950,000 as at the last day of a subsequent calendar year, must be completed within the calendar year following the year in which the aggregate account balance or value exceeds $1,950,000.

11. Additional procedures applicable to pre-existing entity accounts

If there is a change of circumstances with respect to a pre-existing entity account that causes the reporting financial institution to know, or have reason to know, that
Part 6

Due Diligence Requirements for New Entity Accounts

1. Application

This Part specifies the requirements that apply to new entity accounts in identifying a reportable account.

2. Determining residence of entity

(1) A reporting financial institution must—

(a) obtain a self-certification from an entity that opens an account, which may be part of the account opening documentation, that allows the institution to determine the jurisdiction of residence for the account holder; and

(b) confirm the reasonableness of the self-certification based on the information obtained by the institution in connection with the opening of the account, including any documentation collected and maintained pursuant to AML/KYC procedures.

(2) If the entity certifies that it is not a resident for tax purposes of any jurisdiction, the reporting financial institution may rely on the address of the principal office of the entity to determine the residence of the account holder.
3. Determining residence of controlling persons of passive NFE

(1) With respect to an account holder of a new entity account (including an entity that is a reportable person), the reporting financial institution must identify whether the account holder is a passive NFE with one or more controlling persons, and determine the residence of the reportable persons.

(2) If any of the controlling persons of a passive NFE is a reportable person, then the account is to be treated as a reportable account.

(3) In making the determination, the reporting financial institution must follow the guidance in sections 4, 5 and 6 of this Part in the order most appropriate under the circumstances.

4. Determining whether account holder is passive NFE

For the purpose of determining whether the account holder is a passive NFE, the reporting financial institution must obtain and rely on a self-certification from the account holder to establish the account holder’s 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—
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(a) an active NFE; or
(b) a financial institution other than an investment entity within the meaning of paragraph (e) of the definition of investment entity in section 50A(1) that is not a participating jurisdiction financial institution.

5. Determining controlling persons of account holder
For the purpose 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.

6. Determining residence of controlling person of passive NFE
For the purpose of determining the residence of a controlling person of a passive NFE, a reporting financial institution may rely on a self-certification from the account holder or the controlling person.

Part 7
Special Due Diligence Requirements

1. Application
This Part specifies the additional requirements that apply in applying the due diligence requirements in Parts 2, 3, 4, 5 and 6 of this Schedule.
2. Reliance on self-certifications and documentary evidence

A reporting financial institution may not rely on self-certification or documentary evidence if it knows or has reason to know that the self-certification or documentary evidence is incorrect or unreliable.

3. Alternative procedures for financial accounts held by individual beneficiaries of cash value insurance contract or annuity contract

(1) 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 the financial account as other than a reportable account unless the institution has actual knowledge, or reason to know, that the beneficiary is a reportable person.

(2) 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 institution and associated with the beneficiary contains indicia of residence in a reportable jurisdiction as described in section 3 of Part 3 of this Schedule.

(3) If a reporting financial institution has actual knowledge, or reason to know, that the beneficiary is a reportable person, the institution must apply the requirements in section 3 of Part 3 of this Schedule.

4. Alternative procedures for group cash value insurance contract or group annuity contract

(1) A reporting financial institution may treat a financial account that is a member’s interest in a group cash
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value insurance contract or group annuity contract as a financial account that is not a reportable account until the date on which an amount is payable to the employee, certificate holder or beneficiary, if the financial account that is a member’s interest in a group cash value insurance contract or group annuity contract meets all of the following conditions—

(a) the group cash value insurance contract or group annuity contract is issued to the employer and covers 25 or more employees or certificate holders;

(b) the employees or certificate holders are entitled to receive any contract value related to their interests and to name beneficiaries for the benefit payable on the death of the employee or certificate holder;

(c) the aggregate amount payable to any employee or certificate holder or beneficiary does not exceed $7,800,000.

(2) In subsection (1)—

group annuity contract (團體年金合約) means an annuity contract under which the obligees are individuals who are affiliated through an employer, trade association, labour union, or other association or group;

group cash value insurance contract (團體現金值保險合約) means a cash value insurance contract that—

(a) provides coverage on individuals who are affiliated through an employer, trade association, labour union, or other association or group; and
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(b) charges a premium for each member of the group (or member of a class within the group) that is determined without regard to the individual health characteristics other than age, gender, and smoking habits of the member (or class of members) of the group.

5. Rules of account aggregation and currency

(1) 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, but only to the extent that the institution’s computerized systems—

(a) link the financial accounts by reference to a data element such as client number or TIN; and

(b) allow account balances or values to be aggregated.

(2) Each holder of a jointly held financial account must be attributed the entire balance or value of the jointly held financial account for the purpose of applying the aggregation requirements described in subsection (1).

(3) For the purpose of determining the aggregate balance or value of financial accounts held by an entity, a reporting financial institution must take into account all financial accounts that are maintained by the institution, or by a related entity, but only to the extent that the institution’s computerized systems—

(a) link the financial accounts by reference to a data element such as client number or TIN; and
(b) allow account balances or values to be aggregated.

(4) Each holder of a jointly held financial account must be attributed the entire balance or value of the jointly held financial account for the purpose of applying the aggregation requirements described in subsection (3).

(5) For the purpose of determining the aggregate balance or value of financial accounts held by a person and whether a financial account is a high value account, if a relationship manager of a reporting financial institution knows, or has reason to know, any financial accounts are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person, the institution must aggregate all those accounts.

(6) References to a dollar amount in this Schedule are to be read as including an equivalent amount in a foreign currency.
### Schedule 17E

[ss. 50A(1) & 50J]

Reportable Jurisdictions and Participating Jurisdictions

#### Part 1

Reportable Jurisdictions and Reporting Year

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<tr>
<th>Column 1</th>
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<tr>
<td>Reportable Jurisdiction</td>
<td>Reporting Year</td>
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</table>

**Note—**
The reporting year for a reportable jurisdiction is the year beginning from which a notice may be given under section 50C(2) requiring information on reportable accounts with respect to that jurisdiction.

(This note does not have legislative effect.)

#### Part 2

Participating Jurisdictions".

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附表 17E

[第 50A(1) 及 50J 條]

申報稅務管轄區及參與稅務管轄區

第 1 部

申報稅務管轄區及申報年

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<tr>
<td>申報稅務管轄區</td>
<td>申報年</td>
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附註——

申報稅務管轄區的申報年是指，從該年開始，可根據第 50C(2) 條發出通知，要求就該管轄區提供須申報帳戶的資料。

(上述附註沒有立法效力。)

第 2 部

參與稅務管轄區”。