

Annex

Summary of key public feedback received on the proposed Income Tax (International Tax Compliance Agreements) (Common Reporting Standard) Regulations 2016 (“CRS Regulations”)

1. Schedule of Reportable Jurisdictions and Participating Jurisdictions

Feedback: To include a Schedule of Reportable Jurisdictions and their associated Reporting Year start dates to aid Singapore Financial Institutions (“SGFIs”) with their reporting obligations under Regulation 16. A Schedule of Participating Jurisdictions should also be provided.

Response: *Accepted. A Schedule of Reportable Jurisdictions will be included in the CRS Regulations. A list of jurisdictions that have signed a bilateral Competent Authority Agreement for CRS with Singapore is available on IRAS’ CRS webpage (<https://www.iras.gov.sg/IRASHome/CRS/>). The public can subscribe to IRAS eAlerts (<https://www.iras.gov.sg/subscribe-to-iras-ealerts>) to receive updates made to IRAS’ CRS webpage.*

We have also modified the definition of “Participating Jurisdiction” in the CRS by treating all jurisdictions that have publicly committed to adopt the CRS by 2018 (“Committed Jurisdictions”) as Participating Jurisdictions, and will publish a list of Participating Jurisdictions on IRAS’ CRS webpage.

2. Interpretative Guidance: the OECD’s Commentaries on the Common Reporting Standard (CRS), OECD’s CRS Implementation Handbook, and OECD’s CRS-related FAQs

Feedback: To permit Reporting SGFIs to rely on the OECD’s Commentaries in OECD’s AEOI Standard, the Standard for Automatic Exchange of Financial Account Information (AEOI) in Tax Matters Implementation Handbook by OECD (“OECD’s CRS Implementation Handbook”), and OECD’s CRS-related FAQs for guidance in implementing the CRS.

Response: *Accepted. Given that the CRS as set out in the First Schedule is part of CRS Regulations and is the international AEOI Standard developed by the OECD, the OECD’s Commentaries on the CRS, the OECD’s CRS Implementation Handbook, and OECD’s CRS-related FAQs are an integral part of Singapore’s CRS implementation. Reporting SGFIs can rely on these materials for interpretative guidance on the due-diligence and reporting requirements of the CRS.*

3. List of Excluded Accounts

Feedback: To provide clarity on whether Supplementary Retirement Scheme (SRS) accounts and SRS investment accounts are subject to CRS due diligence and reporting requirements.

Response: *Accepted. For investment products purchased with SRS monies, Reporting SGFIs (i.e. Custodial Institutions, Depository Institutions, Investment Entities and Specified Insurance Companies) are expected to fulfil the CRS due diligence and reporting obligations for such accounts, akin to other financial accounts.*

Feedback: To provide clarity on the CRS due diligence procedures required from a Reporting SGFI which maintains a cash investment account converted from CPF Investment accounts under Section 15 of the CPF Act.

Response: *Accepted. CPF Investment Accounts are Excluded Accounts for the purposes of CRS. When a CPF member attains the age of 55 years, he/she is entitled to withdraw the sum standing to his/her credit from the CPF Board. In addition, the CPF member can also opt to convert the investments in his/her CPF Investment Account to a cash investment account. The converted cash investment account will no longer be considered as an Excluded Account under CRS. As this involves the conversion of an existing account, the Reporting SGFI should apply the due diligence procedures for Preexisting Individual Accounts on the converted cash investment account to establish if it is a Reportable Account. This would need to be completed by the later of the last day of the calendar year or 90 calendar days following the date that the Reporting SGFI is notified of the conversion.*

4. Due Diligence Obligation

Feedback: To consider issuing a sample self-certification and provide guidance on the acceptable description of financial institutions or non-financial entities (NFEs) of an entity account holder on the self-certification.

Response: *Accepted with clarification. Reporting SGFIs have the flexibility to design their own self-certification, as long as the self-certification meet the requirements of a "valid self-certification" as provided for in the CRS Regulations.*

The Business and Industry Advisory Committee to the OECD (BIAC) has drafted a set of sample self-certification forms, available on the OECD AEOI Portal (<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/>) under CRS Implementation and Assistance > Sample Self-Certification Forms) to assist FIs with the implementation of the CRS. Reporting SGFIs may refer to the entity tax residency self-certification form for a sample description of FIs and NFEs.

Feedback: To provide guidance on whether Reporting SGFIs are required to obtain and report the place of birth of each Reportable Person under Singapore laws.

Response: *Accepted. This will be addressed in the FAQs on IRAS' CRS webpage. Under Singapore laws, there is no requirement for financial institutions to obtain and report the place of birth of individuals. As such, for CRS purposes, the place of birth is not required to be obtained and reported to IRAS.*

Feedback: To provide guidance on what a Reporting SGFI should do when a valid self-certification received for a new account subsequently fails the "reasonableness test".

Response: *Accepted. This will be addressed in the FAQs on IRAS's CRS webpage. Where the validation of the self-certification takes place after account opening and the self-certification fails the reasonableness test, a Reporting SGFI must either obtain (i) a new and valid self-certification, or (ii) a reasonable explanation and documentation, as appropriate, supporting the reasonableness of the self-certification within 90 days from the date of account opening.*

Feedback: To provide guidance on whether a Reporting SGFI is required to close an account if it is unable to obtain (i) a new and valid self-certification, or (ii) a reasonable explanation and

documentation within 90 days from the date of account opening when the self-certification that was obtained upon account opening failed the “reasonableness test”.

Response: Accepted. The Reporting SGFI will not be required to close the account, but will have to report the account holder to IRAS based on the tax residence provided in the self-certification that was obtained upon account opening, and all other jurisdictions for which there is indicia to suggest that the account holder may be a tax resident of. Reporting SGFIs are expected to continue to make reasonable efforts to obtain a valid self-certification from the account holder. Such efforts must be made at least once a year until (i) a new and valid self-certification, or (ii) a reasonable explanation and documentation, is obtained.

5. Reporting Obligation

Feedback: To remove the requirement for mandatory filing of nil return as it is over and beyond what is required under the CRS and to be in line with the reporting requirements of other jurisdictions such as the United Kingdom, the British Virgin Islands and the Cayman Islands.

Response: Rejected. The requirement for Reporting SGFIs to file a nil return is an option that implementing jurisdictions are permitted to provide for under the CRS (refer to paragraph 4 of page 12 of the CRS Implementation Handbook). It requires Reporting SGFIs to acknowledge that they have conducted the required CRS due diligence for the relevant Reporting Year to ascertain that they have no Reportable Accounts and enables IRAS to follow up with Reporting SGFIs that do not file returns on time.

Feedback: To provide for a de-minimis threshold under CRS (e.g. USD50,000 reporting threshold for Individual Accounts, similar to that which is provided for in the FATCA Intergovernmental Agreement) so that low value accounts of individuals can be excluded from the reporting obligation.

Response: Rejected. The CRS does not provide for a de-minimis reporting threshold for individuals.

Feedback: To provide guidance on whether a Reporting SGFI would need to file a nil return for each Reportable Jurisdiction, or only be required to file a nil return if it has no Reportable Accounts for all Reportable Jurisdictions.

Response: Accepted. This will be addressed in the FAQs on IRAS’ CRS webpage. Reporting SGFIs will only be required to submit one CRS return containing information on all Reportable Accounts. Conversely, a Reporting SGFI would be required to file a nil return only if it has no Reportable Accounts for all Reportable Jurisdictions.

Feedback: To provide guidance on discretionary trusts which are Passive NFEs, in particular, on whether a Reporting SGFI can report information on a beneficiary who is a controlling person of the trust only in the year the beneficiaries receive distributions from the trust.

Response: Accepted. This will be addressed in the FAQs on IRAS’ CRS webpage. This is a reporting option that will be made available to Reporting SGFIs. Reporting SGFIs that intend to elect this option must have appropriate measures and procedures in place to identify and report when a distribution is made to a discretionary beneficiary of the trust in any given year.