

CHAPTER 1

BACKGROUND

Globalisation of the financial sector now makes it much easier for individuals and entities to hold money and assets outside their jurisdiction of tax residence. While the great majority comply with their tax obligations, there are some who will use the availability of offshore financial structures to evade tax.

2. For the purpose of enhancing tax transparency and combating cross-border tax evasion, the OECD released in July 2014 the CRS which is an internationally agreed standard for implementation of AEOI as an initiative on exchange of tax information between jurisdictions for tax purposes. As a responsible member of the international community and a leading financial centre, Hong Kong indicated in September 2014 our commitment to implement AEOI on a reciprocal basis and commence the first information exchanges by the end of 2018. To implement AEOI, Hong Kong has activated CRS exchange relationships with other jurisdictions on the basis of bilateral competent authority agreements and the multilateral competent authority agreement under the Convention on Mutual Administrative Assistance in Tax Matters.

3. The Government of Hong Kong has put in place a legal framework under the IRO to implement AEOI. Specifically, Part 8A of and Schedule 17C, 17D and 17E to the IRO impose obligations on Hong Kong financial institutions to establish appropriate due diligence procedures to identify reportable accounts (i.e. accounts held by persons that are tax residents of reportable jurisdictions) and collect and report the required information in respect of the reportable accounts to the IRD for onward transmission to the appropriate AEOI partners. The tax authorities of the AEOI partners would also transmit to the IRD similar information on Hong Kong tax resident individuals and entities holding accounts with their financial institutions.

4. This Guidance is intended to provide Hong Kong financial institutions with an understanding of the requirements that must be fulfilled to comply with those obligations and to aid businesses that may have responsibilities to review, collect and report information under the legislation. It is also intended as a reference source for Hong Kong financial institutions as well as tax, compliance and legal professionals for use alongside the Commentaries to the CRS, CRS related FAQs and CRS Implementation Handbook published by the OECD as well as the information contained

in the Department's website and FAQs issued by the IRD.

5. Section 50L of the IRO provides that in any proceedings under the IRO before a court, any guideline published by the Commissioner of Inland Revenue on the interpretation of Part 8A-related provisions is admissible in evidence and if any provision of the guideline appears to the court to be relevant to the interpretation of any Part 8A-related provisions or relevant to any question arising in the proceedings, the provision of the guideline must be taken into account in interpreting the Part 8A-related provisions or in determining related question.