Inland Revenue (Amendment) (Crypto-Asset Reporting Framework and Amended Common Reporting Standard) Ordinance 2026

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 8 OF 2026

L.S.

John KC LEE
Chief Executive
12 November 2026

An Ordinance to amend the Inland Revenue Ordinance to implement the Crypto-Asset Reporting Framework, and the amendments to the Common Reporting Standard, developed by the Organisation for Economic Co-operation and Development for enhancing international tax transparency and combating cross-border tax evasion; and to provide for related matters and technical amendments.

[13 November 2026]

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

(1) This Ordinance may be cited as the Inland Revenue (Amendment) (Crypto-Asset Reporting Framework and Amended Common Reporting Standard) Ordinance 2026.

(2) Subject to subsections (3), (4) and (5), this Ordinance comes into operation on the day on which it is published in the Gazette.

(3) Division 1 of Part 2, except section 8, comes into operation on 1 January 2027.

(4) Section 8 comes into operation immediately after the Inland Revenue (Amendment) (Automatic Exchange of Information) Ordinance 2026 (4 of 2026) comes into operation.

(5) Division 2 of Part 2 comes into operation on 1 January 2028.

2. Enactments amended

The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

Part 2

Amendments to Inland Revenue Ordinance (Cap. 112)

Division 1—Amendments to Implement Crypto-Asset Reporting Framework

Subdivision 1—General Crypto-Asset Reporting Framework

3. Part 8B added

After Part 8A—

Add

"Part 8B

Returns by Reporting Crypto-Asset Service Providers

50M. Interpretation

(1) In this Part—

2017 Common Reporting Standard (《2017年共同匯報標準》) means the Common Reporting Standard, including the Commentaries, contained in the document entitled Standard for Automatic Exchange of Financial Account Information in Tax Matters (Second Edition), published by the Organisation for Economic Co-operation and Development on 27 March 2017;

active entity (主動實體) means an entity that falls within any of the following descriptions—

(a) in terms of the entity's gross income and its assets—

(i) for the calendar year or other appropriate reporting period preceding the year in which the determination as to whether the entity is an active entity is made, less than 50% of the entity's gross income is passive income; and

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

(b) the entity 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—

(i) 80% or more of the activities of the entity 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 entity consist of the entity's holding or group finance activities, the sum of the entity's holding or group finance activities and the entity's other activities that

generate income (other than passive income) constitute in total 80% or more of the activities of the entity;

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

(i) has never operated a business; and

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

(d) the entity has never been a financial institution throughout the past 5 years and—

(i) is in the process of liquidating its assets; or

(ii) is reorganizing with the intent to continue or recommence operation in a business other than that of a financial institution;

(e) the entity falls within all of the following descriptions—

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

(f) the entity falls within all of the following descriptions—

(i) the entity 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 entity is exempt from income tax in its jurisdiction of residence;

(iii) the entity has no shareholders or members who have a proprietary or beneficial interest in its income or assets;

(iv) the laws of the entity's jurisdiction of residence or the entity's formation documents do not permit any income or assets of the entity 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 entity'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 entity has purchased;

(v) the laws of the entity's jurisdiction of residence or the entity's formation documents require that, on the entity'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).

AML/KYC procedures (打擊洗錢暨認識客户程序) means the customer due diligence procedures required to be carried out by a reporting crypto-asset service provider pursuant to any anti-money laundering requirements or similar requirements (including requirements to know a customer) to which the provider is subject;

annuity contract (年金合約) has the meaning given by section 50A(1);

branch (分行), in relation to a reporting crypto-asset service provider, means a unit, business or office of the provider that is treated as a branch under the regulatory regime of a jurisdiction or that is otherwise regulated under the laws of a jurisdiction as separate from other offices, units, or branches of the provider;

Note—

See also subsection (5).

calendar year (公曆年) has the meaning given by section 50A(1);

CARF (《加密資產申報框架》) means the Crypto-Asset Reporting Framework, consisting of the Rules and the Commentaries, that are set out in Part I of the document entitled International Standards for Automatic Exchange of Information in Tax Matters: Crypto-Asset Reporting Framework and 2023 update to the Common Reporting Standard, published by the Organisation for Economic Co-operation and Development on 8 June 2023;

CARF publications (《加密資產申報框架刊物》) means—

(a) Part I of the document entitled International Standards for Automatic Exchange of Information in Tax Matters: Crypto-Asset Reporting Framework and 2023 update to the Common Reporting Standard, published by the Organisation for Economic Co-operation and Development on 8 June 2023; and

(b) the document entitled Crypto-Asset Reporting Framework: Frequently Asked Questions, published by the Organisation for Economic Co-operation and Development and updated in December 2025, and as further updated from time to time;

cash value (現金值) has the meaning given by section 50A(1);

cash value insurance contract (現金值保險合約) has the meaning given by section 50A(1);

central bank (中央銀行) has the meaning given by section 50A(1);

central bank digital currency (中央銀行數碼貨幣) means a digital fiat currency issued by a central bank;

Common Reporting Standard (《共同匯報標準》) means—

(a) the 2017 Common Reporting Standard; and

(b) the amendments to the 2017 Common Reporting Standard, consisting of the Rules and the Commentaries, that are set out in Part II of the document entitled International Standards for Automatic Exchange of Information in Tax Matters: Crypto-Asset Reporting Framework and 2023 update to the Common Reporting Standard, published by the Organisation for Economic Co-operation and Development on 8 June 2023;

controlling person (控權人) has the meaning given by section 50A(1);

crypto-asset (加密資產)—

(a) means a digital representation of value—

(i) that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions; and

(ii) the ownership of which, or the right to which, can be traded or transferred to another individual or entity in a digital manner; and

(b) includes—

(i) a cryptographic token that represents claims or rights of membership against an individual or entity, rights to property or other absolute or relative rights, and that can be digitally exchanged for fiat currencies or other crypto-assets; and

(ii) fungible and non-fungible tokens that can be traded or transferred to another individual or entity in a digital manner;

crypto-asset user (加密資產使用者) means an individual or entity that is a customer of a reporting crypto-asset service provider for the purpose of carrying out relevant transactions;

Note—

See also subsection (6).

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 subsections (7) and (8).

depository institution (存款機構) means—

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

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

(c) an entity that holds specified electronic money products or central bank digital currencies for the benefit of a customer;

Note—

See also subsections (9) and (15).

entity (實體)—

(a) means—

(i) an entity, other than a natural person, that can establish a permanent customer

relationship with a financial institution or otherwise own property; or

(ii) a legal arrangement; and

(b) includes a corporation, partnership and any other body of persons (incorporated or unincorporated) and a trust;

Note—

The definition of ***entity*** reflects the following—

(a) under the CARF and the CARF publications (both expressions are defined by this subsection), entity covers a legal person and a legal arrangement; and

(b) under the FATF Recommendations (as defined by this subsection), legal person means an entity other than a natural person that can establish a permanent customer relationship with a financial institution or otherwise own property.

entity crypto-asset user (實體加密資產使用者) means a crypto-asset user that is an entity;

established securities market (具規模證券市場) has the meaning given by section 50A(1);

exchange transaction (兑換交易) means—

(a) an exchange between relevant crypto-assets and fiat currencies; and

(b) an exchange between relevant crypto-assets of the same or different forms;

excluded person (豁除人士) means—

(a) an entity the stock of which is regularly traded on one or more established securities markets;

(b) an entity that is a related entity of an entity described in paragraph (a);

(c) a governmental entity;

(d) an international organization;

(e) a central bank; or

(f) a financial institution other than an entity described in paragraph (e) of the definition of ***investment entity*** in this subsection;

FATF Recommendations (《財務行動特別組織的建議》) means the International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation—the FATF Recommendations, as adopted by the Financial Action Task Force Plenary in February 2012 and as in force from time to time;

fiat currency (法定貨幣)—

(a) means the official currency of a jurisdiction which is issued by that jurisdiction or by that jurisdiction's designated central bank or monetary authority, as represented by physical banknotes or coins or by money in different digital forms, including bank reserves and central bank digital currencies; and

(b) includes commercial bank money and electronic money products (including specified electronic money products);

financial asset (財務資產) includes—

(a) any security (including share units of a stock in a corporation; partnership or beneficial 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 swap, currency swap, basis swap, interest rate caps, interest rate floors, commodity swap, equity swap, equity index swap and similar agreement);

(e) insurance contract or annuity contract;

(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); and

(g) any interest (including a futures or forward contract or option) in relevant crypto-assets,

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) has the meaning given by section 50A(1);

HKRCASP (香港申報提供者) means a reporting crypto-asset service provider that meets any of the criteria specified in section 50N(1) and (2);

individual crypto-asset user (個人加密資產使用者) means a crypto-asset user that is an individual;

insurance contract (保險合約) has the meaning given by section 50A(1);

international organization (國際組織) has the meaning given by section 50A(1);

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) dealing 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) dealing 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—

(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 in, administering, or managing financial assets, money or relevant crypto-assets on behalf of other entities or individuals; 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 or relevant crypto-assets,

but does not include an entity that is an active entity solely because it falls within any of the descriptions in paragraphs (b), (c), (d) and (e) of the definition of ***active entity*** in this subsection;

Note—

See also subsections (10), (11) and (12).

jurisdiction of residence (居留司法管轄區) has the meaning given by section 50A(1);

partner jurisdiction (夥伴稅務管轄區) means any territory outside Hong Kong—

(a) that has put in place equivalent legal requirements in relation to CARF; and

(b) that is specified in a list published under subsection (13)(a) by the Commissioner;

passive income (被動收入)—

(a) means the portion of gross income that consists of—

(i) dividends;

(ii) interest;

(iii) income equivalent to interest or dividends;

(iv) rents and royalties (other than rents and royalties derived in the active conduct of a business conducted, at least in part, by the employees of an entity);

(v) annuities;

(vi) income derived from relevant crypto-assets;

(vii) the excess of gains over losses from the sale or exchange of relevant crypto-assets or financial assets;

(viii) the excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any relevant crypto-assets or financial assets;

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

(x) net income from swaps; or

(xi) amounts received under cash value insurance contracts; but

(b) does not include, in the case of an entity that regularly acts as a dealer in relevant crypto-assets or financial assets, any income from any

transaction entered into in the ordinary course of the entity's business as such a dealer;

pre-existing entity crypto-asset user (先前實體加密資產使用者), in relation to an HKRCASP, means an entity crypto-asset user that has established a relationship with the HKRCASP as of 31 December 2026;

pre-existing individual crypto-asset user (先前個人加密資產使用者), in relation to an HKRCASP, means an individual crypto-asset user that has established a relationship with the HKRCASP as of 31 December 2026;

regularly traded (經常買賣) has the meaning given by section 50A(1);

relevant crypto-asset (相關加密資產) means a crypto-asset that is not—

(a) a central bank digital currency;

(b) a specified electronic money product; or

(c) a crypto-asset that, as adequately determined by a reporting crypto-asset service provider, cannot be used for payment or investment purposes;

relevant transaction (相關交易) means—

(a) an exchange transaction; or

(b) a transfer of relevant crypto-assets;

reportable jurisdiction (申報稅務管轄區) means a jurisdiction that is specified in a list published under subsection (13)(b) by the Commissioner;

reportable person (申報對象)—

(a) means—

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

(ii) the estate of a deceased person who was a resident for tax purposes of a reportable jurisdiction; but

(b) does not include an excluded person;

reportable retail payment transaction (須申報零售付款交易) means a transfer of relevant crypto-assets in consideration of goods or services for a value exceeding $390,000;

reportable user (須申報使用者) means a crypto-asset user that is a reportable person;

reporting crypto-asset service provider (申報加密資產服務提供者) means an individual or entity that provides, as a business, a service of effectuating exchange transactions for or on behalf of customers, including by way of acting as a counterparty to, or as an intermediary of, the exchange transactions, or by making available a trading platform;

resident for tax purposes (稅務居民) has the meaning given by section 50A(1);

service provider (服務提供者) means a service provider engaged to carry out the obligations of an HKRCASP as referred to in section 50U;

specified electronic money product (指明電子貨幣產品), except for the purposes of the definition of ***depository institution***, means a crypto-asset that—

(a) is a digital representation of a single fiat currency;

(b) is issued on receipt of funds for the purpose of making payment transactions;

(c) is represented by a claim on the issuer denominated in the same fiat currency;

(d) is accepted in payment by a natural or legal person other than the issuer; and

(e) is, by virtue of the regulatory requirements to which the issuer is subject, redeemable at any time and at par value for the same fiat currency on request of the holder of the asset;

Note—

See also subsection (15).

specified insurance company (指明保險公司) has the meaning given by section 50A(1);

TIN (稅務編號) has the meaning given by section 50A(1);

transfer (轉讓) means a transaction that moves a relevant crypto-asset from or to the crypto-asset address or account of a crypto-asset user (other than one maintained by the reporting crypto-asset service provider on behalf of the same crypto-asset user) where, based on the knowledge available to the provider at the time of the transaction, the provider cannot determine that the transaction is an exchange transaction.

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

(a) either entity controls the other entity; or

(b) the 2 entities are under common control.

(3) For subsection (2), control of an entity means direct or indirect ownership of—

(a) more than 50% of the voting rights in the entity; and

(b) more than 50% of the value of the shares in the entity.

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

(5) For the definition of ***branch*** in subsection (1), all units, businesses, or offices of a reporting crypto-asset service provider in a single jurisdiction are regarded as a single branch.

(6) For the definition of ***crypto-asset user*** in subsection (1)—

(a) an individual or entity (other than a financial institution or a reporting crypto-asset service provider), acting as a crypto-asset user for the benefit or account of another individual or entity as an agent, custodian, nominee, signatory, investment advisor or intermediary, is not regarded as a crypto-asset user, and such other individual or entity is regarded as a crypto-asset user; and

(b) if a reporting crypto-asset service provider provides a service of effectuating reportable retail payment transactions for or on behalf of a merchant, the provider must also treat the customer that is the counterparty to the merchant for such reportable retail payment transaction as the crypto-asset user with respect to such transaction, provided that the provider

is required to verify the identity of such customer by virtue of the reportable retail payment transaction pursuant to domestic anti-money laundering rules.

(7) 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.

(8) For determining whether an entity holds financial assets for the account of another individual or entity as a substantial portion of its business for the purposes of subsection (7), all remuneration for the holding of such assets by the entity and the related financial services must be taken into account, regardless of whether the remuneration is paid directly to the entity or paid to another entity.

(9) For paragraph (c) of the definition of ***depository institution*** in subsection (1), specified electronic money product means any product that—

(a) is a digital representation of a single fiat currency;

(b) is issued on receipt of funds for the purpose of making payment transactions;

(c) is represented by a claim on the issuer denominated in the same fiat currency;

(d) is accepted in payment by a natural or legal person other than the issuer; and

(e) is, by virtue of the regulatory requirements to which the issuer is subject, redeemable at any time and at par value for the same fiat currency on request of the holder of the product.

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

(a) subject to paragraphs (b), (c) and (d), paragraphs (d) and (e) of the definition must be interpreted in a way consistent with the way in which similar provisions in the definition of financial institution in the FATF Recommendations are interpreted;

(b) for the purposes of paragraph (d) of the definition of ***investment entity***, 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 (11);

(c) for the purposes of paragraph (d)(iii) of the definition of ***investment entity***, the words "otherwise investing in, administering, or managing financial assets, money or relevant crypto-assets on behalf of other entities or individuals" do not include the provision of service of effectuating exchange transactions for or on behalf of customers; or

(d) for the purposes of paragraph (e) of the definition of ***investment entity***, an entity's gross income is treated as primarily attributable to investing, reinvesting, or trading in financial assets or relevant crypto-assets if it meets the criterion set out in subsection (11).

(11) For subsection (10)(b) and (d), 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.

(12) For the purposes of subsection (11), all remuneration for the relevant activities of an entity is to be taken into account, regardless of whether that remuneration is paid directly to that entity or paid to another entity.

(13) The Commissioner may, by a list published in the manner specified by the Commissioner, specify any of the following—

(a) for the purposes of the definition of ***partner jurisdiction*** in subsection (1)—the partner jurisdictions;

(b) for the purposes of the definition of ***reportable jurisdiction*** in subsection (1)—the reportable jurisdictions.

(14) A list published under subsection (13) is not subsidiary legislation.

(15) For the purposes of the definitions of ***specified electronic money product*** and ***depository institution*** in subsection (1)—

(a) a specified electronic money product does not include a product created for the sole purpose of facilitating the transfer of funds from a customer to another person pursuant to the instructions of the customer; and

(b) for paragraph (a), a product is not regarded as being created for the sole purpose of facilitating the transfer of funds if in the ordinary course of business of the transferring entity—

(i) if instructions to facilitate the transfer are received—the funds connected with the product are held longer than 60 days after the receipt of the instructions; or

(ii) if no such instructions are received—the funds connected with the product are held longer than 60 days after the receipt of the funds.

(16) The definitions of ***annuity contract***, ***cash value***, ***cash value insurance contract***, ***central bank***, ***custodial institution***, ***depository institution***, ***financial asset***, ***financial institution***, ***governmental entity***, ***insurance contract***, ***international organization*** and ***specified insurance company*** in subsection (1) must be interpreted in a way consistent with the Common Reporting Standard.

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

50N. Nexus rules for HKRCASPs

(1) A reporting crypto-asset service provider is regarded as an HKRCASP if the provider is—

(a) an individual or entity that is a resident for tax purposes in Hong Kong;

(b) an entity that—

(i) is incorporated or organized under the laws of Hong Kong; and

(ii) has a legal personality in Hong Kong or has an obligation to file tax returns or tax information returns to the Inland Revenue Department with respect to the income of the entity;

(c) an entity managed from Hong Kong; or

(d) an individual or entity that has a regular place of business in Hong Kong.

(2) A reporting crypto-asset service provider is regarded as an HKRCASP if the provider has a branch based in Hong Kong through which relevant transactions are effectuated.

(3) An HKRCASP must—

(a) if the HKRCASP is one mentioned in subsection (1)—subject to subsections (4), (5), (6), (7), (8) and (9), carry out all the obligations under Part 8B; or

(b) if the HKRCASP is one mentioned in subsection (2)—carry out all the obligations under Part 8B with respect to the relevant transactions that are effectuated through the branch based in Hong Kong.

(4) An HKRCASP that is an entity is not required to comply with the due diligence requirements under section 50P it is otherwise subject to by virtue of subsection (1)(b), (c) or (d) if—

(a) the specified requirements are complied with by the HKRCASP in a partner jurisdiction by virtue of it being a resident for tax purposes in the partner jurisdiction; and

(b) the HKRCASP has to furnish a return under section 50Q(1).

(5) An HKRCASP that is an entity is not required to comply with the due diligence requirements under section 50P it is otherwise subject to by virtue of subsection (1)(c) or (d) if—

(a) the specified requirements are complied with by the HKRCASP in a partner jurisdiction by virtue of it being an entity that—

(i) is incorporated or organized under the laws of the partner jurisdiction; and

(ii) has a legal personality in the partner jurisdiction or has an obligation to file tax returns or tax information returns to the tax authority in the partner jurisdiction with respect to the income of the entity; and

(b) the HKRCASP has to furnish a return under section 50Q(1).

(6) An HKRCASP that is an entity is not required to comply with the due diligence requirements under section 50P it is otherwise subject to by virtue of subsection (1)(d) if—

(a) the specified requirements are complied with by the HKRCASP in a partner jurisdiction by virtue of it being an entity managed from the partner jurisdiction; and

(b) the HKRCASP has to furnish a return under section 50Q(1).

(7) An HKRCASP that is an individual is not required to comply with the due diligence requirements under section 50P the HKRCASP is otherwise subject to by virtue of subsection (1)(d) if—

(a) the specified requirements are complied with by the HKRCASP in a partner jurisdiction by virtue of the HKRCASP being an individual who is a resident for tax purposes in the partner jurisdiction; and

(b) the HKRCASP has to furnish a return under section 50Q(1).

(8) An HKRCASP is not required to comply with the due diligence requirements under section 50P with respect to the relevant transactions the HKRCASP effectuates through a branch in a partner jurisdiction if—

(a) the specified requirements are complied with by the branch in the partner jurisdiction; and

(b) the HKRCASP has to furnish a return under section 50Q(1).

(9) An HKRCASP is not required to comply with the due diligence requirements under section 50P the HKRCASP is otherwise subject to by virtue of subsection (1)(a), (b), (c) or (d) if—

(a) the specified requirements are complied with by the HKRCASP under the rules of a partner jurisdiction by virtue of a nexus that is substantially similar to the HKRCASP's nexus to Hong Kong; and

(b) the HKRCASP has to furnish a return under section 50Q(1).

(10) For the purposes of subsection (1)(a), a reporting crypto-asset service provider is a resident for tax purposes in Hong Kong if—

(a) where the provider is an individual, the individual—

(i) ordinarily resides in Hong Kong; or

(ii) stays in Hong Kong for—

(A) a period, or a number of periods, amounting to more than 180 days during a year of assessment; or

(B) a period, or a number of periods, amounting to more than 300 days in 2 consecutive years of assessment one of which is the year of assessment concerned;

(b) where the provider is an entity that is a company—

(i) it is incorporated in Hong Kong; or

(ii) if it is incorporated outside Hong Kong—it is normally managed or controlled in Hong Kong; or

(c) where the provider is an entity other than a company—

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

(ii) if it is otherwise constituted—it is normally managed or controlled in Hong Kong.

(11) In this section—

specified requirements (指明規定) means the reporting and due diligence requirements that are set out in the Rules and the Commentaries on Sections II and III to Part I of the document entitled International Standards for Automatic Exchange of Information in Tax Matters: Crypto-Asset Reporting Framework and 2023 update to the Common Reporting Standard, published by the Organisation for Economic Co-operation and Development on 8 June 2023.

50O. HKRCASPs must register

(1) Despite section 50N(4), (5), (6), (7), (8) and (9), an HKRCASP must register with the Commissioner in accordance with subsection (2) and section 50V(1).

(2) The registration must be made on or before 31 January of the calendar year following the calendar year in which the HKRCASP first meets any of the criteria specified in section 50N(1) and (2).

50P. Due diligence obligations on HKRCASPs

(1) An HKRCASP must—

(a) establish procedures that are designed to—

(i) identify the jurisdiction of residence of—

(A) a crypto-asset user who is a customer of the HKRCASP; and

(B) for an entity crypto-asset user that is an entity other than an active entity and an excluded person—the controlling person of the user;

(ii) identify whether a crypto-asset user is a reportable user and whether a controlling person is a reportable person;

(iii) secure that any evidence relied on, and any record of the steps taken, for carrying out the procedures in relation to a crypto-asset user and a controlling person are kept until the expiry of—

(A) subject to sub-subparagraph (B), a period of 6 years immediately after the calendar year to which the evidence and record relate; or

(B) if there is any return required to be furnished in respect of the specified information period mentioned in section 50Q(2) and to which the evidence and record relate—the specified record keeping period mentioned in section 50S(2); and

(iv) enable the HKRCASP to identify and collect the required information within the meaning of section 50Q(4) (***required information***); and

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

(2) An HKRCASP must maintain and, for carrying out the HKRCASP's obligations under this Part, apply the procedures established in compliance with subsection (1) (***required procedures***)—

(a) to identify reportable users and reportable persons 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) An HKRCASP may, in carrying out the HKRCASP's obligations under this Part, apply the required procedures—

(a) in relation to any crypto-asset user, even if—

(i) the user is a resident for tax purposes in a territory outside Hong Kong that is not a reportable jurisdiction; or

(ii) for an entity crypto-asset user that is an entity other than an active entity and an excluded person—any controlling person of the user 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 crypto-asset user and controlling person referred to in paragraph (a).

50Q. Obligations of HKRCASPs to furnish returns

(1) An HKRCASP must furnish a return in compliance with a notice given by an assessor under subsection (2) and in compliance with subsection (5).

(2) An assessor may give a notice in writing to an HKRCASP requiring the HKRCASP to furnish a return reporting the information referred to in subsection (4) (***required information***) for the period specified in the notice (***specified information period***), which must be—

(a) the calendar year preceding the year in which the notice is given; or

(b) such other period as the Commissioner considers appropriate.

(3) However, the specified information period for a reportable jurisdiction may not cover any period that is earlier than the date on which the jurisdiction becomes a reportable jurisdiction.

(4) The required information is—

(a) subject to paragraph (b)—the information referred to in section 50R;

(b) if, during the specified information period—

(i) the HKRCASP is not required to comply with the due diligence requirements under section 50P because the HKRCASP meets any of the criteria specified in section 50N(4), (5), (6), (7) and (9), and the specified requirements (as defined by section 50N(11)) are complied with in a partner jurisdiction—the information mentioned in subsection (6);

(ii) the HKRCASP is not required to comply with the due diligence requirements under section 50P with respect to the relevant transactions the HKRCASP effectuates through a branch in a partner jurisdiction,

and the specified requirements (as defined by section 50N(11)) are complied with by the branch in the partner jurisdiction—the information mentioned in subsection (6) in respect of the relevant transactions effectuates through the branch; or

(iii) the HKRCASP does not maintain a relationship with a crypto-asset user that is identified as being a reportable user or having a controlling person that is a reportable person (***identified crypto-asset user***), or does not effectuate any relevant transaction for or on behalf of an identified crypto-asset user—the information mentioned in subsection (7); and

(c) any other information specified by the Board of Inland Revenue.

(5) The return under subsection (1) must—

(a) contain the required information; and

(b) be furnished—

(i) within the time specified in the notice; and

(ii) in compliance with section 50V(2).

(6) The information referred to in subsection (4)(b)(i) and (ii) is—

(a) the name, address and identifying number (if any) of the HKRCASP;

(b) in which partner jurisdictions the specified requirements (as defined by section 50N(11)) are complied with by the HKRCASP or the branch (as the case may be); and

(c) which of the criteria specified in section 50N(4), (5), (6), (7), (8) and (9) is met by the HKRCASP.

(7) The information referred to in subsection (4)(b)(iii) is—

(a) the name, address and identifying number (if any) of the HKRCASP; and

(b) a statement of the fact that the HKRCASP does not maintain a relationship with, or does not effectuate any relevant transaction for or on behalf of, the identified crypto-asset user.

50R. Required information under section 50Q

(1) A return furnished by an HKRCASP under section 50Q(4) must include the name, address and identifying number (if any) of the HKRCASP.

(2) The return must also include the information specified in subsection (3) in relation to each crypto-asset user—

(a) that is a reportable user; or

(b) any controlling person of which is a reportable person.

(3) The information is—

(a) if the crypto-asset user is an individual who is a reportable user—the name, address, jurisdiction of residence, TIN and the date and place of birth of the individual;

(b) if the crypto-asset user is an entity that is a reportable user—the name, address, jurisdiction of residence and TIN of the entity;

(c) if the crypto-asset user is an entity one or more than one controlling person of which is a reportable person—

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

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

(iii) the role by virtue of which each reportable person is a controlling person of the entity; and

(d) for each type of the relevant crypto-asset with respect to which the HKRCASP concerned has effectuated relevant transactions during the period specified under section 50Q(2) or another period of 12 months that the HKRCASP irrevocably elects—

(i) the full name of the type of the relevant crypto-asset;

(ii) the aggregate gross amount paid net of transaction fees, the aggregate number of units and the number of relevant transactions in respect of acquisitions against fiat currency;

(iii) the aggregate gross amount received net of transaction fees, the aggregate number of units and the number of relevant transactions in respect of disposals against fiat currency;

(iv) the aggregate fair market value net of transaction fees, the aggregate number of units and the number of relevant

transactions in respect of acquisitions against other relevant crypto-assets;

(v) the aggregate fair market value net of transaction fees, the aggregate number of units and the number of relevant transactions in respect of disposals against other relevant crypto-assets;

(vi) the aggregate fair market value net of transaction fees, the aggregate number of units and the number of reportable retail payment transactions;

(vii) the aggregate fair market value net of transaction fees, the aggregate number of units and the number of relevant transactions, and subdivided by transfer type where known by the HKRCASP, in respect of transfers to the reportable user not covered by paragraph (d)(ii) and (iv);

(viii) the aggregate fair market value net of transaction fees, the aggregate number of units and the number of relevant transactions, and subdivided by transfer type where known by the HKRCASP, in respect of transfers by the reportable user not covered by paragraph (d)(iii), (v) and (vi); and

(ix) the aggregate fair market value net of transaction fees, as well as the aggregate number of units in respect of transfers by the reportable user effectuated by the HKRCASP to wallet addresses not known by the HKRCASP to be associated with a virtual asset service provider or financial

institution (both as defined in FATF Recommendations).

Note—

See also subsection (14).

(4) For the purposes of subsection (3)(d)(vi)—

(a) the aggregate information on transfers that constitute the reportable retail payment transactions is required to be reported as a separate category of relevant transactions;

(b) in respect of the reportable retail payment transactions, the customer of the merchant for, or on behalf of, whom the HKRCASP is providing a service of effectuating reportable retail payment transactions must be treated as the crypto-asset user (subject to the customer meeting the conditions specified in the definition of ***crypto-asset user*** in section 50M(1)), provided that the HKRCASP is required to verify the identity of the customer by virtue of the reportable retail payment transaction pursuant to domestic anti-money laundering rules, and therefore as the reportable user, in addition to the merchant;

(c) the aggregate information in respect of the reportable retail payment transactions by the customer of the merchant must not be included in the aggregate information reported with respect to the transfers under subsection (3)(d)(viii); and

(d) the aggregate information in respect of the transfers that do not constitute reportable retail payment transactions solely by virtue of not

meeting the de minimis threshold should be included in the aggregate information reported with respect to the transfers under subsection (3)(d)(vii) and (viii).

(5) For the purposes of subsection (3)(d)(ii) and (iii), the amount paid or received must be reported in the fiat currency in which it was paid or received and, if the amount was paid or received in 2 or more fiat currencies, the amount must be reported in a single fiat currency, converted at the time of each relevant transaction in a manner that is consistently adopted by the HKRCASP.

(6) For the purposes of subsection (3)(d)(iv), (v), (vi), (vii), (viii) and (ix), the fair market value must be determined and reported in a single fiat currency, valued at the time of each relevant transaction in a reasonable manner that is consistently adopted by the HKRCASP.

(7) In making valuation for the purposes of subsection (3)(d)(iv) and (v), the HKRCASP may rely on applicable crypto-asset-to-fiat currency trading pairs that it maintains to determine the fair market value of both relevant crypto-assets.

(8) If a relevant crypto-asset that is difficult to value (***the former***) is exchanged for a relevant crypto-asset that can be readily valued (***the latter***), the valuation in fiat currency of the latter must be relied on to establish a fiat currency value for the former.

(9) In making valuation for the purposes of subsection (3)(d)(vi), (vii), (viii) or (ix), the HKRCASP may use as a reference the values of a relevant crypto-asset and fiat currency trading pairs the HKRCASP maintains to determine the fair market value of the

relevant crypto-asset at the time it is transferred, and the information reported must identify the fiat currency in which each amount is reported.

(10) If the HKRCASP effectuating the transfer does not maintain an applicable reference value of the relevant crypto-asset and fiat currency trading pairs, the following valuation methods must be relied on—

(a) the internal accounting book values which the HKRCASP maintains with respect to the relevant crypto-asset must be used;

(b) if a book value is not available—a value provided by third-party companies or websites that aggregate current prices of relevant crypto-assets must be used, provided that the valuation method used by that third party is reasonably expected to provide a reliable indicator of value;

(c) if neither the valuation method mentioned in paragraph (a) nor that mentioned in paragraph (b) is available, the most recent valuation of the relevant crypto-asset by the HKRCASP must be used; and

(d) if a value cannot be attributed by applying paragraphs (a), (b) and (c), a reasonable estimate may be applied as a measure of the last resort.

(11) With respect to each relevant crypto-asset for which the HKRCASP has relied on an alternative valuation method mentioned in subsection (10), the method relied on must be reported.

(12) For the purposes of reporting the information under subsection (3)(d)(ii), (iii), (iv), (v), (vi), (vii), (viii) and (ix), the HKRCASP must aggregate all transactions

attributable to each reporting category for each type of relevant crypto-asset as converted in accordance with subsection (5).

(13) The information reported under this section must identify the fiat currency in which each amount is reported.

(14) Despite subsection (3)(a), (b) and (c)—

(a) no TIN is 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; and

(b) the place of birth is not required to be reported unless the HKRCASP 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 HKRCASP.

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

50S. Further obligations of HKRCASPs relating to returns etc.

(1) An HKRCASP must keep sufficient records of the information, which is to be reported in a return that is required to be furnished under section 50Q(1), until the expiry of the specified record keeping period to enable the correctness and accuracy of the information to be readily ascertained.

(2) For the purposes of subsection (1), the specified record keeping period is a period of 6 years immediately after the date by which the return is required to be furnished under section 50Q(1).

(3) If an HKRCASP changes the address, the HKRCASP must notify the Commissioner of the new address within 1 month after the change.

(4) If an individual or entity ceases to be an HKRCASP, the individual or entity must give a notice of the cessation to the Commissioner within 1 month after the cessation.

(5) If, subsequent to the cessation mentioned in subsection (4), the individual or entity becomes an HKRCASP again on a certain date, the individual or entity must, within 1 month after that date, give a notice of that fact to the Commissioner.

(6) After an individual or entity has given a notice under subsection (4) that the individual or entity ceases to be an HKRCASP but before a notice is given under subsection (5)—

(a) if the individual or entity changes the individual's or entity's address—the individual or entity must notify the Commissioner of the new address within 1 month after the change; and

(b) the individual or entity must ensure that the requirement under subsection (1) is complied with despite the cessation.

(7) If an entity is dissolved and, at any time during the 6 years before the dissolution, it was an HKRCASP, every specified officer, or the designated officer (if any), of the entity must—

(a) give a notice of the dissolution to the Commissioner within 1 month after the dissolution; and

(b) ensure that the requirement under subsection (1) is complied with despite the dissolution.

(8) After the dissolution of the entity as mentioned in subsection (7)—

(a) if no designation of a designated officer is in effect and there is any change in the contact details of a specified officer—the specified officer must give a notice of the change to the Commissioner within 1 month after the change; or

(b) if a designation of a designated officer is in effect and there is any change in the contact details of the designated officer—the designated officer must give a notice of the change to the Commissioner within 1 month after the change.

(9) For the purposes of subsection (7)(a), a notice given by any specified officer of a dissolved entity is to be regarded as being given by every specified officer of the entity.

(10) A notification under subsection (3) or (6)(a), or a notice under subsection (4) or (5), must be given in compliance with section 50V(3).

(11) An assessor may give a notice to an HKRCASP, an individual or entity that was an HKRCASP, a specified officer or a designated officer (if any) requiring the HKRCASP, the individual or entity or the officer concerned (as the case may be) to provide information for the purposes of ascertaining—

(a) the nexus of the HKRCASP under any provision of section 50N; or

(b) whether any information in a return furnished under section 50Q(1) by the HKRCASP is accurate and complete.

(12) The HKRCASP, individual, entity, specified officer or designated officer (if any) must comply with a notice under subsection (11)—

(a) within the period specified in the notice; and

(b) by the means and in the form (if any) specified in the notice.

(13) For the purposes of subsections (7), (8) and (12), on agreement evidenced in writing by all specified officers of an entity that falls within the description in subsection (7), the specified officers may designate a person mentioned in subsection (16) to be a designated officer for complying with the following—

(a) if no notice under subsection (7)(a) has been given—

(i) subsection (7)(a);

(ii) subsection (7)(b);

(iii) subsection (8); and

(iv) the requirement under subsection (12); or

(b) if a notice under subsection (7)(a) has been given—

(i) subsection (7)(b);

(ii) subsection (8); and

(iii) the requirement under subsection (12).

(14) A designation under subsection (13) must be made by a notice that—

(a) is signed by the designated officer signifying the designated officer's consent to be designated;

(b) sets out the following details—

(i) the capacity of the designated officer in relation to the entity;

(ii) the contact details of the designated officer;

(iii) the date on which the designation is made; and

(c) is accompanied by the evidence of the agreement to designate the designated officer.

(15) Despite subsection (13), an agreement to designate a designated officer that is not made by all specified officers may be regarded as being so made for the purposes of that subsection if the Commissioner is satisfied, on production of any explanation or supporting materials, that there is reasonable cause for the agreement not being made by all specified officers.

(16) Any of the following persons may be designated under subsection (13)—

(a) one of the specified officers of the entity;

(b) a person who performed managerial functions in relation to the entity under the immediate authority of a director of (or, if there was no director, a person who was a trustee of, or who was responsible for the management of) the entity.

(17) A designation under subsection (13)—

(a) is valid from—

(i) (subject to subparagraph (ii)) the date of receipt of the designation notice by the Commissioner; or

(ii) if the agreement to designate the designated officer is not made by all specified officers—the date on which the agreement is regarded as so made by the Commissioner under subsection (15); and

(b) if the designation is valid under paragraph (a)—is taken to have effect from the date of designation set out in the designation notice.

(18) The designation of a person under subsection (13) ceases to have effect on the earliest of the following dates—

(a) if a notice of cessation of the designation is received by the Commissioner from that person—

(i) within a period of 14 days after the effective date of cessation of the designation stated in the notice (***cessation effective date***)—the cessation effective date;

(ii) after the period mentioned in subparagraph (i)—the date on which the notice is received by the Commissioner; or

(iii) on or before the cessation effective date—the cessation effective date;

(b) if a designation notice designating another person under subsection (13) to replace that person is received by the Commissioner—the date of designation set out in the notice.

(19) If there is a valid designation under subsection (17), all specified officers are relieved from their obligations to comply with—

(a) if the designation relates to compliance with the provisions and requirement mentioned in subsection (13)(a)—those provisions and requirement; or

(b) if the designation relates to compliance with the provisions and requirement mentioned in subsection (13)(b)—those provisions and requirement.

(20) In this section—

designated officer (指定人員) means a person designated under subsection (13);

designation notice (指定通知) means a notice mentioned in subsection (14) by which a designation under subsection (13) is made;

specified officer (指明人員), in relation to an entity that falls within the description in subsection (7), means every person who was a director of (or, if there was no director, every person who was a trustee of, or who was responsible for the management of) the entity immediately before the dissolution.

50T. Application of due diligence and other obligations to non-corporate HKRCASPs that are entities

In relation to an HKRCASP that is an entity but not a corporation, this Part applies to a person who acts for the HKRCASP to maintain a relationship with the HKRCASP's crypto-asset users as if the obligations under this Part were imposed on that person.

50U. Engagement of service provider

(1) A service provider may be engaged to carry out, for or on behalf of an HKRCASP, the HKRCASP's obligations under any or all of the following provisions—

(a) section 50O(1);

(b) section 50P(1);

(c) section 50P(2);

(d) section 50Q(1).

(2) To avoid doubt, even if a service provider has been engaged, the HKRCASP is not relieved from the HKRCASP's obligation under section 50O(1), 50P(1) or (2) or 50Q(1), as the case requires.

50V. Further requirements relating to registration, return and notice

(1) A registration under section 50O(1) must be made—

(a) in the form of an electronic record that is sent by using a system designated by the Commissioner; and

(b) in the manner specified by the Commissioner.

(2) A return furnished under section 50Q(1) must be—

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

(i) is sent by using a system designated by the Commissioner; and

(ii) contains the required information arranged in a form specified by the Commissioner; and

(b) in the manner specified in the notice given under section 50Q(2).

(3) A notification under section 50S(3) or (6)(a), or a notice under section 50S(4) or (5), must be given—

(a) in the form of an electronic record that is sent by using a system designated by the Commissioner; and

(b) in the manner specified by the Commissioner.

(4) The Commissioner may approve a password and designate any system in respect of any communication with the Commissioner for the purposes of subsections (1), (2) and (3).

(5) The Commissioner may by notice published in the Gazette specify requirements as to—

(a) the way of generating or sending an electronic record for the purposes of this section or any attachment required to be given with such an electronic record;

(b) how a digital signature is to be affixed to, or a password is to be included with—

(i) a registration under section 50O(1);

(ii) a return furnished under section 50Q(1);

(iii) a notification given under section 50S(3) or (6)(a); or

(iv) a notice given under section 50S(4) or (5); and

(c) the software and communication in relation to any attachment required to be given with an electronic record.

(6) The Commissioner may, either generally or in a particular case, accept a registration for the purposes of section 50O(1) despite a requirement under subsection (1) or (5) not being complied with in relation to the registration.

(7) The Commissioner may, either generally or in a particular case, accept a return for the purposes of section 50Q(1) despite a requirement under subsection (2) or (5) not being complied with in relation to the return.

(8) The Commissioner may, either generally or in a particular case, accept a notification or notice for the purposes of section 50S, despite a requirement under subsection (3) or (5) not being complied with in relation to the notification or notice.

(9) The Commissioner may, by a means that the Commissioner considers appropriate, specify the circumstances or conditions in or on which—

(a) a registration may be accepted under subsection (6); or

(b) a return, notification or notice may be accepted under subsection (7) or (8).

(10) A notice under subsection (5) and a specification under subsection (9) are not subsidiary legislation.

50W. Power to amend definitions and Schedule 17EA

(1) The Secretary for Financial Services and the Treasury may, by notice published in the Gazette, amend—

(a) the definitions of ***CARF***, ***CARF publications*** and ***Common Reporting Standard*** in section 50M(1); and

(b) Schedule 17EA.

(2) A notice published under subsection (1) may contain any incidental, supplemental, evidential, consequential, savings and transitional provisions that are expedient in consequence of the amendments made under that subsection.

50X. Use of information provided by HKRCASPs

To avoid doubt, any information reported in a return furnished under section 50Q(1), or provided in response to a notice given under section 50S(11), may be used for the administration or enforcement of this Ordinance.

50Y. Consistency with CARF publications

This Part and Schedule 17EA are to be applied and interpreted in the way that best secures their consistency with the requirements and guidance in the CARF publications.".

4. Schedule 17EA added

After Schedule 17E—

Add

"Schedule 17EA

[ss. 2, 50P, 50W, 50Y, 80 and 80V]

Due Diligence Requirements on HKRCASP

Part 1

Interpretation

1. Interpretation

An expression used in Parts 2 to 6 of this Schedule that is defined or otherwise explained in Part 8B has the same meaning as in Part 8B.

Part 2

General Due Diligence Requirements

1. A crypto-asset user is treated as a reportable user as from the date it is identified as such pursuant to the due diligence requirements under this Part and Parts 3, 4, 5 and 6 of this Schedule.

2. An HKRCASP that is also a reporting financial institution for the purposes of the Common Reporting Standard may rely on the due diligence procedures completed pursuant to Part 4 of Schedule 17D for the purposes of performing the due diligence procedures pursuant to Part 3 of this Schedule.

3. An HKRCASP that is also a reporting financial institution for the purposes of the Common Reporting Standard may rely on the due diligence procedures completed pursuant to Part 6 of Schedule 17D for the purposes of performing the due diligence procedures pursuant to Part 4 of this Schedule.

4. An HKRCASP may also rely on a self-certification already collected for other tax purposes, provided that such self-certification meets the requirements of Part 5 of this Schedule.

Part 3

Due Diligence Requirements for Individual Crypto-Asset Users

1. Application

This Part specifies the requirements that apply for the purpose of determining whether an individual crypto-asset user is a reportable user.

2. Requirements

(1) When establishing the relationship with an individual crypto-asset user, or with respect to a pre-existing individual crypto-asset user, an HKRCASP must—

(a) (subject to paragraph (b)) obtain from the individual crypto-asset user a self-certification that enables the HKRCASP to determine the jurisdiction of residence of the user;

(b) in the case of a pre-existing individual crypto-asset user—obtain by 1 January 2028 from the

user a self-certification that enables the HKRCASP to determine the jurisdiction of residence of the user; and

(c) confirm the reasonableness of such self-certification on the basis of the information obtained by the HKRCASP, including any documentation collected pursuant to AML/KYC procedures.

(2) In the case of a self-certification that fails the reasonableness test, the HKRCASP must either—

(a) obtain a valid self-certification; or

(b) obtain a reasonable explanation and documentation (as appropriate) supporting the reasonableness of the self-certification and retain a copy or a notation of such explanation and documentation,

before providing the service of effectuating relevant transactions to the individual crypto-asset user.

(3) If, subsequent to an HKRCASP's obtaining a self-certification (***original self-certification***) from an individual crypto-asset user, there is a change of circumstances with respect to the user that causes the HKRCASP to know, or to have reason to know, that the original self-certification is incorrect or unreliable, the HKRCASP—

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

(b) must obtain a valid self-certification or a reasonable explanation and (as appropriate) a documentation supporting the validity of the original self-certification.

3. Change of circumstances

(1) For the purposes of section 2(3) of this Part, a change of circumstances includes any of the following—

(a) any change that results in the addition of information relevant to an individual crypto-asset user's status or otherwise inconsistent with the user's status;

(b) any change or addition of information to any profile associated with the user that affects the status of the user.

(2) The HKRCASP must determine whether new information obtained with respect to the individual crypto-asset user's profile by way of re-documentation undertaken in accordance with AML/KYC procedures or other regulatory obligations includes new information that constitutes a change of circumstances.

(3) A change of circumstances affecting the self-certification provided to the HKRCASP renders the self-certification invalid with respect to the information that is no longer reliable until the information is updated.

(4) A self-certification becomes invalid on the date on which the HKRCASP holding the self-certification knows, or has reason to know, that there is a change of circumstances affecting the correctness of the self-certification provided by the individual crypto-asset user. However, the HKRCASP may choose to treat the user as having the same status that the user had prior to the change of circumstances until the earliest of the following—

(a) the expiry of a period of 90 calendar days from the date on which the self-certification became invalid under this subsection;

(b) the date on which the validity of the self-certification is confirmed; or

(c) the date on which a new valid self-certification is obtained.

(5) If the HKRCASP cannot obtain a confirmation of the validity of the original self-certification or a valid self-certification during the 90-day period mentioned in subsection (4)(a), the HKRCASP must treat the individual crypto-asset user as a resident for tax purposes of—

(a) the jurisdiction or jurisdictions in which the user claimed to be a resident for tax purposes in the original self-certification; and

(b) the jurisdiction or jurisdictions in which the user may be a resident for tax purposes as a result of the change of circumstances.

(6) The HKRCASP may rely on a self-certification without having to inquire into possible changes of circumstances that may affect the validity of the self-certification unless the HKRCASP knows, or has reason to know, that such changes have occurred.

4. Curing self-certification errors

An HKRCASP may treat a self-certification that contains an inconsequential error as valid if the HKRCASP has sufficient documentation on file to supplement the information missing from the self-certification owing to the error, in which case the documentation must be conclusive.

Part 4

Due Diligence Requirements for Entity Crypto-Asset Users

1. Application

This Part specifies the requirements that apply for the purpose of determining whether an entity crypto-asset user is a reportable user or an entity (other than an excluded person or an active entity) that has one or more controlling persons who are reportable persons.

2. Determining whether entity crypto-asset user is reportable user

(1) When establishing the relationship with an entity crypto-asset user, or with respect to a pre-existing entity crypto-assets user, an HKRCASP must—

(a) (subject to paragraph (b)) obtain from the entity crypto-asset user a self-certification that enables the HKRCASP to determine the jurisdiction of residence of the user;

(b) in the case of a pre-existing entity crypto-asset user—obtain by 1 January 2028 from the user a self-certification that enables the HKRCASP to determine the jurisdiction of residence of the user; and

(c) confirm the reasonableness of such self-certification on the basis of the information obtained by the HKRCASP, including any documentation collected pursuant to AML/KYC procedures.

(2) In the case of a self-certification that fails the reasonableness test, the HKRCASP must either—

(a) obtain a valid self-certification; or

(b) obtain a reasonable explanation and documentation (as appropriate) supporting the reasonableness of the self-certification and retain a copy or a notation of such explanation and documentation,

before providing the service of effectuating relevant transactions to the entity crypto-asset user.

(3) If the entity crypto-asset user certifies that it is not a resident for tax purposes in any jurisdiction, the HKRCASP may rely on the place of effective management, or on the address of the principal office, of the user to determine the user's jurisdiction of residence.

(4) If the self-certification indicates that the entity crypto-asset user is a resident for tax purposes in a reportable jurisdiction, the HKRCASP must treat the user as a reportable user unless the HKRCASP reasonably determines, on the basis of the self-certification or information that is in the HKRCASP's possession or is publicly available, that the user is an excluded person.

3. Determining whether entity has one or more controlling persons who are reportable persons

With respect to an entity crypto-asset user (other than an excluded person), an HKRCASP must determine whether the user has one or more controlling persons who are reportable persons unless the HKRCASP determines that

the user is an active entity on the basis of a self-certification provided by the user.

4. Determining controlling persons of entity crypto-asset user

(1) For the purpose of determining the controlling persons of an entity crypto-asset user, an HKRCASP may rely on the information collected and maintained pursuant to AML/KYC procedures provided that such procedures are consistent with the FATF Recommendations.

(2) If the HKRCASP is not legally required to apply AML/KYC procedures that are consistent with the FATF Recommendations, the HKRCASP must apply substantially similar procedures for the purpose of determining the controlling persons.

5. Determining whether controlling person of entity crypto-asset user is reportable person

(1) For the purpose of determining whether a controlling person of an entity crypto-asset user is a reportable person, an HKRCASP must—

(a) rely on a self-certification obtained from the user or the controlling person that enables the HKRCASP to determine the jurisdiction of residence of the controlling person; and

(b) confirm the reasonableness of such self-certification on the basis of the information obtained by the HKRCASP, including any documentation collected pursuant to AML/KYC procedures.

(2) In the case of a self-certification that fails the reasonableness test, the HKRCASP must either—

(a) obtain a valid self-certification; or

(b) obtain a reasonable explanation and documentation (as appropriate) supporting the reasonableness of the self-certification and retain a copy or a notation of such explanation and documentation,

before providing the service of effectuating relevant transactions to the entity crypto-asset user.

6. Change of circumstances

(1) If, subsequent to an HKRCASP's obtaining a self-certification (***original self-certification***) from an entity crypto-asset user or a controlling person, there is a change of circumstances with respect to the user or controlling person that causes the HKRCASP to know, or to have reason to know, that the original self-certification is incorrect or unreliable, the HKRCASP—

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

(b) must obtain a valid self-certification or a reasonable explanation and (as appropriate) a documentation supporting the validity of the original self-certification.

(2) For the purposes of subsection (1), a change of circumstances includes any of the following—

(a) any change that results in the addition of information relevant to the status of an entity crypto-asset user or a controlling person or otherwise inconsistent with the user's or controlling person's status;

(b) any change or addition of information to any profile associated with the user or controlling person that affects the status of the user or controlling person.

(3) The HKRCASP must determine whether new information obtained with respect to the profile of the entity crypto-asset user or controlling person by way of re-documentation undertaken in accordance with AML/KYC procedures or other regulatory obligations includes new information that constitutes a change of circumstances.

(4) A change of circumstances affecting the self-certification provided to the HKRCASP renders the self-certification invalid with respect to the information that is no longer reliable until the information is updated.

(5) A self-certification becomes invalid on the date on which the HKRCASP holding the self-certification knows, or has reason to know, that there is a change of circumstances affecting the correctness of the self-certification provided by the entity crypto-asset user or controlling person. However, the HKRCASP may choose to treat the user or controlling person as having the same status that the user or controlling person had prior to the change of circumstances until the earliest of the following—

(a) the expiry of a period of 90 calendar days from the date on which the self-certification became invalid under this subsection;

(b) the date on which the validity of the self-certification is confirmed; or

(c) the date on which a new valid self-certification is obtained.

(6) If the HKRCASP cannot obtain a confirmation of the validity of the original self-certification or a valid self-certification during the 90-day period mentioned in subsection (5)(a), the HKRCASP must treat the entity crypto-asset user or controlling person as a resident for tax purposes in—

(a) the jurisdiction or jurisdictions in which the user or controlling person claimed to be a resident for tax purposes in the original self-certification; and

(b) the jurisdiction or jurisdictions in which the user or controlling person may be a resident for tax purposes as a result of the change of circumstances.

(7) The HKRCASP may rely on a self-certification without having to inquire into possible changes of circumstances that may affect the validity of the self-certification unless the HKRCASP knows, or has reason to know, that such changes have occurred.

7. Curing self-certification errors

An HKRCASP may treat a self-certification that contains an inconsequential error as valid if the HKRCASP has sufficient documentation on file to supplement the information missing from the self-certification owing to the error, in which case the documentation must be conclusive.

Part 5

Requirements for Validity of Self-Certifications

1. This Part specifies the requirements for the purpose of obtaining valid self-certifications that apply in applying the due diligence requirements in Parts 3, 4 and 6 of this Schedule.

2. A self-certification provided by an individual crypto-asset user or a controlling person is valid only if the self-certification—
    (a) is signed or otherwise positively affirmed by the user or controlling person;
    (b) is dated and the date is not later than the date of receipt; and
    (c) contains the following information with respect to the user or controlling person—
        (i) first and last name;
        (ii) residential address;
        (iii) jurisdiction or jurisdictions of residence;
        (iv) with respect to each reportable person—the TIN with respect to each reportable jurisdiction of such reportable person; and
        (v) date of birth.

3. A self-certification provided by an entity crypto-asset user is valid only if the self-certification—
    (a) is signed or otherwise positively affirmed by the user;

(b) is dated and the date is not later than the date of receipt; and

(c) contains the following information with respect to the user—

(i) legal name;

(ii) address;

(iii) jurisdiction or jurisdictions of residence;

(iv) with respect to each reportable person—the TIN with respect to each reportable jurisdiction of such reportable person;

(v) if the user is neither an active entity nor an excluded person—the information described in section 2 of this Part with respect to each controlling person of the user unless such controlling person has provided a self-certification pursuant to section 2 of this Part, as well as the role by virtue of which each reportable person is a controlling person of the user (if not already determined on the basis of AML/KYC procedures in accordance with section 4 of Part 4 of this Schedule); and

(vi) (if applicable) information as to the criteria it meets so as to be treated as an active entity or excluded person.

4. Despite sections 2 and 3 of this Part, no TIN is required to be collected if—

(a) the jurisdiction of residence of the reportable person does not issue a TIN to the reportable person; or

(b) 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.

5. If a self-certification establishes that a crypto-asset user (whether an individual or entity) or a controlling person is a resident for tax purposes in a reportable jurisdiction, the self-certification must, subject to section 4 of this Part, include the user's or controlling person's TIN with respect to the reportable jurisdiction and, if any, each other reportable jurisdiction.

Part 6

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 and 5 of this Schedule.

2. Reliance on self-certifications and documentary evidence

An HKRCASP may not rely on self-certification or documentary evidence if the HKRCASP knows, or has reason to know, that the self-certification or documentary evidence is incorrect or unreliable, including under any of the following circumstances with respect to the self-certification—

(a) the HKRCASP has doubts as to the jurisdiction of residence of a crypto-asset user or controlling person related to the fact that such user or controlling person is claiming residence in a

jurisdiction offering a potentially high-risk citizenship or residence by investment scheme, and the HKRCASP has not taken further measures to ascertain the jurisdiction of residence of such user or controlling person (including through raising further questions or ascertaining the reasonableness of responses accompanied by relevant supporting documentation, if any);

(b) the self-certification does not contain a TIN and the information disseminated by the Organisation for Economic Co-operation and Development indicates that the reportable jurisdiction issues TINs to all residents for tax purposes;

(c) there is an amendment to the applicable AML/KYC procedures and the additional information obtained under the amended AML/KYC procedures is inconsistent with the claims made by the user or controlling person in a self-certification.

3. No reliance on tiebreaker rules

If a crypto-asset user or a controlling person is a resident for tax purposes in 2 or more jurisdictions under the domestic laws of such jurisdictions, such user or controlling person—

(a) cannot rely on the tiebreaker rules contained in any applicable tax arrangements to determine the user's or controlling person's jurisdiction of residence; and

(b) must declare all of the user's or controlling person's jurisdictions of residence.

4. Change of circumstances

If there is an amendment to the applicable AML/KYC procedures, the additional information obtained under such amended AML/KYC procedures must be used to determine whether there has been a change of circumstances in relation to the identity and reportable status of crypto-asset users or controlling persons.".

Subdivision 2—Administrative Provisions, Offences, Penalties and Related Matters

5. Section 2 amended (interpretation)

(1) Section 2(1), definition of ***financial institution***—

Repeal

"Part 8A and Schedules 17C and 17D"

Substitute

"Parts 8A and 8B and Schedules 17C, 17D and 17EA".

(2) Section 2(1)—

Repeal the definition of *reportable jurisdiction*

Substitute

"***reportable jurisdiction*** (申報稅務管轄區)—

(a) in relation to a provision of Part 8A and Schedules 17D and 17E—has the meaning given by section 50A(1); or

(b) in relation to a provision of Part 8B—has the meaning given by section 50M(1);".

(3) Section 2(1)—

Repeal the definition of *service provider*

Substitute

"***service provider*** (服務提供者)—

(a) in relation to a provision of Part 8A, or section 51B (in so far as it relates to a service provider engaged by a reporting financial institution) or section 51BA under Part 9, or a provision of Part 14 (in so far as it relates to such a service provider)—has the meaning given by section 50A(1);

(b) in relation to a provision of Part 8B, or section 51B (in so far as it relates to a service provider engaged by an HKRCASP) or section 51BB under Part 9, or a provision of Part 14 (in so far as it relates to such a service provider)—has the meaning given by section 50M(1);

(c) in relation to a provision of Part 9 (in so far as it relates to a service provider engaged by a taxpayer) or of Part 14 (in so far as it relates to such a service provider)—has the meaning given by section 51AAD(8);

(d) in relation to a provision of Part 9A or of Part 14 (in so far as it relates to a service provider engaged by a reporting entity)—has the meaning given by section 58B(2); or

(e) in relation to a provision of Part 14 (in so far as it relates to a service provider engaged by a HK constituent entity) or of Schedule 63—has the meaning given by section 2 of that Schedule;".

(4) Section 2(1)—

Add in alphabetical order

"***financial account*** (財務帳户), except in relation to section 15H and Schedules 17J, 17K, 61 and 62, has the meaning given by section 50A(1);

HKRCASP (香港申報提供者) has the meaning given by section 50M(1);".

6. Section 51B amended (power to issue search warrant)

(1) Section 51B(1AAA)(a)—

Repeal

"; or"

Substitute a semicolon.

(2) After section 51B(1AAA)(a)—

Add

"(ab) that an HKRCASP or a service provider of an HKRCASP (if any) has failed to comply with an order of a court made under section 80R(3)(a) or 80V(10)(a) directing the HKRCASP or the service provider (if any) to comply with a requirement under section 50Q(1);".

(3) Section 51B(1AAA)(b)—

Repeal

"omission,"

Substitute

"omission; or".

(4) After section 51B(1AAA)(b)—

Add

"(c) that there are reasonable grounds for suspecting that an HKRCASP or a service provider of an HKRCASP (if any) has failed to comply with section 50P(1) or (2) or 50Q(1) and has done so without

reasonable excuse and not through an innocent oversight or omission,".

(5) Section 51B(1AAAB)(a), after "financial institution or its service provider (if any),"—

Add

"or of the HKRCASP or a service provider of the HKRCASP (if any),".

(6) Section 51B(1AAAB)(a)(i), after "(if any)"—

Add

", or the HKRCASP or the service provider of the HKRCASP (if any),".

(7) Section 51B(1AAAB)(c)(i), after "(if any)"—

Add

", or the HKRCASP or the service provider of the HKRCASP (if any)".

(8) Section 51B(1AAAB)(c)(ii), after "(if any)"—

Add

", or the HKRCASP or the service provider of the HKRCASP (if any),".

(9) Section 51B(1AAAD)—

Repeal

everything after "opinion"

Substitute

"that—

(a) 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); or

(b) the HKRCASP or service provider is likely to fail to carry out the obligations under section 50P(1) or (2) or 50Q(1),

the Commissioner or authorized officer may give notice to the institution, HKRCASP or service provider, as the case may be, requiring the institution or its service provider, or the HKRCASP or the HKRCASP's service provider, to take, within a reasonable time and in a manner specified in the notice, any action as specified in the notice that is necessary for rectifying the compliance system and process as defined by section 51BA(1) or 51BB(1) (as the case requires) of the institution, HKRCASP or service provider.".

(10) Section 51B(1AAAE), after "section 51BA(1)"—

Add

"or 51BB(1) (as the case requires)".

(11) Section 51B(3), after "section 51BA(1)"—

Add

"or 51BB(1)".

7. Section 51BB added

After section 51BA—

Add

"**51BB. Assessor's power to enter business premises of HKRCASPs 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 an HKRCASP, are used in connection with the carrying on of a business by or on behalf of the HKRCASP; or

(b) in relation to a service provider, are used in connection with the carrying out of the obligations under section 50P(1) or (2) or 50Q(1) by the service provider for an HKRCASP 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 an HKRCASP or service provider (as the case requires) for carrying out the obligations under section 50P(1) or (2) or 50Q(1).

(2) An HKRCASP or service provider must allow an assessor to enter their business premises, and inspect their compliance system and process for the purpose of checking whether they are carrying out or have carried out, or are likely to be able to carry out, the obligations under section 50P(1) or (2) or 50Q(1) if they receive a notice from an assessor requiring them 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 HKRCASP or service provider to whom the notice is given; or

(b) on a notice given to the HKRCASP or service provider at least 7 days before the time of the inspection.

(5) The notice under subsection (4)(b) must state the possible consequences under section 80R(1)(d) of obstructing or hindering an assessor in the exercise of the powers under subsection (2).

(6) If, during the inspection, an assessor is of the opinion that the HKRCASP or service provider is likely to fail to carry out the obligations under section 50P(1) or (2) or 50Q(1), the assessor may give notice to the HKRCASP or service provider, as the case may be, requiring the HKRCASP or service provider, to take, within a reasonable time and in a manner specified in the notice, any action as specified in the notice that is necessary for rectifying their compliance system and process.".

8. Section 54 amended (liability of executor of deceased taxpayer)

(1) Section 54, proviso, paragraph (a)—

Repeal

everything after "82A"

Substitute

"or an assessment of financial penalty under section 82C, 82DA, 82E or 82G, shall be instituted against the executor under the provisions of Part 14 in respect of any act or default of the deceased person;".

(2) Section 54, proviso, paragraph (c)—

Repeal

everything after "82A"

Substitute

"or an assessment of financial penalty under section 82C, 82DA, 82E or 82G) in respect of a period prior to the person's death shall be made after the expiry of 3 years immediately after that year of assessment.".

9. Section 61C amended (avoidance arrangement of no effect)

Section 61C(b)—

Repeal

"or 50C(1)"

Substitute

", 50C(1), 50P(1) or (2) or 50Q(1)".

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

After section 80(2ZC)—

Add

"(2ZD) A person commits an offence if the person, in making a self-certification that is required to be collected under Schedule 17EA by an HKRCASP—

(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.

(2ZE) A person who commits an offence under subsection (2ZD) is liable on conviction to a fine at level 3.".

11. Sections 80R to 80X added

After section 80Q—

Add

"**80R. Penalties for offences relating to HKRCASPs**

(1) An HKRCASP commits an offence if the HKRCASP, without reasonable excuse—

(a) fails to comply with a requirement under—

(i) section 50O(1);

(ii) section 50P(1) or (2);

(iii) section 50Q(1); or

(iv) section 50S(1), (3) or (5);

(b) fails to comply with a requirement under section 50S(12);

(c) fails to comply with a requirement of a notice given to the HKRCASP under section 51B(1AAAD) or 51BB(6); or

(d) obstructs or hinders an assessor in the exercise of the powers under section 51BB(2).

(2) For subsection (1)(a)(i), (ii) and (iii), engaging a service provider under section 50U(1) does not in itself constitute a reasonable excuse.

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

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

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

(4) In the case of an offence under—

(a) subsection (1)(a)(i) for failing to comply with section 50O(1);

(b) subsection (1)(a)(iii) for contravening section 50Q(1); or

(c) subsection (1)(c) for failing to comply with a notice given under section 51B(1AAAD) or 51BB(6),

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

(5) In the case of an offence under subsection (1)(a)(ii), despite the fine prescribed in subsection (3), the HKRCASP is liable on conviction to—

(a) a fine at level 3; or

(b) a fine of $1,000 multiplied by the number of the crypto-asset users and the controlling persons of the users who are the subjects of the offence,

whichever is the higher.

(6) An HKRCASP commits an offence if the HKRCASP does not comply with an order of the court under subsection (3), and is liable on conviction to a fine at level 4.

(7) An HKRCASP commits an offence if the HKRCASP, without reasonable excuse—

(a) in purported compliance with section 50Q(1), provides any information in a return that is incorrect or incomplete in a material particular; or

(b) otherwise provides any information, or makes any statement, that relates to the HKRCASP's obligations under Part 8B and that is incorrect or incomplete in a material particular.

(8) An HKRCASP that commits an offence under subsection (7) is liable on conviction to—

(a) a fine at level 3; or

(b) a fine of $1,000 multiplied by the number of the crypto-asset users and the controlling persons of the users who are the subjects of the offence,

whichever is the higher.

(9) An HKRCASP commits an offence if the HKRCASP provides, in purported compliance with section 50Q(1), any information in a return that is misleading, false or inaccurate in a material particular, or otherwise provides any information, or makes any statement, that relates to the HKRCASP's obligations under Part 8B and that is misleading, false or inaccurate in a material particular, and the HKRCASP—

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

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

(c) has no reasonable ground to believe that the information or statement is true or accurate in the material particular.

(10) An HKRCASP that commits an offence under subsection (9) is liable on conviction to—

(a) a fine at level 4; or

(b) a fine of $5,000 multiplied by the number of the crypto-asset users and the controlling persons of the users who are the subjects of the offence,

whichever is the higher.

(11) An HKRCASP commits an offence if the HKRCASP, after furnishing a return in purported compliance with section 50Q(1), or otherwise providing any information, or making any statement, that relates to the HKRCASP's obligations under Part 8B—

(a) discovers that the return, information or statement is misleading, false or inaccurate; and

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

(12) An HKRCASP that commits an offence under subsection (11) is liable on conviction to—

(a) a fine at level 3; or

(b) a fine of $1,000 multiplied by the number of the crypto-asset users and the controlling persons of the users who are the subjects of the offence,

whichever is the higher.

(13) An HKRCASP commits an offence if the HKRCASP, with the intent to defraud—

(a) provides any information that is misleading, false or inaccurate in a material particular in a return furnished under section 50Q(1); or

(b) otherwise provides any information, or makes any statement, that relates to the HKRCASP's obligations under Part 8B and that is misleading, false or inaccurate in a material particular.

(14) An HKRCASP that commits an offence under subsection (13) is liable—

(a) on summary conviction—

(i) to the following fine—

(A) a fine at level 5; or

(B) a fine of $10,000 multiplied by the number of the crypto-asset users and the controlling persons of the users who are the subjects of the offence,

whichever is the higher; and

(ii) to imprisonment for 6 months; or

(b) on conviction on indictment—

(i) to the following fine—

(A) a fine at level 6; or

(B) a fine of $20,000 multiplied by the number of the crypto-asset users and the controlling persons of the users who are the subjects of the offence,

whichever is the higher; and

(ii) to imprisonment for 3 years.

(15) In relation to an HKRCASP that is an entity but not a corporation, this section applies to a person who acts for the HKRCASP to maintain a relationship with its crypto-asset users as if the references to an HKRCASP were references to that person.

(16) In this section—

controlling person (控權人) has the meaning given by section 50M(1);

crypto-asset user (加密資產使用者) has the meaning given by section 50M(1).

80S. Offences of HKRCASP's employees etc.

(1) Subsection (2) applies to a person who—

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

(b) is engaged to work for an HKRCASP otherwise than as a service provider; or

(c) is concerned in the management of an HKRCASP.

(2) A person commits an offence if the person, with the intent to defraud, causes or allows the HKRCASP to—

(a) provide any information that is misleading, false or inaccurate in a material particular in a return furnished under section 50Q(1); or

(b) otherwise provide any information, or make any statement, that relates to the HKRCASP's obligations under Part 8B and that is misleading, false or inaccurate in a material particular.

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

(a) on summary conviction—

(i) to a fine at level 3; and

(ii) to imprisonment for 6 months; or

(b) on conviction on indictment—

(i) to a fine at level 5; and

(ii) to imprisonment for 3 years.

80T. Offences of individuals or entities that were HKRCASPs

(1) An individual or entity that was an HKRCASP commits an offence if the individual or entity, without reasonable excuse, fails to comply with section 50S(4) or (6) or a requirement under section 50S(12).

(2) An individual or entity that commits an offence under subsection (1) for failing to do an act is liable on conviction to a fine at level 3, and the court may order the individual or entity to do the act within the time specified in the order.

(3) An individual or entity commits an offence if the individual or entity does not comply with an order of the court under subsection (2), and is liable on conviction to a fine at level 4.

80U. Offences of persons who were specified officers or designated officer in relation to entity that was HKRCASP within 6 years before dissolution

(1) A person who is a specified officer, or a designated officer, as defined by section 50S(20) commits an offence if the person, without reasonable excuse, fails to comply with section 50S(7) or (8) or a requirement under section 50S(12).

(2) A person who commits an offence under subsection (1) for failing to do an act is liable on conviction to a fine at level 3, and the court may order the person to do the act within the time specified in the order.

(3) A person commits an offence if the person does not comply with an order of the court under subsection (2), and is liable on conviction to a fine at level 4.

(4) Without limiting the meaning of "reasonable excuse" in subsection (1), a person is taken to have established that the person had a reasonable excuse by showing that—

(a) if the person is charged with an offence under subsection (1) for failing to comply with section 50S(7)(a) or (b) or (8) or a requirement under section 50S(12)—the person had reasonable grounds to believe, and did believe, that a competent and reliable person other than the person—

(i) was charged with the duty of ensuring that the section or requirement, as the case may be, was complied with; and

(ii) was in a position to discharge that duty; or

(b) if the person is charged with an offence under subsection (1) for failing to comply with section 50S(7)(b) or a requirement under section 50S(12)—the records mentioned in section 50S(1) are otherwise required to be kept by another person under any other Ordinance.

80V. Offences of service provider engaged by HKRCASP

(1) A person who is a service provider engaged to carry out an HKRCASP's obligations under section 50O(1) commits an offence if the person, without reasonable excuse, fails to cause the HKRCASP to be registered as required by that section.

(2) A person who is a service provider engaged to carry out an HKRCASP's obligations under section 50P(1) commits an offence if the person, without reasonable excuse, fails to—

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

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

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

(a) to identify whether a crypto-asset user is a reportable user and whether a controlling person is a reportable person and to identify and collect the required information within the meaning of section 50Q(4); or

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

(4) A person who is a service provider engaged to carry out an HKRCASP's obligations under section 50Q(1) commits an offence if the person, without reasonable excuse, fails to cause a return to be furnished as required by that section.

(5) A person who is a service provider engaged to carry out an HKRCASP's obligations under section 50O(1), 50P(1) or (2) or 50Q(1) commits an offence if—

(a) for an obligation under section 50Q(1)—the person causes or allows the HKRCASP to provide, or, in purported compliance with section 50Q(1), provides any information in a return that is misleading, false or inaccurate in a material particular, and the person—

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

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

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

(b) the person otherwise provides any information, or makes any statement, that relates to the HKRCASP's obligations under Part 8B on behalf of the HKRCASP not in accordance with the instruction given by the HKRCASP to the person (or causes or allows the HKRCASP to otherwise provide or make such information or statement) where the information or statement is misleading, false or inaccurate in a material particular, and the person—

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

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

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

(c) the person, after furnishing a return in purported compliance with section 50Q(1), or otherwise providing any information, or making any statement, that relates to the HKRCASP's obligations under Part 8B—

(i) discovers that the return, information or statement is misleading, false or inaccurate; and

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

(6) 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 the person under section 51B(1AAAD) or 51BB(6); or

(b) obstructs or hinders an assessor in the exercise of the powers under section 51BB(2).

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

(8) A person who is a service provider engaged to carry out an HKRCASP's obligations under section 50O(1), 50P(1) or (2) or 50Q(1) commits an offence if the person, with the intent to defraud, causes or allows the HKRCASP to—

(a) provide any information that is misleading, false or inaccurate in a material particular in a return furnished under section 50Q(1); or

(b) otherwise provide any information, or make any statement, that relates to the HKRCASP's obligations under Part 8B and that is misleading, false or inaccurate in a material particular.

(9) A person who commits an offence under subsection (8) is liable—

(a) on summary conviction—

(i) to a fine at level 3; and

(ii) to imprisonment for 6 months; or

(b) on conviction on indictment—

(i) to a fine at level 5; and

(ii) to imprisonment for 3 years.

(10) The court may order a service provider that commits an offence under subsection (1), (2), (3), (4) or (6), within the time specified in the order—

(a) (for subsection (1), (2), (3), (4) or (6)(a)) to do the act that the service provider has failed to do; or

(b) (for subsection (6)(b)) to allow and facilitate an assessor to exercise the powers under section 51BB(2).

(11) A service provider commits an offence if the service provider does not comply with an order of the court under subsection (10), and is liable on conviction to a fine at level 4.

(12) In this section—

controlling person (控權人) has the meaning given by section 50M(1);

crypto-asset user (加密資產使用者) has the meaning given by section 50M(1);

reportable person (申報對象) has the meaning given by section 50M(1);

reportable user (須申報使用者) has the meaning given by section 50M(1).

80W. Offences of directors etc. of corporations relating to offences under sections 80R and 80V

If—

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

(i) an HKRCASP that commits an offence under section 80R(1), (6), (7), (9), (11) or (13);

(ii) a person who commits an offence under section 80R(1), (6), (7), (9), (11) or (13) pursuant to section 80R(15);

(iii) a service provider that commits an offence under section 80V(1), (2), (3), (4), (5), (6), (8) or (11); 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.

80X. Miscellaneous provisions for certain offences relating to HKRCASPs etc.

(1) Despite section 26 of the Magistrates Ordinance (Cap. 227), proceedings in respect of an offence under section 80R, 80S, 80T, 80U, 80V or 80W, 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 80R, 80S, 80T, 80U, 80V or 80W, and may

before judgment stay or compound any proceedings instituted for the offence.".

12. Sections 82E to 82H added

Before section 83—

Add

"**82E. Financial penalty on HKRCASPs in lieu of prosecution in certain cases**

(1) If—

(a) an HKRCASP, without reasonable excuse—

(i) fails to comply with section 50O(1);

(ii) fails to comply with section 50P(1) or (2);

(iii) fails to comply with section 50Q(1);

(iv) provides, in purported compliance with section 50Q(1), any information in a return that is incorrect or incomplete in a material particular;

(v) otherwise provides any information, or makes any statement, that relates to the HKRCASP's obligations under Part 8B and that is incorrect or incomplete in a material particular; or

(vi) fails to notify the Commissioner of discovery of misleading, false or inaccurate information in a return furnished under section 50Q(1), or in any information otherwise provided, or any statement made, that relates to the HKRCASP's obligations under Part 8B, within a reasonable time; and

(b) no prosecution for an offence under section 80R has been instituted in respect of the same facts in relation to paragraph (a)(i), (ii), (iii), (iv), (v) or (vi) (as may be appropriate),

the HKRCASP is liable to be subjected to a financial penalty assessed under this section not exceeding the amount that the HKRCASP would have been liable to pay as a fine on conviction under section 80R.

(2) For the purposes of subsection (1)(a), engaging a service provider under section 50U does not in itself constitute a reasonable excuse.

(3) An assessment of financial penalty may be made only by the Commissioner personally or a deputy commissioner personally (each is referred to as the ***specified authority***).

(4) Before making an assessment of financial penalty for the purposes of subsection (1), the specified authority must—

(a) give a notice to the HKRCASP of the specified authority's intention to assess financial penalty, and the notice must—

(i) inform the HKRCASP of the alleged failure to comply with section 50O(1), 50P(1) or (2) or 50Q(1) (as may be appropriate), the allegation that the return mentioned in subsection (1)(a)(iv), or the information or statement mentioned in subsection (1)(a)(v), is incorrect or incomplete in a material particular, or the alleged failure to make the notification mentioned in subsection (1)(a)(vi) within a reasonable time;

(ii) state that, with regard to the proposed assessment of financial penalty in respect of the HKRCASP, the HKRCASP may submit a written representation and evidence to the specified authority; and

(iii) specify the date, which must not be within 21 days after the notice is given, by which the representation and evidence that the HKRCASP wishes to submit under subparagraph (ii) must be received by the specified authority; and

(b) consider and take into account any representation and evidence submitted by the HKRCASP under paragraph (a)(ii).

(5) Despite subsection (4), if a specified authority intends to make an assessment of financial penalty in respect of an HKRCASP that is an individual (***individual HKRCASP***) or an HKRCASP that is an entity but not a corporation (***non-corporate HKRCASP***), and the authority is of the opinion that the individual HKRCASP or any person who acts for the non-corporate HKRCASP to maintain a relationship with its crypto-asset users (***specified person***) is about to leave Hong Kong, the authority may make an assessment in respect of the individual HKRCASP or the specified person without giving a notice under subsection (4)(a).

(6) Notice of intention to make an assessment of financial penalty and notice of an assessment of financial penalty must be given in the same manner as is prescribed in section 58(2) for a notice of assessment under section 62.

(7) If an individual HKRCASP or a non-corporate HKRCASP is liable to have an assessment of financial penalty made in respect of the individual HKRCASP or the non-corporate HKRCASP and the individual HKRCASP or the specified person of the non-corporate HKRCASP has died, the assessment may be made in respect of the executor of that individual HKRCASP or person, and the financial penalty is to be recovered as a debt due from and payable out of the estate of that individual HKRCASP or person.

(8) In relation to a non-corporate HKRCASP, this section applies to a person who acts for the non-corporate HKRCASP to maintain a relationship with its crypto-asset users as if the references to an HKRCASP were references to that person.

(9) An HKRCASP in respect of which an assessment is made under this section for an act or omission is not liable to be charged with an offence under section 80R for the same act or omission.

(10) For payment, recovery and repayment of a financial penalty, section 54 and Parts 12 and 13 have effect subject to subsection (11) as if the financial penalty were a tax.

(11) For the purposes of subsection (10)—

(a) section 54 applies in relation to a financial penalty as if a reference to "year of assessment" in that section were a reference to "calendar year";

(b) sections 77A and 79(3), (3A), (4) and (5) do not apply in relation to a financial penalty; and

(c) section 79(1) applies in relation to a financial penalty as if the reference to "year of assessment" in that section were a reference to "calendar year".

(12) In this section—

crypto-asset user (加密資產使用者) has the meaning given by section 50M(1).

82F. Appeals against assessment of financial penalty under section 82E to Board of Review

(1) If an assessment of financial penalty is made in respect of an HKRCASP under section 82E, the HKRCASP may within—

(a) 1 month after the notice of assessment is given to the HKRCASP; or

(b) the period as extended under subsection (3),

lodge, either by the HKRCASP or by an authorized representative, an appeal against the assessment by giving a notice of appeal to the Board of Review in accordance with subsection (2).

(2) A notice of appeal must be given in writing to the clerk to the Board and be accompanied by—

(a) a copy of the notice of assessment;

(b) a statement setting out the grounds of appeal;

(c) a copy of the notice of intention to assess financial penalty given under section 82E(4)(a); and

(d) a copy of any written representation and evidence (if any) submitted under section 82E(4) in respect of the assessment.

(3) If the Board is satisfied that an appellant was prevented by illness or absence from Hong Kong or other reasonable cause from giving a notice of appeal in accordance with subsection (1)(a), the Board may extend for such period as it thinks fit the time within which a notice of appeal may be given under subsection (1).

(4) On an appeal against an assessment of financial penalty, it is open to the appellant to argue that—

(a) the appellant is not liable to financial penalty;

(b) the amount of financial penalty assessed in respect of the appellant exceeds the amount for which the appellant would be liable under section 82E; and

(c) the amount of financial penalty, although not in excess of that for which the appellant would be liable under section 82E, is excessive in the circumstances of the case.

(5) Sections 66(2) and (3), 68, 68AA, 68AAB, 68A, 69 and 70, to the extent that they are applicable, have effect in relation to an appeal under this section as if the appeal were against an assessment to tax other than financial penalty.

(6) For the purposes of subsection (5)—

(a) section 68(1D) applies in relation to a financial penalty as if the reference to "year of assessment" in that section were a reference to "calendar year"; and

(b) section 70 applies in relation to a financial penalty as if the reference to "year of assessment" in that section were a reference to "calendar year".

82G. Financial penalty on specified officers or designated officer in lieu of prosecution in certain cases under section 80U

(1) If—

(a) a specified officer or designated officer, without reasonable excuse, fails to comply with—

(i) section 50S(7)(a);

(ii) section 50S(7)(b);

(iii) section 50S(8); or

(iv) a requirement under section 50S(12); and

(b) no prosecution for an offence under section 80U has been instituted in respect of the same facts in relation to paragraph (a)(i), (ii), (iii) or (iv) (as may be appropriate),

the officer concerned is liable to be subjected to a financial penalty assessed under this section not exceeding the amount that the officer would have been liable to pay as a fine on conviction under section 80U.

(2) An assessment of financial penalty may be made only by the Commissioner personally or a deputy commissioner personally (each is referred to as the ***specified authority***).

(3) Before making an assessment of financial penalty for the purposes of subsection (1), the specified authority must—

(a) give a notice to the officer concerned of the specified authority's intention to assess financial penalty, and the notice must—

(i) inform the officer of the alleged failure to comply with section 50S(7)(a) or (b) or (8) or a requirement under section 50S(12) (as may be appropriate);

(ii) state that, with regard to the proposed assessment of financial penalty in respect of the officer, the officer may submit a written representation and evidence to the specified authority; and

(iii) specify the date, which must not be within 21 days after the notice is given, by which the representation and evidence that the officer wishes to submit under subparagraph (ii) must be received by the specified authority; and

(b) consider and take into account any representation and evidence submitted by the officer under paragraph (a)(ii).

(4) Despite subsection (3), if a specified authority intends to make an assessment of financial penalty in respect of a specified officer, or a designated officer, who is an individual (***individual officer***), and the authority is of the opinion that the individual officer is about to leave Hong Kong, the authority may make an assessment in respect of the individual officer without giving a notice under subsection (3)(a).

(5) Notice of intention to make an assessment of financial penalty and notice of an assessment of financial penalty must be given in the same manner as is prescribed in section 58(2) for a notice of assessment under section 62.

(6) If an individual officer is liable to have an assessment of financial penalty made in respect of him or her and the individual officer has died, the assessment may be made in respect of his or her executor, and the financial penalty is to be recovered as a debt due from and payable out of his or her estate.

(7) A specified officer, or a designated officer, in respect of which an assessment is made under this section for an act or omission is not liable to be charged with an offence under section 80U for the same act or omission.

(8) For payment, recovery and repayment of a financial penalty, section 54 and Parts 12 and 13 have effect subject to subsection (9) as if the financial penalty were a tax.

(9) For the purposes of subsection (8)—

(a) section 54 applies in relation to a financial penalty as if a reference to "year of assessment" in that section were a reference to "calendar year";

(b) sections 77A and 79(3), (3A), (4) and (5) do not apply in relation to a financial penalty; and

(c) section 79(1) applies in relation to a financial penalty as if the reference to "year of assessment" in that section were a reference to "calendar year".

(10) Without limiting the meaning of "reasonable excuse" in subsection (1)(a), if a person is liable under subsection (1) to be subjected to a financial penalty assessed under this section, the person is taken to have established that the person had a reasonable excuse by showing that—

(a) the person had reasonable grounds to believe, and did believe, that a competent and reliable person other than the person—

(i) was charged with the duty of ensuring that section 50S(7)(a) or (b) or (8) or the requirement under section 50S(12), as may be appropriate, was complied with; and

(ii) was in a position to discharge that duty; or

(b) the records mentioned in section 50S(1) are otherwise required to be kept by another person under any other Ordinance.

82H. Appeals against assessment of financial penalty under section 82G to Board of Review

(1) If an assessment of financial penalty is made in respect of a specified officer or designated officer under section 82G, the officer concerned may within—

(a) 1 month after the notice of assessment is given to the officer; or

(b) the period as extended under subsection (3),

lodge, either by the officer or by an authorized representative, an appeal against the assessment by giving a notice of appeal to the Board of Review in accordance with subsection (2).

(2) A notice of appeal must be given in writing to the clerk to the Board and be accompanied by—

(a) a copy of the notice of assessment;

(b) a statement setting out the grounds of appeal;

(c) a copy of the notice of intention to assess financial penalty given under section 82G(3)(a); and

(d) a copy of any written representation and evidence (if any) submitted under section 82G(3) in respect of the assessment.

(3) If the Board is satisfied that an appellant was prevented by illness or absence from Hong Kong or other reasonable cause from giving a notice of appeal in accordance with subsection (1)(a), the Board may extend for such period as it thinks fit the time within which a notice of appeal may be given under subsection (1).

(4) On an appeal against an assessment of financial penalty, it is open to the appellant to argue that—

(a) the appellant is not liable to financial penalty;

(b) the amount of financial penalty assessed in respect of the appellant exceeds the amount for which the appellant would be liable under section 82G; and

(c) the amount of financial penalty, although not in excess of that for which the appellant would be liable under section 82G, is excessive in the circumstances of the case.

(5) Sections 66(2) and (3), 68, 68AA, 68AAB, 68A, 69 and 70, to the extent that they are applicable, have effect in relation to an appeal under this section as if the appeal were against an assessment to tax other than financial penalty.

(6) For the purposes of subsection (5)—

(a) section 68(1D) applies in relation to a financial penalty as if the reference to "year of assessment" in that section were a reference to "calendar year"; and

(b) section 70 applies in relation to a financial penalty as if the reference to "year of assessment" in that section were a reference to "calendar year".".

13. Schedule 17D amended (due diligence requirements)

Schedule 17D—

Repeal

"Sch. 17C]"

Substitute

"Schs. 17C & 17EA]".

14. Schedule 17E amended (reportable jurisdictions and participating jurisdictions)

Schedule 17E—

Repeal

"[ss. 50A(1)"

Substitute

"[ss. 2(1), 50A(1)".

15. Schedule 17J amended (qualifying amalgamations—special tax treatment)

Schedule 17J—

Repeal

"[s. 40AM"

Substitute

"[ss. 2 & 40AM".

16. Schedule 17K amended (disposal gain by holder of qualifying equity interests)

Schedule 17K—

Repeal

"[s. 40AX]"

Substitute

"[ss. 2 & 40AX]".

17. Schedule 61 amended (GloBE rules)

Schedule 61—

Repeal

"[ss. 25A"

Substitute

"[ss. 2, 25A".

18. Schedule 62 amended (HKMTT)

Schedule 62—

Repeal

"[ss. 26AD"

Substitute

"[ss. 2, 26AD".

Division 2—Amendments to Implement Amendments to Common Reporting Standard to Include New Digital Financial Products and Enhance Reporting Outcomes

19. Section 50A amended (interpretation)

(1) Section 50A(1), at the end of the definition of ***account holder***—

Add

"**Note—**

See also subsection (3A).".

(2) Section 50A(1)—

Repeal the definition of *custodial account*

Substitute

"***custodial account*** (託管帳户) means—

(a) 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; or

(b) if one or more financial assets are issued in the form of a crypto-asset, an arrangement by a financial institution to hold such assets for the benefit of an individual or entity to the extent that the institution—

(i) safekeeps or administers the instruments enabling control over the assets; and

(ii) has the ability to manage, trade or transfer to third parties, those assets on behalf of the individual or entity;".

(3) Section 50A(1)—

Repeal the definition of *custodial institution*

Substitute

"***custodial institution*** (託管機構) has the meaning given by section 50M(1);".

(4) Section 50A(1), definition of ***depository account***, paragraph (b)—

Repeal

"and".

(5) Section 50A(1), definition of ***depository account***, after paragraph (c)—

Add

"(d) an account or notional account that represents all specified electronic money products held for the benefit of a customer; and

(e) an account that holds one or more central bank digital currencies for the benefit of a customer;

Note—

See also subsection (9A).".

(6) Section 50A(1)—

Repeal the definition of *depository institution*

Substitute

"***depository institution*** (存款機構) has the meaning given by section 50M(1);".

(7) Section 50A(1)—

Repeal the definition of *FATF Recommendations*

Substitute

"***FATF Recommendations*** (《財務行動特別組織的建議》) has the meaning given by section 50M(1);".

(8) Section 50A(1)—

Repeal the definition of *financial asset*

Substitute

"***financial asset*** (財務資產) has the meaning given by section 50M(1);".

(9) Section 50A(1), definition of ***investment entity***, paragraph (d)(iii)—

Repeal

"or money"

Substitute

", money or relevant crypto-assets".

(10) Section 50A(1), definition of ***investment entity***, paragraph (e)(ii), after "assets"—

Add

"or relevant crypto-assets".

(11) Section 50A(1), definition of ***passive income***, paragraph (c), after "interest"—

Add

"or dividends".

(12) Section 50A(1), definition of ***passive income***, after paragraph (e)—

Add

"(ea) income derived from relevant crypto-assets;".

(13) Section 50A(1), definition of ***passive income***, paragraph (f)—

Repeal

everything after "assets"

Substitute

"or relevant crypto-assets;".

(14) Section 50A(1), definition of ***passive income***, paragraph (g), after "assets"—

Add

"or relevant crypto-assets".

(15) Section 50A(1), at the end of the definition of ***passive income***—

Add

"**Note—**

See also subsection (14B).".

(16) Section 50A(1), definition of ***pre-existing account***, paragraph (a)(ii)—

Repeal

"or".

(17) Section 50A(1), definition of ***pre-existing account***, after paragraph (a)(ii)—

Add

"(iii) (despite subparagraphs (i) and (ii)) if the account is treated as a financial account solely by virtue of the 2023-CRS amendments—31 December 2027; or".

(18) Section 50A(1), definition of ***pre-existing account***, paragraph (b)(i)(B)—

Repeal

"and".

(19) Section 50A(1), definition of ***pre-existing account***, after paragraph (b)(i)(B)—

Add

"(C) (despite sub-subparagraphs (A) and (B)) if the account is treated as a financial account solely by virtue of the 2023-CRS amendments—1 January 2028; and".

(20) Section 50A(1), definition of ***reportable person***, paragraph (b)(i)—

Repeal

"a corporation"

Substitute

"an entity".

(21) Section 50A(1), definition of ***reportable person***, paragraph (b)(ii)—

Repeal

"a corporation that is a related entity of a corporation"

Substitute

"an entity that is a related entity of an entity".

(22) Section 50A(1), definition of ***reporting year***, paragraph (a)—

Repeal

"or".

(23) Section 50A(1), definition of ***reporting year***, paragraph (b)(ii), after "2021;"—

Add

"or".

(24) Section 50A(1), Chinese text, definition of ***申報年***, paragraph (b)—

Repeal

"日期"

Substitute

"年份".

(25) Section 50A(1), definition of ***reporting year***, after paragraph (b)—

Add

"(c) (despite paragraphs (a) and (b)) in relation to a financial account that is treated as such solely by virtue of the 2023-CRS amendments—means the later of the following—

(i) the year specified in column 2 of Part 1 of Schedule 17E opposite that jurisdiction;

(ii) 2029;".

(26) Section 50A(1)—

Add in alphabetical order

"***2017 Common Reporting Standard*** (《2017年共同匯報標準》) has the meaning given by section 50M(1);

2023-CRS amendments (《2023年共同匯報標準修訂》) means the amendments made to this Ordinance by Division 2 of Part 2 of the Inland Revenue (Amendment) (Crypto-Asset Reporting Framework and Amended Common Reporting Standard) Ordinance 2026 (8 of 2026) (which are to incorporate the amendments to the 2017 Common Reporting Standard, consisting of the Rules and the Commentaries, that are set out in Part II of the document entitled International Standards for Automatic Exchange of Information in Tax Matters: Crypto-Asset Reporting Framework and 2023 update to the Common Reporting Standard, published by the Organisation for Economic Co-operation and Development on 8 June 2023);

CARF (《加密資產申報框架》) has the meaning given by section 50M(1);

central bank digital currency (中央銀行數碼貨幣) has the meaning given by section 50M(1);

crypto-asset (加密資產) has the meaning given by section 50M(1);

exchange transaction (兑換交易) has the meaning given by section 50M(1);

fiat currency (法定貨幣) has the meaning given by section 50M(1);

new account (新帳户) means a financial account opened and maintained by a reporting financial institution on or after—

(a) if the institution is not a 2020-covered institution—1 January 2017;

(b) if the institution is a 2020-covered institution—1 January 2020; or

(c) (despite paragraphs (a) and (b)) if the account is treated as a financial account solely by virtue of the 2023-CRS amendments—1 January 2028;

relevant crypto-asset (相關加密資產) has the meaning given by section 50M(1);

specified electronic money product (指明電子貨幣產品) means any product that—

(a) is a digital representation of a single fiat currency;

(b) is issued on receipt of funds for the purpose of making payment transactions;

(c) is represented by a claim on the issuer denominated in the same fiat currency;

(d) is accepted in payment by a natural or legal person other than the issuer; and

(e) is, by virtue of the regulatory requirements to which the issuer is subject, redeemable at any time and at par value for the same fiat currency on request of the holder of the product;

Note—

See also subsection (16AAB).".

(27) After section 50A(3)—

Add

"(3A) For paragraph (c) of the definition of ***account holder*** in subsection (1), if the account is for a cash value insurance contract, an individual or entity that has the right to access the cash value, or the right to change the beneficiaries, of the contract is regarded as an account holder with respect to the contract, unless the individual or entity has finally, fully and irrevocably renounced both the right to access the cash value, and the right to change the beneficiaries, of the contract.".

(28) Section 50A—

Repeal subsection (9).

(29) Before section 50A(10)—

Add

"(9A) For paragraphs (d) and (e) of the definition of ***depository account*** in subsection (1)—

(a) all specified electronic money products held by an entity for the benefit of a customer are regarded together as a depository account of that customer;

(b) for the purpose of determining the value of the depository account, a reporting financial institution must aggregate the value of all specified electronic money products the account holder holds with the reporting financial institution;

(c) an arrangement through which an entity holds central bank digital currencies for the benefit of a customer is regarded as a depository account; and

(d) if a specified electronic money product or central bank digital currency has been issued as a crypto-asset, an entity is considered to hold such asset for the benefit of a customer to the extent that—

(i) it safekeeps or administers the instruments enabling control over the asset; and

(ii) it has the ability to manage, trade or transfer to third parties the underlying asset on behalf of the customer.".

(30) Section 50A(13)(a)—

Repeal

"; or"

Substitute a semicolon.

(31) Section 50A(13)(b)—

Repeal

everything after "reinvesting"

Substitute

"or trading in financial assets or relevant crypto-assets if it meets the criterion set out in subsection (14); or".

(32) After section 50A(13)(b)—

Add

"(c) for the purposes of paragraph (d)(iii) of the definition, provision of service of effectuating exchange transactions for or on behalf of customers is not regarded as otherwise investing, administering, or managing financial assets, money, or relevant crypto-assets on behalf of other entity or individual.".

(33) After section 50A(14)—

Add

"(14A) For the purpose of determining the gross income under subsection (14), all remuneration for the relevant activities of an entity is to be taken into account, regardless of whether that remuneration is paid directly to the entity or paid to another entity.

(14B) The definition of ***passive income*** in subsection (1) does not include, in the case of an NFE that regularly acts as a dealer in financial assets or relevant crypto-assets, any income from a transaction entered into in the ordinary course of the NFE's business as such a dealer.".

(34) After section 50A(16AA)—

Add

"(16AAB) For the definition of ***specified electronic money product*** in subsection (1)—

(a) a specified electronic money product does not include a product created for the sole purpose of facilitating the transfer of funds from a customer to another person pursuant to the instructions of the customer; and

(b) for paragraph (a), a product is not regarded as being created for the sole purpose of facilitating the transfer of funds if in the ordinary course of business of the transferring entity—

(i) if instructions to facilitate the transfer are received—the funds connected with the product are held longer than 60 days after the receipt of the instructions; or

(ii) if no such instructions are received—the funds connected with the product are held longer than 60 days after the receipt of the funds.

(16AAC) The definitions of ***central bank digital currency***, ***crypto-asset***, ***exchange transaction***, ***fiat currency*** and ***relevant crypto-asset*** in subsection (1) must be interpreted in a way consistent with the CARF.".

(35) Section 50A(16A)—

Repeal

everything after "amend"

Substitute

"the percentage in subsection (7).".

20. Section 50F amended (required information under section 50C(3))

(1) Section 50F(2)—

Repeal paragraphs (a) and (b)

Substitute

"(a) if the account holder is an individual who is a reportable person—

(i) the name, address, jurisdiction of residence, TIN and the date and place of birth of the individual; and

(ii) whether the individual has provided a valid self-certification;

(b) if the account holder is an entity that is a reportable person—

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

(ii) whether the entity has provided a valid self-certification;".

(2) Section 50F(2)(c)(i)—

Repeal

"; and"

Substitute a semicolon.

(3) After section 50F(2)(c)(ii)—

Add

"(iii) the role by virtue of which each reportable person is a controlling person of the entity; and

(iv) whether a valid self-certification has been provided for each reportable person;".

(4) After section 50F(2)(c)—

Add

"(ca) whether the account is a joint account and, if it is, the number of the account holders;".

(5) Section 50F(2)(d), after "equivalent"—

Add

", the type of the account and whether the account is a pre-existing account or a new account".

(6) After section 50F(2)(g)—

Add

"(ga) for an equity interest held in an investment entity that is a legal arrangement—the role by virtue of which the reportable person is an equity interest holder; and".

21. Section 50G amended (modifications of required information)

(1) Section 50G(1)(a)(ii), after "reportable account"—

Add

"and whenever the institution is required to update the information relating to the pre-existing account pursuant to domestic AML/KYC procedures".

(2) After section 50G(2)—

Add

"(3) Despite section 50F(2)(c)(iii) and (ga), for a reportable account that is maintained by a reporting financial institution as at 31 December 2027 and for reporting periods ending on or before 31 December 2029, the information with respect to the role by virtue of which each reportable person is a controlling person or equity interest holder of the entity concerned is not required to be reported unless it is available in the electronically searchable data maintained by the institution.

(4) Despite section 50F(2)(f)(iv), unless a reporting financial institution elects otherwise with respect to any clearly identified group of accounts, the gross proceeds from the sale or redemption of a financial asset are not required to be reported to the extent that such gross proceeds from the sale or redemption

of such a financial asset are reported by the reporting financial institution under the CARF.".

22. Section 50L amended (guidelines published by Commissioner)

(1) Section 50L(1)(b), Chinese text—

Repeal

"按照共同匯報標準刊物，須給予共同匯報標準"

Substitute

"按照《共同匯報標準刊物》，須給予《共同匯報標準》".

(2) Section 50L(4)—

Repeal the definition of *Common Reporting Standard*

Substitute

"***Common Reporting Standard*** (《共同匯報標準》) has the meaning given by section 50M(1);".

(3) Section 50L(4), definition of ***CRS publications***—

Repeal

"共同匯報標準刊物"

Substitute

"《共同匯報標準刊物》".

(4) Section 50L(4), definition of ***CRS publications***, paragraph (a)—

Repeal

"; and"

Substitute a semicolon.

(5) Section 50L(4), definition of ***CRS publications***, after paragraph (b)—

Add

"(c) the Commentaries on the Amendments to the Common Reporting Standard contained in Part II of the International Standards for Automatic Exchange of Information in Tax Matters: Crypto-Asset Reporting Framework and 2023 update to the Common Reporting Standard, published by the Organisation for Economic Co-operation and Development on 8 June 2023;

(d) the Commentaries on the Common Reporting Standard contained in the Consolidated text of the Common Reporting Standard (2025): Standard for Automatic Exchange of Financial Account Information in Tax Matters, published by the Organisation for Economic Co-operation and Development in June 2025; and

(e) the document entitled CRS-related Frequently Asked Questions, published by the Organisation for Economic Co-operation and Development and updated in December 2025, and as further updated from time to time;".

(6) Section 50L(5), Chinese text—

Repeal

"***共同匯報標準***及***共同匯報標準刊物***"

Substitute

"***《共同匯報標準》***及***《共同匯報標準刊物》***".

23. Schedule 17C amended (non-reporting financial institutions and excluded accounts)

(1) Schedule 17C, English text, Part 1, section 1, definition of ***reportable person***—

Repeal the full stop

Substitute a semicolon.

(2) Schedule 17C, Part 1, section 1—

Add in alphabetical order

"***central bank digital currency*** (中央銀行數碼貨幣) has the meaning given by section 50M(1);

specified electronic money product (指明電子貨幣產品) has the meaning given by section 50A(1).".

(3) Schedule 17C, Part 2—

Repeal sections 1, 2, 3 and 4

Substitute

"**1. Governmental entity**

A governmental entity is a non-reporting financial institution, other than with respect to—

(a) 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; or

(b) an activity of maintaining central bank digital currencies for account holders which are not financial institutions, governmental entities, international organizations, central banks or the Hong Kong Monetary Authority.

2. International organization

An international organization is a non-reporting financial institution, other than with respect to—

(a) 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; or

(b) an activity of maintaining central bank digital currencies for account holders which are not financial institutions, governmental entities, international organizations, central banks or the Hong Kong Monetary Authority.

3. Central bank

A central bank is a non-reporting financial institution, other than with respect to—

(a) 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; or

(b) an activity of maintaining central bank digital currencies for account holders which are not financial institutions, governmental entities, international organizations, central banks or the Hong Kong Monetary Authority.

4. Hong Kong Monetary Authority

The Hong Kong Monetary Authority is a non-reporting financial institution, other than with respect to—

(a) 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; or

(b) an activity of maintaining central bank digital currencies for account holders which are not financial institutions, governmental entities, international organizations, central banks or the Hong Kong Monetary Authority.".

(4) Schedule 17C, Part 2—

Renumber section 6 as section 6(1).

(5) Schedule 17C, Part 2, after section 6(1)—

Add

"(2) For subsection (1)(b)(i), in case the fund is compartmentalized into sub-funds that are in practice working as separated pension products, including through the segregation of the assets, risks and income attributed to such sub-funds, the test of whether a single beneficiary has a right to more than 5% of the fund's assets must be applied at the level of each sub-fund.".

(6) Schedule 17C, at the end of Part 2—

Add

"**14. Qualified non-profit entity**

An entity is a non-reporting financial institution if it is resident in Hong Kong and has obtained a confirmation by the Commissioner that it meets all of the following conditions—

(a) the entity is established and operated in Hong Kong—

(i) exclusively for religious, charitable, scientific, artistic, cultural, athletic or educational purposes; or

(ii) as 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;

(b) the entity is exempt from income tax in Hong Kong;

(c) the entity has no shareholders or members who have a proprietary or beneficial interest in its income or assets;

(d) the laws of Hong Kong or the entity's formation documents do not permit any income or assets of the entity to be distributed to, or applied for the benefit of, a private person or a non-charitable entity other than—

(i) pursuant to the conduct of the entity's charitable activities;

(ii) as payment of reasonable compensation for the services rendered; or

(iii) as payment representing the fair market value of property which the entity has purchased; and

(e) the laws of Hong Kong or the entity's formation documents require that, on the entity's liquidation or dissolution, all of its assets are to

be distributed to a governmental entity or other entity that meets the conditions set out in this paragraph and paragraphs (a), (b), (c) and (d), or be escheated to the Government.".

(7) Schedule 17C, Part 3, section 5(d)—

Repeal the full stop

Substitute a semicolon.

(8) Schedule 17C, Part 3, after section 5(d)—

Add

"(e) a foundation or capital increase of a company, provided that the account meets the following conditions—

(i) the account is used exclusively to deposit capital that is to be used for the purpose of the foundation or capital increase of a company, as prescribed by law;

(ii) any amounts held in the account are blocked until the reporting financial institution obtains an independent confirmation regarding the foundation or capital increase;

(iii) the account is closed or transformed into an account in the name of the company after the foundation or capital increase;

(iv) repayment of any amounts resulting from a failed foundation or capital increase, net of service provider fees and similar fees, are made solely to the persons who contributed the amounts; and

(v) the account was not established more than 12 months ago.".

(9) Schedule 17C, Part 3, after section 5—

Add

"**5A. Low-value specified electronic money products**

A depository account is an excluded account if—

(a) it represents all specified electronic money products held for the benefit of a customer; and

(b) the rolling average 90-day end-of-day aggregate account balance or value during any period of 90 consecutive days did not exceed $78,000 at any day during the calendar year or other appropriate reporting period.".

24. Schedule 17D amended (due diligence requirements)

(1) Schedule 17D, heading, after "**Requirements**"—

Add

"**on Reporting Financial Institutions**".

(2) Schedule 17D, Part 1, section 1—

Repeal the definition of *new account*

Substitute

"***new account*** (新帳户) has the meaning given by section 50A(1);".

(3) Schedule 17D, Chinese text, Part 3, section 4(5)(d)—

Repeal

"賬"

Substitute

"帳".

(4) Schedule 17D, Part 6—

Renumber section 5 as section 5(1).

(5) Schedule 17D, Part 6, after section 5(1)—

Add

"(2) If the institution is not legally required to apply AML/KYC procedures that are consistent with the FATF Recommendations, it must apply substantially similar procedures for the purpose of determining the controlling persons.".

(6) Schedule 17D, Part 7, section 2—

Repeal

"unreliable."

Substitute

"unreliable, including under any of the following circumstances with respect to the self-certification—

(a) the institution has doubts as to the jurisdiction of residence of an account holder or controlling person related to the fact that such account holder or controlling person is claiming residence in a jurisdiction offering a potentially high-risk citizenship or residence by investment scheme, and the institution has not taken further measures to ascertain the jurisdiction of residence of such account holder or controlling person (including through raising further questions or ascertaining the reasonableness of responses accompanied by relevant supporting documentation, if any);

(b) the self-certification does not contain a TIN and the information disseminated by the Organisation for Economic Co-operation and Development indicates that the reportable jurisdiction issues TINs to all residents for tax purposes;

(c) there is an amendment to the applicable AML/KYC procedures and additional information obtained under the amended AML/KYC procedures is inconsistent with the claims made by an account holder or controlling person in a self-certification.".

(7) Schedule 17D, Part 7, after section 2—

Add

"**2A. Temporary lack of a self-certification**

(1) In exceptional circumstances, if a self-certification cannot be obtained and validated by a reporting financial institution in respect of a new account in time to meet its due diligence and reporting obligations with respect to the reporting period during which the account was opened, the institution must apply the due diligence procedures for pre-existing accounts to the new account until such self-certification is obtained and validated by the institution.

(2) Despite subsection (1), for the purposes of section 50F(2)(d), the account mentioned in subsection (1) is to be reported as a new account.

(3) To avoid doubt, subsection (1) is not to be taken as a standard procedure and is not an alternative to the requirement to obtain a valid self-certification.

2B. No reliance on tiebreaker rules

If an account holder or a controlling person is a resident for tax purposes in 2 or more jurisdictions under the domestic laws of such jurisdictions, such account holder or controlling person—

(a) cannot rely on the tiebreaker rules contained in any applicable tax arrangements to determine the account holder's or the controlling person's jurisdiction of residence; and

(b) must declare all of the account holder's or controlling person's jurisdictions of residence.".

(8) Schedule 17D, Part 7, after section 5—

Add

"**6. Change of circumstances**

(1) A change of circumstances includes any of the following—

(a) any change that results in the addition of information relevant to the status of an account holder or controlling person or otherwise conflicts with the status of such account holder or controlling person;

(b) any change of information of, or addition of information to, the account holder's account (including the addition, substitution, or other change of an account holder) or any change of information of, or addition of information to, any account associated with such account (applying the account aggregation rules described in section 5(1), (2), (3), (4) and (5) of this Part) if such change or addition of

information affects the status of the account holder.

(2) If there is any amendment to the applicable AML/KYC procedures, the additional information obtained under such amended AML/KYC procedures must be used to determine whether there has been a change of circumstances in relation to the identity and reportable status of account holders or controlling persons.".

Division 3—Miscellaneous Amendments

25. Section 50A amended (interpretation)

(1) Section 50A(1), at the end of the definition of ***controlling person***—

Add

"**Note—**

See also subsections (6) and (7).".

(2) Section 50A(1), definition of ***investment entity***, paragraphs (a)(ii) and (b)(ii)—

Repeal

"trading"

Substitute

"dealing".

(3) Section 50A(1), Chinese text, definition of ***主動非財務實體***, paragraph (h)(i)(B)—

Repeal

"總".

(4) Section 50A(1), Chinese text, definition of ***主動非財務實體***, paragraph (h)(iv)(C)—

Repeal

"物業"

Substitute

"財產".

(5) Section 50A(1), Chinese text, definition of ***實體***, Note, paragraph (a)—

Repeal

"共同匯報標準及共同匯報標準刊物"

Substitute

"《共同匯報標準》及《共同匯報標準刊物》".

26. Section 50B amended (due diligence obligations on reporting financial institutions)

(1) Section 50B(1), Chinese text, after "財務機構"—

Add

"須".

(2) Section 50B(1)(a), Chinese text—

Repeal

"須設立程序，而該等程序旨在"

Substitute

"設立為達致以下效果而設計的程序".

27. Section 58K amended (further requirements concerning country-by-country return and notice)

(1) Section 58K(4), Chinese text—

Repeal

"的".

(2) Section 58K(6) and (7), Chinese text—

Repeal

"遵從，局長仍可 (概括而言或就個別個案而言)"

Substitute

"遵守，局長仍可在一般情況下或在特定個案中，".

28. Section 82A amended (additional tax in certain cases)

Section 82A(7), after "80"—

Add

", 80O".

29. Schedule 64 amended (OECD GloBE rules guidance)

Schedule 64, Part 1—

Add

"

12.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Consolidated Commentary to the Global Anti-Base Erosion Model Rules (2025)	9 May 2025	2025 Commentary	1 January 2025

13.	OECD/G20 Base Erosion and Profit Shifting Project: Tax Challenges Arising from the Digitalisation of the Economy—Global Anti-Base Erosion Model Rules (Pillar Two) Examples	9 May 2025	May-2025 Illustrative Examples	1 January 2025

”.

Part 3

Amendments to Inland Revenue (Amendment) (Automatic Exchange of Information) Ordinance 2026 (4 of 2026)

30. Section 6 amended (section 50D amended (further obligations of reporting financial institutions relating to returns))

(1) Section 6(3), new section 50D(8)—

Repeal

everything after "institution, every" and before "must"

Substitute

"specified officer, or the designated officer (if any), of the entity".

(2) Section 6(3)—

Repeal new section 50D(9)

Substitute

"(9) After the dissolution of the entity as mentioned in subsection (8)—

(a) if no designation of a designated officer is in effect and there is any change in the contact details of a specified officer—the specified officer must give a notice of the change to the Commissioner within 1 month after the change; or

(b) if a designation of a designated officer is in effect and there is any change in the contact details of the designated officer—the designated officer must give a notice of the change to the

Commissioner within 1 month after the change.".

(3) Section 6(3), new section 50D(11)—

Repeal

"reporting financial institution or a specified officer requiring the institution, the entity or the officer"

Substitute

"reporting financial institution, a specified officer or a designated officer (if any) requiring the reporting financial institution, the entity or the officer concerned".

(4) Section 6(3), new section 50D(12)—

Repeal

"entity or specified officer"

Substitute

"entity, specified officer or designated officer (if any)".

(5) Section 6(3), after new section 50D(12)—

Add

"(13) For the purposes of subsections (8), (9) and (12), on agreement evidenced in writing by all specified officers of an entity that falls within the description in subsection (8), the specified officers may designate a person mentioned in subsection (16) to be a designated officer for complying with the following—

(a) if no notice under subsection (8)(a) has been given—

(i) subsection (8)(a);

(ii) subsection (8)(b);

(iii) subsection (9); and

(iv) the requirement under subsection (12); or

(b) if a notice under subsection (8)(a) has been given—

(i) subsection (8)(b);

(ii) subsection (9); and

(iii) the requirement under subsection (12).

(14) A designation under subsection (13) must be made by a notice that—

(a) is signed by the designated officer signifying the designated officer's consent to be designated;

(b) sets out the following details—

(i) the capacity of the designated officer in relation to the entity;

(ii) the contact details of the designated officer;

(iii) the date on which the designation is made; and

(c) is accompanied by the evidence of the agreement to designate the designated officer.

(15) Despite subsection (13), an agreement to designate a designated officer that is not made by all specified officers may be regarded as being so made for the purposes of that subsection if the Commissioner is satisfied, on production of any explanation or supporting materials, that there is reasonable cause for the agreement not being made by all specified officers.

(16) Any of the following persons may be designated under subsection (13)—

(a) one of the specified officers of the entity;

(b) a person who performed managerial functions in relation to the entity under the immediate authority of a director of (or, if there was no director, a person who was a trustee of, or who was responsible for the management of) the entity.

(17) A designation under subsection (13)—

(a) is valid from—

(i) (subject to subparagraph (ii)) the date of receipt of the designation notice by the Commissioner; or

(ii) if the agreement to designate the designated officer is not made by all specified officers—the date on which the agreement is regarded as so made by the Commissioner under subsection (15); and

(b) if the designation is valid under paragraph (a)—is taken to have effect from the date of designation set out in the designation notice.

(18) The designation of a person under subsection (13) ceases to have effect on the earliest of the following dates—

(a) if a notice of cessation of the designation is received by the Commissioner from that person—

(i) within a period of 14 days after the effective date of cessation of the designation stated in the notice (***cessation effective date***)—the cessation effective date;

(ii) after the period mentioned in subparagraph (i)—the date on which the notice is received by the Commissioner; or

(iii) on or before the cessation effective date—the cessation effective date;

(b) if a designation notice designating another person under subsection (13) to replace that person is received by the Commissioner—the date of designation set out in the notice.

(19) If there is a valid designation under subsection (17), all specified officers are relieved from their obligations to comply with—

(a) if the designation relates to compliance with the provisions and requirement mentioned in subsection (13)(a)—those provisions and requirement; or

(b) if the designation relates to compliance with the provisions and requirement mentioned in subsection (13)(b)—those provisions and requirement.

(20) In this section—

designated officer (指定人員) means a person designated under subsection (13);

designation notice (指定通知) means a notice mentioned in subsection (14) by which a designation under subsection (13) is made;

specified officer (指明人員), in relation to an entity that falls within the description in subsection (8), means every person who was a director of (or, if there was no director, every person who was a trustee of, or

who was responsible for the management of) the entity immediately before the dissolution.".

31. Section 9 amended (section 50I amended (Commissioner may designate system or specify requirements for electronic record, etc.))

Section 9(3), new section 50I(2)(b)(i)—

Repeal

"50AB(2)"

Substitute

"50AB(1)".

32. Section 11 amended (section 54 amended (liability of executor of deceased taxpayer))

(1) Section 11(1)—

Repeal

"assessment to financial penalty under section 82C"

Substitute

"assessment of financial penalty under section 82C or 82DA".

(2) Section 11(2)—

Repeal

"assessment to financial penalty under section 82C"

Substitute

"assessment of financial penalty under section 82C or 82DA".

33. Section 14 amended (sections 80CA and 80CB added)

(1) Section 14, new section 80CB, heading—

Repeal

everything after "**officers**"

Substitute

"**or designated officer in relation to entity that was reporting financial institution within 6 years before dissolution**".

(2) Section 14, new section 80CB(1)—

Repeal

"within the meaning of section 50D(8)"

Substitute

", or a designated officer, as defined by section 50D(20)".

(3) Section 14, after new section 80CB(3)—

Add

"(4) Without limiting the meaning of "reasonable excuse" in subsection (1), a person is taken to have established that the person had a reasonable excuse by showing that—

(a) if the person is charged with an offence under subsection (1) for failing to comply with section 50D(8)(a) or (b) or (9) or a requirement under section 50D(12)—the person had reasonable grounds to believe, and did believe, that a competent and reliable person other than the person—

(i) was charged with the duty of ensuring that the section or requirement, as the case may be, was complied with; and

(ii) was in a position to discharge that duty; or

(b) if the person is charged with an offence under subsection (1) for failing to comply with section 50D(8)(b) or a requirement under section 50D(12)—the records mentioned in section 50D(1) are otherwise required to be kept by another person under any other Ordinance.".

34. Section 18 amended (sections 82C and 82D added)

(1) Section 18, heading—

Repeal

"**and 82D**"

Substitute

"**to 82DB**".

(2) Section 18, new section 82D, heading, after "**penalty**"—

Add

"**under section 82C**".

(3) Section 18, after new section 82D—

Add

"**82DA. Financial penalty on specified officers or designated officer in lieu of prosecution in certain cases under section 80CB**

(1) If—

(a) a specified officer or designated officer, without reasonable excuse, fails to comply with—

(i) section 50D(8)(a);

(ii) section 50D(8)(b);

(iii) section 50D(9); or

(iv) a requirement under section 50D(12); and

(b) no prosecution for an offence under section 80CB has been instituted in respect of the same facts in relation to paragraph (a)(i), (ii), (iii) or (iv) (as may be appropriate),

the officer concerned is liable to be subjected to a financial penalty assessed under this section not exceeding the amount that the officer would have been liable to pay as a fine on conviction under section 80CB.

(2) An assessment of financial penalty may be made only by the Commissioner personally or a deputy commissioner personally (each is referred to as the ***specified authority***).

(3) Before making an assessment of financial penalty for the purposes of subsection (1), the specified authority must—

(a) give a notice to the officer concerned of the specified authority's intention to assess financial penalty, and the notice must—

(i) inform the officer of the alleged failure to comply with section 50D(8)(a) or (b) or (9) or a requirement under section 50D(12) (as may be appropriate);

(ii) state that, with regard to the proposed assessment of financial penalty in respect of the officer, the officer may submit a written representation and evidence to the specified authority; and

(iii) specify the date, which must not be within 21 days after the notice is given, by which the representation and evidence that the

officer wishes to submit under subparagraph (ii) must be received by the specified authority; and

(b) consider and take into account any representation and evidence submitted by the officer under paragraph (a)(ii).

(4) Despite subsection (3), if a specified authority intends to make an assessment of financial penalty in respect of a specified officer, or a designated officer, who is an individual (***individual officer***), and the authority is of the opinion that the individual officer is about to leave Hong Kong, the authority may make an assessment in respect of the individual officer without giving a notice under subsection (3)(a).

(5) Notice of intention to make an assessment of financial penalty and notice of an assessment of financial penalty must be given in the same manner as is prescribed in section 58(2) for a notice of assessment under section 62.

(6) If an individual officer is liable to have an assessment of financial penalty made in respect of him or her and the individual officer has died, the assessment may be made in respect of his or her executor, and the financial penalty is to be recovered as a debt due from and payable out of his or her estate.

(7) A specified officer, or a designated officer, in respect of which an assessment is made under this section for an act or omission is not liable to be charged with an offence under section 80CB for the same act or omission.

(8) For payment, recovery and repayment of a financial penalty, section 54 and Parts 12 and 13 have effect subject to subsection (9) as if the financial penalty were a tax.

(9) For the purposes of subsection (8)—

(a) section 54 applies in relation to a financial penalty as if a reference to "year of assessment" in that section were a reference to "calendar year";

(b) sections 77A and 79(3), (3A), (4) and (5) do not apply in relation to a financial penalty; and

(c) section 79(1) applies in relation to a financial penalty as if the reference to "year of assessment" in that section were a reference to "calendar year".

(10) Without limiting the meaning of "reasonable excuse" in subsection (1)(a), if a person is liable under subsection (1) to be subjected to a financial penalty assessed under this section, the person is taken to have established that the person had a reasonable excuse by showing that—

(a) the person had reasonable grounds to believe, and did believe, that a competent and reliable person other than the person—

(i) was charged with the duty of ensuring that section 50D(8)(a) or (b) or (9) or the requirement under section 50D(12), as may be appropriate, was complied with; and

(ii) was in a position to discharge that duty; or

(b) the records mentioned in section 50D(1) are otherwise required to be kept by another person under any other Ordinance.

82DB. Appeals against assessment of financial penalty under section 82DA to Board of Review

(1) If an assessment of financial penalty is made in respect of a specified officer or designated officer under section 82DA, the officer concerned may within—

(a) 1 month after the notice of assessment is given to the officer; or

(b) the period as extended under subsection (3),

lodge, either by the officer or by an authorized representative, an appeal against the assessment by giving a notice of appeal to the Board of Review in accordance with subsection (2).

(2) A notice of appeal must be given in writing to the clerk to the Board and be accompanied by—

(a) a copy of the notice of assessment;

(b) a statement setting out the grounds of appeal;

(c) a copy of the notice of intention to assess financial penalty given under section 82DA(3)(a); and

(d) a copy of any written representation and evidence (if any) submitted under section 82DA(3) in respect of the assessment.

(3) If the Board is satisfied that an appellant was prevented by illness or absence from Hong Kong or other reasonable cause from giving a notice of appeal in accordance with subsection (1)(a), the Board may

extend for such period as it thinks fit the time within which a notice of appeal may be given under subsection (1).

(4) On an appeal against an assessment of financial penalty, it is open to the appellant to argue that—

(a) the appellant is not liable to financial penalty;

(b) the amount of financial penalty assessed in respect of the appellant exceeds the amount for which the appellant would be liable under section 82DA; and

(c) the amount of financial penalty, although not in excess of that for which the appellant would be liable under section 82DA, is excessive in the circumstances of the case.

(5) Sections 66(2) and (3), 68, 68AA, 68AAB, 68A, 69 and 70, to the extent that they are applicable, have effect in relation to an appeal under this section as if the appeal were against an assessment to tax other than financial penalty.

(6) For the purposes of subsection (5)—

(a) section 68(1D) applies in relation to a financial penalty as if the reference to "year of assessment" in that section were a reference to "calendar year"; and

(b) section 70 applies in relation to a financial penalty as if the reference to "year of assessment" in that section were a reference to "calendar year".".