



強制性公積金計劃管理局  
MANDATORY PROVIDENT FUND  
SCHEMES AUTHORITY

電話號碼 Tel No : 2918 0102  
傳真號碼 Fax No : 2259 8808  
電郵地址 Email : ORSOSchemeMPFA@mpfa.org.hk  
本局檔號 Our Ref : MPFA/S/IO-O/58/1  
來函檔號 Your Ref :

**By Email**

13 January 2017

**Circular Letter: SU/COT/2017/001**

**To: Representative/Relevant Employers of ORSO Registered Schemes, All Relevant Employers of ORSO Exempted Schemes and Administrators of ORSO Registered Schemes**

Dear Sirs,

**Implementation of Automatic Exchange of Financial Account Information  
in Tax Matters**

The Government amended the Inland Revenue Ordinance (Cap.112) (“IRO”) in June 2016 to put in place the necessary legal framework for Hong Kong to implement the automatic exchange of financial account information in tax matters (AEOI). This letter provides an update on the latest development and highlights the implications on the ORSO schemes.

**What is AEOI standard?**

Under the AEOI standard, a financial institution (“FI”) is required to identify financial accounts held by tax residents of reportable jurisdictions in accordance with the OECD’s due diligence procedures. FIs are required to collect the reportable information of these accounts and furnish such information to the Hong Kong Inland Revenue Department (“IRD”). The IRD will exchange information with the tax authorities of the AEOI partner jurisdictions (“AEOI partners”) of Hong Kong on an annual basis.

As announced by the Government on 26 October 2016, Hong Kong has signed agreements with Japan and the United Kingdom for conducting AEOI, and the Government has included these two jurisdictions into a list of “reportable jurisdictions” under the IRO. Accordingly, FIs are required to conduct the due diligence procedures to identify and collect

information of the financial accounts held or controlled by tax residents of these two jurisdictions from 2017 onwards, and to provide the information to the IRD beginning from 2018 for transmission to the relevant AEOI partners concerned. The Government will update the list of “reportable jurisdictions” in future, after it has signed agreements with more jurisdictions.

### **How would AEOI affect ORSO schemes?**

As set out in new Schedule 17C of the IRO, exemptions are provided to certain financial institutions and financial accounts which are defined as non-reporting financial institutions and excluded accounts respectively. The non-reporting financial institutions include, amongst others, MPF schemes registered under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) (“registered MPF schemes), Occupational Retirement Schemes registered under the Occupational Retirement Schemes Ordinance (Cap 426) (“ORSO registered schemes”), pooling agreements with participants confined to the ORSO registered schemes, and approved pooled investment funds (“APIF”) with participants confined to the registered MPF schemes and / or ORSO registered schemes. Non-reporting financial institutions do not have any due diligence and reporting obligations while excluded accounts are not subject to reporting by financial institutions. Please refer to Schedule 17C for the detailed definitions of non-reporting financial institutions and excluded accounts.

ORSO scheme employers and ORSO scheme administrators should ascertain whether their ORSO exempted schemes and pooling agreements / APIFs can meet the definition of “non-reporting financial institutions” as defined in Schedule 17C of the IRO. Only ORSO exempted schemes and pooling agreements / APIFs not meeting the definition of “non-reporting financial institutions” will need to comply with the AEOI requirements. For these schemes, it is important for the scheme employers / scheme administrators to consider the following:

- (a) To critically assess the potential implications of AEOI on your ORSO schemes and consider the need to implement any necessary process and controls to ensure compliance with the legislation;
- (b) To communicate with ORSO scheme members if AEOI might affect their interests as members of the ORSO schemes; and
- (c) To observe the requirements under the Personal Data (Privacy) Ordinance (Cap 486).

Unlike US Foreign Account Tax Compliance Act, ORSO employers / scheme administrators do not need to seek MPFA’s consent pursuant to section 42AAB of Mandatory Provident Fund Schemes Ordinance or section 78A of Occupational Retirement Schemes Ordinance for disclosure of information to IRD within the scope of the IRO.

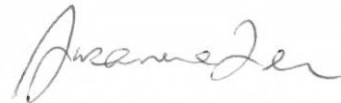
### **Further Information**

IRD has launched a webpage on AEOI. The webpage ([http://www.ird.gov.hk/eng/tax/dta\\_aeoi.htm](http://www.ird.gov.hk/eng/tax/dta_aeoi.htm)) contains the relevant legislative provisions, the latest set of Guidance Notes prepared for FIs in relation to AEOI, the latest list of bilateral competent authority agreements signed, some Frequently Asked Questions and the relevant publicity materials. If there is any doubt concerning the obligations under the AEOI, please seek professional advice as soon as possible.

For the representative employers of ORSO registered scheme, please bring the contents of this letter to the attention of other relevant employers under the ORSO scheme, if any.

If you have any questions in relation to the matters mentioned in this letter, please do not hesitate to contact your case officer of ORSO Schemes Section or our MPFA hotline at 29180102.

Yours faithfully,



Susanna Lee  
Senior Manager  
ORSO Schemes Section  
Supervision Division

c.c. The Hong Kong Trustees' Association Limited