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## 通告 CIRCULAR

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事項

Subject: **Survey on the U.S. Foreign Account Tax Compliance Act**

查詢

Enquiry: **DCASS Hotline 2979 7222**

Reference is made to the circular dated 13 November 2014 (Ref: [CD/DCO/DCASS/014/2014](#)) in relation to the U.S. Foreign Account Tax Compliance Act (FATCA).

Pursuant to the terms of the Intergovernmental Agreement (IGA) signed between HKSAR Government and the U.S. Government (Hong Kong IGA), all Reporting HKSAR Financial Institutions, including HKFE Clearing Corporation Limited (HKCC) and The SEHK Options Clearing House Limited (SEOCH), must comply with FATCA requirements accordingly. With an aim to support compliance with FATCA in alignment with the Hong Kong IGA, HKCC and SEOCH are planning to introduce Rule changes in 2016 to require ongoing FATCA compliance by all Participants (unless exempted under the Hong Kong IGA). Rule changes proposed will be subject to review and approval by the Securities and Futures Commission and the current plan is to have the Rule changes implemented by around September 2016.

For information about FATCA compliance, please refer to the [Hong Kong IGA](#) and the [Frequently Asked Questions](#) prepared by the HKSAR Government.

In order to give HKCC and SEOCH a better understanding of Participants' FATCA readiness on compliance with the Hong Kong IGA before any Rule changes, Participants are requested to complete and return the enclosed survey (**Attachment 1**) by fax to HKCC and SEOCH **on or before 30 September 2015**.

Further information on FATCA is available on the [U.S. Internal Revenue Service \(IRS\) website](#). Supplemental materials on FATCA, including Frequently Asked Questions prepared by HKEx, are available on the [HKEx website](#).

For any enquiries, please contact the DCASS hotline at 2979 7222.

Vicky Chan  
Senior Vice President  
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香港交易及結算所有限公司  
Hong Kong Exchanges and Clearing Limited

**Hong Kong Exchanges and Clearing Limited (HKEx)  
Survey on the U.S. Foreign Account Tax Compliance Act (FATCA)**

With an aim to support compliance with FATCA in alignment with the Hong Kong IGA, HKCC and SEOCH are planning to introduce Rule changes in 2016 to require ongoing FATCA compliance by Participants (unless exempted under the Hong Kong IGA). In order to give HKCC and SEOCH updated information on Participants' readiness on FATCA compliance, you are requested to fill in the survey below. Please refer to the glossary of terms at the end of this survey and to the [FATCA information contained on the HKEx website](#) for guidance.

Please note that pursuant to the terms of the Intergovernmental Agreement (IGA) signed between HKSAR Government and the U.S. Government, Hong Kong financial institutions, including HKCC and SEOCH, must comply with FATCA accordingly. You may wish to seek assistance from your staff who participate in FATCA implementation and/or professional FATCA advisors on completing this survey. **Please return the completed survey by fax to 2579-0085 or 2579-0136 on or before 30 September 2015.** If you have any questions about this survey, you may contact the DCASS hotline at 2979 7222.

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*Please tick the appropriate checkbox(es) and / or fill in the spaces as required. Please answer all questions unless otherwise indicated below.*

1. Have you assessed the impact of FATCA on your company (including but not limited to determining your company's FATCA status) and, where you are a Foreign Financial Institution (FFI), executed an implementation plan for FATCA compliance purposes?

Yes, through in-house staff

Yes, through external consultant: \_\_\_\_\_

Please specify the name of the consultancy firm

No

2. Are you an FFI for FATCA purposes?

Yes (Answer Q.3 to Q.6)

No (Please specify reason and answer Q.6)

3. What is your FATCA status? (Please choose one below)

A Reporting Hong Kong FI<sup>1</sup>

A Reporting FI in a Model 2 or Model 1 IGA jurisdiction (except HK)

A Non-Reporting Hong Kong FI

A Non-Reporting FI in a Model 2 or Model 1 IGA jurisdiction (except HK)

A Participating FFI or a Registered Deemed Compliant FFI in a non-IGA jurisdiction

A Certified Deemed Compliant FFI in a non-IGA jurisdiction

An Exempt Beneficial Owner

A Nonparticipating FFI or Limited FFI

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<sup>1</sup> As noted above, please answer with reference to the Hong Kong Model 2 IGA.

4. Are you governed by the Hong Kong IGA?

- Yes, we are now operating through a company incorporated in Hong Kong.
- Yes, we are now operating through a branch office in Hong Kong.
- No, we will be subject to the IGA (whether actually signed or “in substance”), of \_\_\_\_\_.
- No, we are in the following jurisdiction, \_\_\_\_\_, which currently has neither signed an IGA nor been treated as having an “in substance” IGA in place.

5. Has your company registered with the U.S. Internal Revenue Service (IRS)?

- Yes      GIIN of my company [please fill in where applicable]:  
                   HKCC : \_\_\_\_\_  
                   SEOCH : \_\_\_\_\_
- No      My company plans to register by: \_\_\_\_\_
- No      My company’s FATCA status does not require us to register.
- No      We decide not to comply with FATCA, or to be a Non-Participating FFI or a Limited FFI
- No      Other reason. Please specify: \_\_\_\_\_

6. If you are not FATCA-compliant yet, do you have future plans to comply with FATCA?

- Yes (please specify the expected date for compliance: \_\_\_\_\_ )
- No

Note: Participants who are not planning to comply with FATCA (unless being exempted under the Hong Kong IGA) are expected to provide explanations to HKCC and SEOCH. We would like to draw your attention that HKCC and SEOCH are planning to introduce Rule changes in 2016 that require ongoing FATCA compliance by all Participants (unless exempted under the Hong Kong IGA).

|   |   |
|---|---|
| Participant Name<br><br>HKCC : _____<br><br>SEOCH : _____ | DCASS Customer Code<br><br>HKCC      _____<br><br>SEOCH     _____ |
| Contact Person Name and Title at Participant              | Contact Tel No. and Email   |
| Authorized Signatory with Company Chop Name:<br><br>_____ | Signature:<br><br>_____   |
| Date: _____   |   |

**\*\*\*THANK YOU\*\*\***

Glossary of FATCA terms<sup>2</sup>

| Term |   | Meaning/Background  |
|------|---|---|
| 1.   | Certified Deemed Compliant FFI                              | A certified deemed-compliant FFI is not required to register with the IRS.  |
| 2.   | Exempt Beneficial Owner                                     | <p>An entity that is described in Treas. Reg. §1.1471-6 as:</p> <ul style="list-style-type: none"> <li>(i) a foreign government, a political subdivision of a foreign government, or a wholly owned agency or instrumentality of any one or more of the foregoing;</li> <li>(ii) an international organization or a wholly owned agency or instrumentality thereof;</li> <li>(iii) a foreign central bank of issue;</li> <li>(iv) a government of a U.S. Territory;</li> <li>(v) a treaty-qualified retirement fund;</li> <li>(vi) a broad participation retirement fund;</li> <li>(vii) a narrow participation retirement fund;</li> <li>(viii) a fund formed pursuant to a plan similar to a US Internal Revenue Code section 401(a) plan;</li> <li>(ix) an investment vehicle used exclusively for retirement funds;</li> <li>(x) a pension fund of an exempt beneficial owner; or</li> <li>(xi) an entity wholly owned by exempt beneficial owners.</li> </ul> <p>The term “exempt beneficial owner” also includes any entity treated as an exempt beneficial owner pursuant to a Model 1 or 2 IGA.</p> |
| 3.   | FI  | A depository institution, custodian institution, investment entity, or insurance company (or holding company of an insurance company) that issues cash value insurance or annuity contracts.  |
| 4.   | Foreign Financial Institution (“ <b>FFI</b> ”)              | Generally refers to an FI that is not organized in the U.S.   |
| 5.   | Global Intermediary Identification Number (“ <b>GIIN</b> ”) | The identification number that is used to identify the FFI for FATCA purposes and that is issued by the IRS to the FFI upon registration.   |
| 6.   | Intergovernmental Agreement (“ <b>IGA</b> ”)                | An agreement between the U.S. and a non-U.S. government to implement FATCA.   |
| 7.   | Limited FFI   | An FI that due to local law restrictions cannot comply with the terms of an FFI Agreement, or cannot otherwise be treated as a PFFI or Registered Deemed Compliant FFI, and that has agreed to satisfy certain obligations for its treatment as a Limited FFI.  |
| 8.   | Nonparticipating FFI  | An FFI other than a Participating FFI, a deemed-compliant FFI or an Exempt Beneficial Owner. There are additional rules on a Nonparticipating FFI under an IGA.   |

<sup>2</sup> This Glossary provides general background on certain terms. FATCA rules are complex, and a number of aspects of such terms are not reflected in this Glossary. Participants should not rely on this Glossary and should consider the detailed FATCA rules on terms relevant to them.

| Term |   | Meaning/Background   |
|------|---|--|
| 9.   | Non-Reporting FI  | Any FI that is described in Annex II of a Model 1 or 2 IGA as a Non-Reporting Financial Institution or that otherwise qualifies as a deemed-compliant FFI or an exempt beneficial owner under relevant U.S. Treasury Regulations.  |
| 10.  | Participating Financial Institution (“ <b>PFFI</b> ”)     | An FFI that: <ul style="list-style-type: none"> <li>(i) is an FI in a non-IGA jurisdiction that has registered with the IRS and entered into an FFI Agreement,</li> <li>(ii) is treated as a Reporting FI under a Model 2 IGA and that has agreed with the IRS that it will comply with the terms of an FFI Agreement, as modified by the terms of the applicable Model 2 IGA, or</li> <li>(iii) is a non-U.S. branch of a U.S. Financial Institution that has in effect a Qualified Intermediary Agreement with the IRS and that has also agreed to the terms of an FFI Agreement, unless such branch is treated as a Reporting FI under a Model 1 IGA.</li> </ul>  |
| 11.  | Registered Deemed Compliant FFI                           | <ul style="list-style-type: none"> <li>(i) an FFI that has registered with the IRS to confirm that it meets the requirements to be treated as a local FFI, non-reporting member FI of a PFFI group, qualified collective investment vehicle, restricted fund, qualified credit card issuer, or sponsored investment entity or controlled foreign corporation (see Treas. Reg. §1.1471-5(f)(1)(i) for more information about these categories), or</li> <li>(ii) a Reporting FI under a Model 1 IGA that has registered with the IRS to obtain a GIIN, or</li> <li>(iii) an FFI that is treated as a Non-Reporting FI under a Model 1 or 2 IGA and, if applicable, that has registered with the IRS.</li> </ul> |
| 12.  | Reporting Financial Institution (“ <b>Reporting FI</b> ”) | An FI in a Model 1 or 2 IGA jurisdiction that is not a Non-Reporting FI.   |

Certain information in this Glossary and other information in this Circular is derived from the IRS and the U.S. Treasury websites, and HKEx’s understanding of FATCA. While care has been taken to ensure accuracy of information provided, nothing in this Glossary or Circular is intended to be, or should be construed to constitute, legal or tax advice, or otherwise be capable of being relied upon by any Participant. Participants should, if necessary, consult their own professional advisors on the implications of FATCA.

本詞彙表及通告內的若干資料是根據 IRS 和美國財政部網站，另加香港交易所對 FATCA 的理解而得出。雖然已經採取謹慎措施以確保所提供資料的準確性，但本詞彙表及通告並不旨在成為或被解釋為構成法律或稅務意見，或構成在其他情況下被參與者作為依據。參與者應就 FATCA 的影響徵詢其專業顧問意見。