

# DECLARATION PERTAINING TO FATCA & AEOI

[MANDATORY TO BE FILLED BY ALL ENTITY ACCOUNT HOLDERS]

Hong Kong Branch



We understand your world

To help protect the integrity of tax systems, governments around the world are introducing a new information-gathering and reporting requirement for financial institutions. This is known as the Common Reporting Standard (the "CRS").

Hong Kong has now legislation in place for **Automatic Exchange of Financial Account information (AEOI)**. The Inland Revenue (Amendment) (No. 3) Ordinance 2016 has introduced the relevant provisions to the IRO, incorporating the CRS developed by the OECD. Automatic Exchange of Financial Information (AEOI) under the CRS requires financial institutions (FIs) to perform due diligence procedures and to transmit systematically financial data from their non-resident customers. For more information, refer <http://www.ird.gov.hk/eng>

Under the CRS, we are required to determine where you are a "tax resident" (this will usually be where you are liable to pay income taxes). If you are a tax resident outside the jurisdiction where your account is held, we may need to give the national tax authority this information, along with information relating to your accounts. That may then be shared between different jurisdictions' tax authorities.

**Foreign Account Tax Compliance Act of United States of America, 2010 (FATCA)** requires Foreign Financial Institutions to obtain and report specific information regarding their clients. For more information refer <http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-FATCA>

The Organisation for Economic Co-operation and Development ("**OECD**") has developed the rules to be used by all governments participating in the CRS and these can be found on the OECD's Automatic Exchange of Information ("**AEOI**") website, [www.oecd.org/tax/automatic-exchange/](http://www.oecd.org/tax/automatic-exchange/).

Please also visit the website of the Inland Revenue Department of the Government of the Hong Kong Special Administrative Region that sets out information relating to the implementation of AEOI in Hong Kong: [http://www.ird.gov.hk/eng/tax/dta\\_aeoi.htm](http://www.ird.gov.hk/eng/tax/dta_aeoi.htm). Meaning of terms and expressions used in this form (e.g. "account holder" and "reportable account") may be found under section 50A of the Inland Revenue Ordinance (Cap.112).

If you have any questions on how to define your tax residency status, please visit the OECD website, [www.oecd.org/tax/automatic-exchange/](http://www.oecd.org/tax/automatic-exchange/) or speak to your tax advisor as we are not allowed to give tax advice.

Completing this form will ensure that we hold accurate and up to date information about your tax residency.

If your circumstances change and any of the information provided in this form becomes incorrect, please let us know immediately and provide an updated self-certification.

## Important Notes:

- This is a self-certification form provided by an account holder to a reporting financial institution for the purpose of automatic exchange of financial account information. The data collected may be transmitted by the reporting financial institution to the Inland Revenue Department for transfer to the tax authority of another jurisdiction.
- An account holder should report all changes in his/her tax residency status to the reporting financial institution.
- All parts of the form must be completed (unless not applicable or otherwise specified). If space provided is insufficient, continue on additional sheet(s).

## I. Entity Information

(A) Name of Account Holder

(B) Jurisdiction of Incorporation

Customer ID

(For existing account holders)

(C) Certificate of Incorporation / Business Registration Number

(D) Entity Type

Financial Institution	<input type="checkbox"/> Custodial Institution, Depository Institution or Specified Insurance Company <input type="checkbox"/> Investment Entity, except an investment entity that is managed by another financial institution (e.g. with discretion to manage the entity's assets) and located in a non-participating jurisdiction  GIIN for Financial Institution <input type="text"/>  If GIIN not available, reasons <input type="checkbox"/> Applied for GIIN <input type="checkbox"/> Exempt from GIIN <input type="checkbox"/> Not Obtained
Active NFE	<input type="checkbox"/> NFE the stock of which is regularly traded on _____, which is an established securities market <input type="checkbox"/> Related entity of _____, the stock of which is regularly traded on _____, which is an established securities markets <input type="checkbox"/> Related entity NFE is a governmental entity, an international organisation (for example the United Nations or North Atlantic Treaty Organisation ("NATO")), a central bank, or an entity wholly owned by one or more of the foregoing entities <input type="checkbox"/> Active NFE other than the above (for example a start-up NFE or a non-profit NFE)
Passive NFE	<input type="checkbox"/> Investment entity that is managed by another financial institution and located in a non-participating jurisdiction <input type="checkbox"/> NFE that is not an Active NFE

**(E) Jurisdiction of Residence and Taxpayer Identification Number or its Functional Equivalent (“TIN”) \***

Complete the following table indicating (a) the jurisdiction of residence (including Hong Kong) where the account holder is a **resident for tax purposes** and (b) the account holder’s TIN for each jurisdiction indicated. Indicate **all** (not restricted to five) jurisdictions of residence.

If the account holder is a tax resident of Hong Kong, the TIN is the Hong Kong Business Registration Number.

If the account holder is not a tax resident in any jurisdiction (e.g. fiscally transparent), indicate the jurisdiction in which its place of effective management is situated.

**Reason A** — The jurisdiction where the account holder is a resident for tax purposes does not issue TINs to its residents.

**Reason B** — The account holder is unable to obtain a TIN. Explain why the account holder is unable to obtain a TIN if you have selected this reason.

**Reason C** — TIN is not required. Select this reason only if the authorities of the jurisdiction of residence do not require the TIN to be disclosed.

	Jurisdiction of Residence	TIN	Enter Reason A, B or C if no TIN is available	Explain why the account holder is unable to obtain a TIN if you have selected Reason B
1.				
2.				
3.				

**(F) Controlling Persons / Beneficial Owners:**

Indicate the name of all controlling persons / beneficial owners# in the table below. If no natural person exercises control over an entity which is a legal person, the controlling person will be the individual holding the position of the senior management position

1. Name ☐ Mr. ☐ Mrs. ☐ Ms.

Date of Birth  /  /  DD MM YYYY Nationality

Place of Birth  Country of Birth

☐ HKID card (Permanent ☐ Yes ☐ No) Number

☐ Passport Number

Country of tax residency\*  Tax identification number (or functional equivalent)

Residential Address

City  Pin / Zip  Country

Type of Controlling Person: ☐ Beneficial Owner ☐ Trustee ☐ Senior Management ☐ Others

2. Name ☐ Mr. ☐ Mrs. ☐ Ms.

Date of Birth  /  /  DD MM YYYY Nationality

Place of Birth  Country of Birth

☐ HKID card (Permanent ☐ Yes ☐ No) Number

☐ Passport Number

Country of tax residency\*  Tax identification number (or functional equivalent)

Residential Address

City  Pin / Zip  Country

Type of Controlling Person: ☐ Beneficial Owner ☐ Trustee ☐ Senior Management ☐ Others

\* To include U.S. where any controlling person is a U.S. citizen or green card holder.

# For Hong Kong more than 25% shareholding.

3. Name ☐ Mr. ☐ Mrs. ☐ Ms.

Date of Birth  /  /  Nationality   
DD MM YYYY

Place of Birth  Country of Birth

☐ HKID card (Permanent ☐ Yes ☐ No) Number

☐ Passport Number

Country of tax residency\* (Do not abbreviate)  Tax identification number (or functional equivalent)

Residential Address

City  Pin / Zip  Country

Type of Controlling Person: ☐ Beneficial Owner ☐ Trustee ☐ Senior Management ☐ Others

4. Name ☐ Mr. ☐ Mrs. ☐ Ms.

Date of Birth  /  /  Nationality   
DD MM YYYY

Place of Birth  Country of Birth

☐ HKID card (Permanent ☐ Yes ☐ No) Number

☐ Passport Number

Country of tax residency\* (Do not abbreviate)  Tax identification number (or functional equivalent)

Residential Address

City  Pin / Zip  Country

Type of Controlling Person: ☐ Beneficial Owner ☐ Trustee ☐ Senior Management ☐ Others

5. Name ☐ Mr. ☐ Mrs. ☐ Ms.

Date of Birth  /  /  Nationality   
DD MM YYYY

Place of Birth  Country of Birth

☐ HKID card (Permanent ☐ Yes ☐ No) Number

☐ Passport Number

Country of tax residency\* (Do not abbreviate)  Tax identification number (or functional equivalent)

Residential Address

City  Pin / Zip  Country

Type of Controlling Person: ☐ Beneficial Owner ☐ Trustee ☐ Senior Management ☐ Others

\* To include U.S. where any controlling person is a U.S. citizen or green card holder.

# For Hong Kong more than 25% shareholding.

## II. Terms and Conditions

Towards compliance with tax information sharing laws, such as FATCA, we would be required to seek additional, tax and beneficial owner information and certain certifications and documentation from our account holders. Such information may be sought either at the time of account opening or any time subsequently. In certain circumstances (including if we do not receive a valid declaration from you) we may be obliged to share information on your account with relevant tax authorities. If you have any questions about your tax residency, please contact your tax advisor. Should there be any change in any information provided by you, please ensure you advise us promptly, i.e., within 30 days. Towards compliance with such laws, we may also be required to provide information to any institutions such as withholding agents for the purpose of ensuring appropriate withholding from the account or any proceeds in relation thereto. As may be required by domestic or overseas regulators/ tax authorities, we may also be constrained to withhold and pay out any sums from your account or close or suspend your account(s).

Neither we nor any other member of the HDFC Group shall be responsible to you or any third party for any loss incurred as a result of us or any other member of the HDFC Group taking the actions set out in this clause.

### Details under AEOI

- This is a self-certification form provided by an account holder to a reporting financial institution for the purpose of automatic exchange of financial account information. The data collected may be transmitted by the reporting financial institution to the Inland Revenue Department for transfer to the tax authority of another jurisdiction.
- An account holder should report all changes in his/her tax residency status to the reporting financial institution.

## III. Declaration

I acknowledge and agree that (i) the information contained in this form is collected and may be kept by the financial institution for the purpose of automatic exchange of financial account information, and (ii) such information and information regarding the controlling person and any reportable account(s) may be reported by the financial institution to the Inland Revenue Department of the Government of the Hong Kong Special Administrative Region and exchanged with tax authorities of another jurisdiction or jurisdictions in which the controlling person may be resident for tax purposes pursuant to the legal provisions for exchange of financial account information provided under the Inland Revenue Ordinance (Cap.112).

I certify that I am the controlling person / I am authorized to sign for the controlling person # of all the account(s) held by the entity account holder(s) to which this form relates.

I undertake to advise HDFC Bank Ltd, Hong Kong of any change in circumstances which affects the tax residency status of the individual identified in Part 1 of this form or causes the information contained herein to become incorrect, and to provide HDFC Bank Ltd, Hong Kong with a suitably updated self-certification form within 30 days of such change in circumstances.

**I hereby confirm that I have read and understood the above Definitions. I also confirm that the information provided above is true and accurate.**

SIGNATURE with Company Chop

\_\_\_\_\_

**Name**

\_\_\_\_\_

**Designation**

Date   /   /

**WARNING: It is an offence under section 80(2E) of the Inland Revenue Ordinance if any person, in making a self-certification, makes a statement that is misleading, false or incorrect in a material particular AND knows, or is reckless as to whether, the statement is misleading, false or incorrect in a material particular. A person who commits the offence is liable on conviction to a fine at level 3 (i.e. \$10,000).**

### FOR BANK USE ONLY

Customer ID No. \_\_\_\_\_

U.S. Indicia Match: ☐ Yes ☐ No

Document(s) Collected:

☐ TIN Proof ☐ Form W8 or equivalent ☐ Form W9 or equivalent ☐ Any other document(s)

HK Resident: ☐ Yes ☐ No. If No, AEOI Reportable. ☐ Yes ☐ No. If Yes, reporting country(ies) \_\_\_\_\_

RM/Branch Staff Name \_\_\_\_\_ Signature of RM/Bank Staff \_\_\_\_\_

### Meaning of terms and expressions used in Self-Certification Forms

#### “Account Holder”

The “Account Holder” is the person listed or identified as the holder of a financial account by the financial Institution that maintains the account. This is regardless of whether such person is flow-through Entity. Thus, for example, if a trust or an estate is listed as the holder or owner of a financial account, the trust or estate is the Account Holder, rather than the trustee or the trust's owners or beneficiaries. Similarly, if a partnership is listed as the holder or owner of financial account, the partnership is the Account Holder, rather than the partners in the partnership.

A person, other than a Financial Institution, holding a financial account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, intermediary, or legal guardian, is not treated as the Account Holder. In these circumstances that other person is the Account Holder. For example, in the case of a parent/child relationship where the parent is acting as a legal guardian, the child is regarded as the Account Holder.

With respect to a journey held account, each joint holder is treated as an Account Holder

#### “Active NFE”

An NFE is an Active NFE if it meets any of the criteria listed below. In summary, those criteria refer to:

- Active NFEs by reason of income and assets;
- Publicly traded NFEs;
- Government Entities, International Organizations (for example the United Nations or NATO), Central Banks or their wholly owned Entities;
- Holding NFEs that are members of a nonfinancial group;
- Start-up NFEs;
- NFEs that are liquidation or emerging from bankruptcy;
- Treasury centres that are members of a nonfinancial group; or
- Non-profit NFEs

An entity will be classified as Active NFE if it meets any of the following criteria:

- a) less than 50% of the NFE'S gross income for the preceding calendar year or the appropriate reporting period is passive income and less than 50% of the assets held by NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
- b) the stock of the NFE is regularly traded on an established securities market or the NFE is Related Entity of an Entity the stock of which is regularly traded on an established securities market
- c) the NFE is a government Entity, an international organization (for example the United Nations or NATO), a central bank, or an Entity wholly owned by one or more of the foregoing;
- d) substantially all of activities of the NFE 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 business other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity Functions( or holds itself out) as an investment fund, such as private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and the hold interests in those companies as capital assets for investment purposes.
- e) he NFE is not yet operating a business and has no prior operating history, (a “start-up NFE”) but is investing capital into assets with the intent to operate a business other than that of Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of initial organization of the NFE.
- f) the NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a Financial Institution;
- g) the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or
- h) the NFE meets all of the following requirements (a “non-profit NFE”);
  - (i) it is established and operated in its jurisdiction of tax residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or education purposes; or it is established and operated in its jurisdiction of tax residence and it is a professional organization, business league, chamber of commerce, labor organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare;
  - (ii) it is exempt from income tax in its jurisdiction of tax residence;
  - (iii) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
  - (iv) the applicable laws of the NFE's jurisdiction of tax residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
  - (v) the applicable laws of the NFE'S jurisdiction of tax residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organization, or escheat to the government of the NFE's jurisdiction of tax residence or any political subdivision.

#### “Control”

“Control” over an Entity is generally exercised by the natural person(s) who ultimately has a controlling ownership interest (typically on the basis of a certain percentage (e.g. 25%)) in the Entity. Where no natural person(s) exercises control through ownership interests, the Controlling Person(s) of the Entity will be the natural person(s) who exercises control of the Entity through other means. Where no natural person(s) is/are identified as exercising control of the Entity through ownership interests, the Controlling Person of the Entity is deemed to be the natural person who holds the position of senior managing official or exercises ultimate control over the management of the Entity.

#### “Controlling Person(s)”

“Controlling Persons” are the natural person(s) who exercise control over an Entity. In the case of a trust, the Controlling Person(s) are the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust (including through a chain of control or ownership). The settlor(s), the trustee(s), the protector(s) (if any), and the beneficiary(ies) or class(es) of beneficiaries, must always be treated as Controlling Persons of a trust, regardless of whether or not any of them exercises control over the activities of the trust.

Where the settlor, trustee, protector or beneficiary of a trust are themselves Entities then the Controlling Persons of the settlor, trustee, protector or beneficiary must be treated as Controlling Persons of the trust.

In the case of a legal arrangement other than a trust, “Controlling Person(s)” means persons in equivalent or similar positions to those of a trust.

#### “Custodial Institution”

The term “Custodial Institution” means any Entity that holds, as a substantial portion of its business, financial assets for the account of others. This is where the Entity's gross income attributable to the holding of the financial assets and related financial services equals or exceeds 20% of the Entity's gross income during the shorter of: (i) the three-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 is being made; or (ii) the period during which the Entity has been in existence.



## **“Depository Institution”**

The term “Depository Institution” means an authorized institution as defined by section 2(1) of the Banking Ordinance (Cap. 155) or any Entity that accepts deposits in the ordinary course of a banking or similar business.

## **“Entity”**

The term “Entity” means a legal person or a legal arrangement, such as a corporation, organization, partnership, trust or foundation. This term covers any person other than an individual (i.e. a natural person).

## **“Financial Institution”**

The term “Financial Institution” means a “Custodial Institution”, a “Depository Institution”, an “Investment Entity”, or a “Specified Insurance Company”

## **“Investment Entity”**

The term “Investment Entity” means:

- (a) a corporation licensed under the Securities and Futures Ordinance (Cap. 571) to carry out one or more of the following regulated activities –
  - (i) dealing in securities
  - (ii) trading in futures contracts;
  - (iii) leveraged foreign exchange trading;
  - (iv) asset management;
- (b) an institution registered under the Securities and Future Ordinance (Cap. 571) to carry out one or more of the following regulated activities –
  - (i) dealing in securities
  - (ii) trading in futures contracts;
  - (iii) asset management;
- (c) a collective investment scheme authorized under the Securities and Future Ordinance (Cap 571);
- (d) an Entity that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
  - (i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
  - (ii) individual and collective portfolio management; or
  - (iii) otherwise investing, administering, or managing Financial Assets or money on behalf of other entity or individual. Such activities or operations do not include rendering non-binding investment advice to a customer.
- (e) the second type of “Investment Entity” (“Investment Entity managed by another Financial Institution”) is any Entity the gross income of which is primarily attributable to investing, reinvesting, or trading in financial assets where the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in (a), (b), (c) or (d) above.

## **“Investment Entity managed by another Financial Institution and located in a Non-Participating Jurisdiction”**

The term “Investment Entity managed by another Financial Institution and located in a Non-Participating Jurisdiction” means any Entity the gross income of which is primarily attributable to investing, reinvesting, or trading in financial assets if the Entity is (i) managed by a Financial Institution and (ii) not a Participating Jurisdiction Financial Institution.

## **“Investment Entity managed by another Financial Institution”**

An Entity is “managed by” another Entity if the managing Entity performs, either directly or through another service provider on behalf of the managed Entity, any of the activities or operations described in paragraph (d) above in the definition of “Investment Entity”.

An Entity only manages another Entity if it has discretionary authority to manage the other Entity’s assets (either in whole or part). Where an Entity is managed by a mix of Financial Institutions, NFEs or individuals, the Entity is considered to be managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in (a), (b), (c) or (d) above, if any of the managing Entities is such another Entity.

## **“NFE”**

An “NFE” is any Entity that is not a Financial Institution.

## **“Participating Jurisdiction”**

A “Participating Jurisdiction” means a jurisdiction outside Hong Kong that is specified in Part 2 of Schedule 17E of the Inland Revenue Ordinance (Cap. 112)

## **“Participating Jurisdiction Financial Institution”**

The term “Participating Jurisdiction Financial Institution” means (i) any Financial Institution that is tax resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside of that jurisdiction, and (ii) any branch of a Financial Institution that is not tax resident in a participating Jurisdiction, if that branch is located in such Participating Jurisdiction.

## **“Passive NFE”**

A “Passive NFE” means any: (i) NFE that is not an Active NFE; and (ii) Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution.

## **“Related Entity”**

An Entity is “Related Entity” of another Entity controls the other Entity, or the two Entities are under common control. For this purpose, control includes direct or indirect ownership of more than 50% of the vote and value in an Entity.

## **“Resident for tax purposes”**

Generally, an Entity will be resident for tax purposes in a jurisdiction if, under the laws of that jurisdiction (including tax conventions), it pays or should be paying tax therein by reason of his domicile, residence, place of management or incorporation, or any other criteria of a similar nature, and not only from sources in that jurisdiction. An Entity such a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated. A trust is treated as resident where one or more of its trustees is resident. For additional information on tax residence, please talk to your tax adviser or refer to OECD Automatic Exchange Portal at the following link: [www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/](http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/).

## **“Specified Insurance Company”**

The term “Specified Insurance Company” means any Entity that is an insurance company (or the holding company of an insurance company) that issues, or is obliged to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.

## **“TIN” (including “functional equivalent”)**

The term “TIN” means Taxpayer Identification Number or a functional equivalent in the absence of a TIN. A TIN is a unique combination of letters or numbers assigned by a jurisdiction to an individual or an Entity and used to identify the individual or Entity for the purposes of administering the tax laws of such jurisdiction. Further details of acceptable TINs can be found at the OECD Automatic Exchange Portal at the following link: [www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/](http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/).

Some jurisdictions do not issue a TIN. However, these jurisdictions often utilize some other high integrity number with an equivalent level of identification (a “functional equivalent”). Examples of that type of number include:

- a) (for individuals) a social security/insurance number, citizen/personal identification/service code/ number, and resident registration number.
- b) (for Entities) a Business/company registration code/number.