

AEOI Update

1 February 2021

Hong Kong

CRS: Amendments to Requirements Relating to Identification of Controlling Persons

Last month, the Inland Revenue Department (IRD) of Hong Kong published amendments to Section 50A and Schedule 17D of the Inland Revenue Ordinance (Cap. 112). The amendments came into operation on 1 Jan 2021 and apply to Reporting Year 2021 and beyond.

The amendment of Section 50A expands the definition of “controlling person” by removing the 25% threshold previously applicable to partnerships and trusts. For an entity that is a corporation, the specified percentage relating to the identification of controlling persons remains unchanged at 25%.

The amendment of Schedule 17D is to specify that in determining the controlling persons of an account holder of a new entity account, a Reporting FI may rely on information collected and maintained pursuant to the AML/KYC procedures if those procedures are consistent with [Recommendations 10 and 25 of the Financial Action Task Force Recommendations](#).

What This Means for Reporting Financial Institutions

Identification of controlling persons of partnerships: All individuals who exercise control over a partnership will fall within the definition of controlling persons of that partnership, regardless of the stake held in terms of capital/profits/voting rights of/in that partnership. Prior to the amendment, control of more than 25% was mainly used as the basis for identifying controlling persons.

Consequently, Reporting FIs should ensure that procedures to identify and document relevant controlling persons are expanded to cover persons who would otherwise not have been captured by the now-irrelevant 25% threshold.

Identification of controlling persons of trusts: no actual effect despite the reduction of the 25% threshold to 0%. This is because prior to the amendment, the controlling persons to be identified in relation to a trust already included those holding a position as settlor, protector (or enforcer), trustee and beneficiary or a member of a class of beneficiaries of the trust, regardless of the stake held. The amendment of the threshold applicable to a trust was simply made for completeness.

Identification of controlling persons of corporations: no impact as the control ownership interest threshold is unchanged.

[Contact us](#) if you have questions about this update.