

【附錄一】

**美國海外帳戶稅收遵從法(FATCA)暨金融機構執行共同申報及盡職審查作業辦法(CRS)遵循條款
Foreign Account Tax Compliance Act of the United States (FATCA) and the Regulations Governing
the Implementation of the Common Standard on Reporting and Due Diligence for Financial
Institutions(CRS)**

第一條 客戶茲受告知並同意配合本行遵循國內外稅務法令(包含但不限於美國海外帳戶稅收遵循法、稅捐稽徵法第5條之1第6項訂定之金融機構執行共同申報及盡職審查作業辦法及中華民國相關法令)、條約或國際協議的必要措施，包含調查客戶及客戶受益人之國籍與稅籍稅務資料，將稅籍資料及帳戶資訊揭露予國內外政府機關(包含中華民國政府及美國聯邦政府)，並於調查結果顯示客戶與本行間的關係符合國內外稅務法令、條約或國際協議的特定條件(包含但不限於客戶及客戶受益人未能協助提供前揭調查所需的資料、未能據實出具本約定書各項附表，或客戶及客戶受益人不同意本行向中華民國政府及美國聯邦政府為前揭揭露等情形)時，為客戶辦理稅款扣繳或終止、暫停帳戶服務，並同意賠償本行因客戶未能/未據實出具自我證明文件而遭受/支付之任何支出、損失、罰款或其他類似款項。

I. The client has been fully informed and agreed to cooperate with the bank's necessary measures taken in compliance with any tax laws (including without limitation to, the U.S. Foreign Account Tax Compliance Act (or hereafter "FATCA"), the Regulations Governing the Implementation of the Common Standard on Reporting and Due Diligence for Financial Institutions ("CRS"), and the laws of the Republic of China (Taiwan)("ROC")), international treaties or governmental agreements. Such measures may include a nationality and taxpayer identity investigation over the client or the beneficial owners/substantial U.S. owners in the case with entity clients, disclosure of the tax information and account information to the authority (including the Republic of China (Taiwan)("ROC")government and the U.S. government), and tax withholding or service termination for a cause against the client provided that the nationality and taxpayer identity investigation indicates that the relationship between the client and the bank meets the conditions set forth in any tax laws, international treaties or governmental agreements (such conditions include without limitation to that, the client or its beneficiary owner fails to provide information necessary in the aforementioned investigation, fails to represent and warrant the truthfulness of the forms and documents attached herein, or does not approve the bank to perform the aforementioned informational disclosure to the Republic of China (Taiwan)("ROC") government and the U.S. government). The client also agrees to be fully liable for any damage, loss, penalty incurred by the Bank while in violation of relevant tax regulations (including but not limited to Taiwan (ROC) tax regulations).

第二條 美國海外帳戶稅收遵循法、金融機構執行共同申報及盡職審查作業辦法相關名詞定義，以美國海外帳戶稅收遵循法及財政部、經濟合作暨發展組織(OECD)相關法令、準則有權解釋為準，本說明(如下)僅供參考：

II. The definition of terms in paragraph I are as below for reference, the entirety and completeness of the relevant paragraphs of which shall be referred to the actual body of FATCA, Ministry of Finance, Economic Cooperation and Development Organization(OECD)：

一、美國海外帳戶稅收遵循法:指美國Foreign Account Tax Compliance Act即26 USC §1471~§1474，或稱美國內地稅法第四章(Internal Revenue Code Chapter 4)，並包含美國聯邦政府內地稅收局(Internal Revenue Service)發布的相關行政命令(包含但不限於26 CFR Parts 1及301)、指引及申辦表單等。

1. Foreign Account Tax Compliance Act is 26 USC §1471~ §1474, or Internal Revenue Code Chapter 4, includes notice (includes, but not limited to, 26 CFR parts 1 and 301), guidance, and other documents published by Internal Revenue Service.

二、條約或國際協議：包含但不限於中華民國政府與美國政府或雙方政府之代表人或代表機構間簽訂關於美國海外帳戶稅收遵循法執行的跨政府協議(Intergovernmental Agreement)。

2. International agreement: includes, but not limited to, intergovernmental agreements that facilitate the effective and efficient implementation of FATCA sign between U.S. and R.O.C. governments.
- 三、立約人之受益人：包含但不限於立約人指定自動或定期轉帳轉入帳戶持有人；立約人如為非自然人之法律實體時，對立約人直接或間接擁有股權性利益、合夥利益、投資利益、信託利益之人，以及其他依美國海外帳戶稅收遵循法可認定雖非直接持有帳戶，但實質享有帳戶利益之人。
3. Beneficial owner of a Contract: Beneficial owner includes, but not limited to, holder of the account to which Contracting party has standing instruction to wire money to. Should the contract party be a legal entity, the beneficial owner is the person who holds directly or indirectly ownership of stock; holder of partnership interests; owner of investment benefits; beneficiary of a trust; or the substantial beneficiary of interests of an account as otherwise defined by FATCA.
- 四、國籍與稅籍稅務資料：包含但不限於國籍、雙重國籍或永久居留權身分；納稅義務人稅籍編號 (Taxpayer Identification Number)、全球中介機構識碼 (Global Intermediary Identification Number)；美國稅務Form W-8、Form W-9或其他替代性文件，以及其他依美國海外帳戶稅收遵循法指定金融機構必須調查或取得的帳戶相關資料。
4. Nationality and chapter 4 status: includes, but not limited to, nationality, and/or residence status ; Taxpayer Identification Number, Global Intermediary Identification Number ; IRS Form W-8, Form W-9, substitute forms, and other documents that may be relevant in determining a person's chapter 4 status.

五、其他相關名詞

5. Other related terms :

- (一) 美國內地稅法第四章身分 (Internal Revenue Code Chapter 4 Status): 包含美國人 (U.S. Person)、特定美國人 (Specified U.S. Person)、除外之非金融機構外國 (即非美國) 法人 (excepted NFFE)、或非實質營運之非金融外國 (即非美國) 法人 (Passive NFFE) 等自然人或非自然人之法律實體之身分類別，及其他同於美國內地稅法第四章所規定之身分類別。
- i. Internal Revenue Code Chapter 4 Status of United States: includes U.S. Person, Specified U.S. Person, excepted NFFE, Passive NFFE, and other individuals and entities under FATCA regulation.
- (二) 美國人 (U.S. Person) 及特定美國人 (Specified U.S. Person)：美國人係指 26 USC §7701(a)30 所規定之美國人，包含美國公民、具美國永久居留權之人、美國境內的合夥組織、公司或遺產財團、或美國法院對之有管轄權或美國人對之有控制權的信託財產。特定美國人係指 26 USC §1473(3) 所規定任何不具下列性質之美國人：1. 任何股票於證券交易市場經常性交易之公司、2. 任何同屬於前述 1. 公司集團之公司、3. 任何屬 26 USC §501(a) 所指之免稅組織或自然人退休計畫、4. 美國 (政府) 或政府所有之機構或投資工具、5. 任何美國聯邦州、哥倫比亞特區、美國 (政府) 財產、其分支、其所有之機構或投資工具、6. 任何銀行、7. 任何不動產投資信託、8. 任何受監督的投資公司、9. 任何共同信託基金、10. 任何適用 26 USC §664(c) 之免稅規定或符合 26 USC §4947(a)(1) 的信託、11. 依據美國相關法令註冊之證券、商品、衍生性金融商品 (包含名義資本合同、期貨、遠期合約及期權) 之交易或財產、服務之經紀商、12. 經紀商、及 13. 任何符合 U.S.C. §403(b) 或 U.S.C. §457(g) 之免稅信託。
- ii. According to 26 U.S.C. §7701(a)30, The term “United States person” (or “U.S. person”) means—(1) a citizen or resident of the United States; (2) a domestic partnership; (3) a domestic corporation; (4) any estate (other than a foreign estate, which is an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States; and (5) any trust if—(i) a court within the United States is able to exercise primary supervision over the administration of the trust, and (ii) one or

more United States persons have the authority to control all substantial decisions of the trust. According to 26 U.S.C. §1473(3), the term “specified United States person” (or “specified U.S. person”) means any U.S. person other than-(1) A corporation the stock of which is regularly traded on one or more established securities markets; (2) Any corporation that is a member of the same expanded affiliated group as a corporation described in (1); (3) Any organization exempt from taxation under 26 USC §501(a) or an individual retirement plan as defined in 26 USC § 7701(a)(37); (4) The United States or any wholly owned agency or instrumentality thereof;(5) Any State, the District of Columbia, any U.S. territory, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing; (6) Any bank as defined in 26 USC §581; (7) Any real estate investment trust as defined in 26 USC §856; (8) Any regulated investment company as defined in section 851 or any entity registered with the Securities Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-64); (9) Any common trust fund as defined in section 26 USC §584(a); (10) Any trust that is exempt from tax under 26 USC §664(c) or is described in 26 USC § 4947(a)(1); (11) A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any State; (12) A broker; and (13) Any tax exempt trust under a 26 USC § 403(b) plan or 26 USC §457(g) plan.

(三) 外國(即非美國)金融機構(Foreign Financial Institution; FFI)及非金融外國(即非美國)法人(Non-financial Foreign Entity; NFFE)：外國(即非美國)金融機構係指26 U.S.C. §1471(d)(4)定義之非美國的金融機構，金融機構則是指26 USC §1471(d)(5)所定義辦理存款業務的銀行、以從事投資、轉投資、或有價證券、合夥利益、商品期貨或任何對有價證券、合夥利益、商品期貨的利益(包含期貨、遠期合約或選擇權)的交易為主業的機構等。非金融外國(即非美國)法人則是指26 USC §1472(d) 所定義任何不屬於金融機構的非美國機構。

iii. According to 26 U.S.C. §1471(5)(d), the term FFI (or “foreign financial entity”) means with respect to any entity that is not resident in a country that has in effect a Model 1 IGA or Model 2 IGA, any financial institution (as defined 26 U.S.C. §1471(5)(e)) that is a foreign entity. With respect to any entity that is resident in a country that has in effect a Model 1 IGA or Model 2 IGA, an FFI is any entity that is treated as a Financial Institution pursuant to such Model 1 IGA or Model 2 IGA. A territory financial institution is not an FFI. According to 26 U.S.C. §1472(1)(c), an excepted NFFE means an NFFE that is-(1) Publicly traded corporation: A corporation the stock of which is regularly traded on one or more established securities markets for the calendar year; (2) Certain affiliated entities related to a publicly traded corporation: Any corporation that is a member of the same expanded affiliated group as a publicly traded corporation; (3) Certain territory entities: any territory entity that is directly or indirectly wholly owned by one or more bona fide residents of the U.S. territory (under 26 U.S.C. § 937(a) and 26 C.F.R. §1.937-1.) under the laws of which the entity is organized; (4) Active NFFEs: Any entity (an active NFFE) if less than 50 percent of its gross income for the preceding calendar year is passive income and less than 50 percent of the weighted average percentage of assets (tested quarterly) held by it are assets that produce or are held for the production of passive income(according to 26 U.S.C. §1472(1)(c), passive income includes dividends, interest, rents, royalties, and etc.); (5) Excepted nonfinancial entities: Holding companies, treasury centers, and captive finance companies that are members of a nonfinancial group; start-up companies; entities that are liquidating or emerging from bankruptcy; and non-profit organizations.

(四) 除外之非金融外國(即非美國)法人(Excepted NFFE)：指26 CFR §1.1472-1(c)(1)所定義符合下列條件之一的非金融機構外國(即非美國)法人：1.屬於股份有限公司且一定比例公司股票於正式的證券交易市場(established securities market)中經常交易者。2.前述股份有限公司的關係企業。3.美國海外領土居民所完全持有控制的非金融外國(即非美國)法人。4.實質營運之非金融外國(即非美國)法人(Active NFFE)。5.豁免型非金融機構，包含26 CFR §1.1471-5(e)(5)

所指的非金融集團的控股公司、財政管理中心、自保型財務公司、新設公司、清算或破產更生公司或非營利組織等。其中實質營運之非金融外國(即非美國)法人(Active NFFE)係指26 CFR §1.1472-1(c)(1)(iv)所定義符合下列條件的非金融外國(即非美國)法人：1.前一年度被動收入(passive income)未滿毛收入的百分之五十，且2.該機構直接或間接產生被動收入之資產加權平均價值所占百分比未滿百分之五十；其中被動收入(passive income)係指未經相關法令排除適用之股利、利息、相當於利息的收入、租金或權利金收入、年金、處分產出被動收入資產的盈餘、特定商品期貨交易的盈餘、Section 988 Transaction的盈餘、26 CFR 1.446-3(c)(1)所定義Notional Principal Contract的淨收入、來自現金價值保險契約的收入、保險公司關於保險及年金契約準備金所賺取的收入等。

- iv. According to 26 U.S.C. §1472(1)(c), an excepted NFFE means an NFFE that is-(1) Publicly traded corporation: A corporation the stock of which is regularly traded on one or more established securities markets for the calendar year; (2) Certain affiliated entities related to a publicly traded corporation: Any corporation that is a member of the same expanded affiliated group as a publicly traded corporation; (3) Certain territory entities: any territory entity that is directly or indirectly wholly owned by one or more bona fide residents of the U.S. territory (under 26 U.S.C. § 937(a) and 26 C.F.R. §1.937-1.) under the laws of which the entity is organized; (4) Active NFFEs: Any entity (an active NFFE) if less than 50 percent of its gross income for the preceding calendar year is passive income and less than 50 percent of the weighted average percentage of assets (tested quarterly) held by it are assets that produce or are held for the production of passive income(according to 26 U.S.C. §1472(1)(c), passive income includes dividends, interest, rents, royalties, and etc.); (5) Excepted nonfinancial entities: Holding companies, treasury centers, and captive finance companies that are members of a nonfinancial group; start-up companies; entities that are liquidating or emerging from bankruptcy; and non-profit organizations.
- (五) 非實質營運之非金融外國(即非美國)法人(Passive NFFE)：不屬於除外之非金融外國(即非美國)法人(Excepted NFFE)之非金融外國(即非美國)法人(NFFE)。
- v. According to 26 U.S.C. §1471(1)(b), a passive NFFE means an NFFE other than an excepted NFFE.
- (六) 實質美國股東(Substantial United States owner):指26 USC §1473(2)所定義對任何公司直接或間接持有超過百分之十股權(依投票權比例或面值比例定之)之「特定美國人」(specified U.S. person)、對任何合夥直接或間接持有超過百分之十的分紅或資本利得權利之特定美國人、對任何信託委託授予財產之特定美國人、對任何信託直接或間接持有超過百分之十受益權之特定美國人。10%之計算除姻親關係(in-laws)或繼子女與繼父母或類似關係(step relationship)之親屬外，應包含配偶、直系親屬與旁系親屬對該法人客戶之持股。該美國人股東毋須揭露親屬之持股比例，而是將加總的持股比例全數計入該美國人股東之持股。依FATCA規定屬跨政府協議模式2(Model 2)者，上開實質美國股東可以「具控制權之最終自然人」認定，並依當地洗錢防制法令對「具控制權之最終自然人」之標準認定。我國政府已與美國就跨政府協議達成實質共識，因此得視同跨政府協議模式2 已生效，依我國「銀行業防制洗錢及打擊資恐注意事項」對「具控制權之最終自然人」身分，所稱具控制權係指持有該法人股份或資本超過百分之二十五者為標準。
- vi. According to 26 U.S.C. §1473(1)(b), the term substantial United States owner (or substantial U.S. owner) means: (1) With respect to any foreign corporation, any specified U.S. person that owns, directly or indirectly, more than 10 percent of the stock of such corporation (by vote or value); (2) With respect to any foreign partnership, any specified U.S. person that owns, directly or indirectly, more than 10 percent of the profits interests or capital interests in such partnership; and (3) In the case of a trust-(A) Any specified U.S. person treated as an owner of any portion of the grantor trust under IRC §671-679, and (B) Any specified U.S. person that holds, directly or indirectly, more than 10 percent of the beneficial interests of the trust. Family members are

defined as related parties include brothers and sisters, spouse, ancestors, and lineal descendants. In-laws and step relationships are not related parties, and losses on sale or exchanges with these parties may be deducted unless the in-law or step relationship is merely acting as a nominee for a related party. Half-brothers and half-sisters are related parties. The percentage of stock owned by the foresaid related parties does not need to be disclosed, but the percentage should be aggregated with the percentage of stock owned by the specified U.S. person for the purpose of determining the total percentage of stock owned by that specified U.S. person. For a financial institution within jurisdiction of a Model 2 Inter-government Agreement (IGA) country in accordance of the FATCA regulations, the aforementioned “substantial U.S. owner” may be treated as “controlling person who is a U.S. individual”, while criteria of controlling person may be in accordance with local anti-money laundry regulations. In the case of Taiwan, the authority has reached an agreement in substance with the U.S. treasury as to the Model 2 IGA between Taiwan and US, and therefore the IGA is treated as if in effect. Under the “Directions Governing Anti-Money Laundering and Countering Terrorism Financing of Banking Sector” in Taiwan, a controlling person, with respect to an entity, shall mean a person owning more than 25% of shares or capital of the entity.

第三條 依美國海外帳戶稅收遵循法/ 台美協定 / 金融機構執行共同申報及盡職審查作業辦法規定，本行須取得客戶自我證明文件(包含但不限於美國海外帳戶稅收遵循法聲明書暨金融機構執行共同申報及盡職審查作業辦法自我身份證明文件、W-8、W-9或相關證明文件)以辨識客戶稅務居住者身分之國家 / 地區。有關稅務居住者的身分如何界定，將隨著不同地區或國家所訂定的內容及範圍而異。客戶須了解其居住所在地國或地區之規範，以釐清是否符合當地稅務居住者身分之定義。例如，法人/實體的稅務居住者身分以其設立時的註冊登記國或地區為據；無居住者身分之合夥、有限責任合夥或類似法律安排之實體，則視其為「實際管理處所所在地之居住者」；個人則可能具備一個以上國家的稅務居住者身分(多重居住地)。

III. Under the U.S. Foreign Account Tax Compliance Act (or hereafter “FATCA”), International agreement: includes, but not limited to, intergovernmental agreements that facilitate the effective and efficient implementation of FATCA sign between U.S. and R.O.C. governments, and the Regulations Governing the Implementation of the Common Standard on Reporting and Due Diligence for Financial Institutions (“CRS”), the Bank is required to collect and report certain information about the Account Holder’s tax residency status(including, but not limited to, the Self-Certification Form for FATCA and CRS, documents of W-8BEN, W-9). Tax residence is determined under the domestic tax laws of each jurisdiction. There might be situations where a person qualifies as a tax resident under the tax residence rules of more than one jurisdiction, and therefore is a tax resident in more than one jurisdiction. The Client should understand the definition under the domestic tax laws of each jurisdiction. For example: the tax resident status of the legal person/entity is based on the country or region in which the registration was made; the entity without a resident status, limited liability partnership or similar legal arrangement is deemed to be the “the resident of Place of Effective Management”; Individuals may have more than one country's tax resident status (multiple places of residence).

第四條 本行依規定取得之客戶文件將持續有效，倘狀態變動(例如客戶之稅務居住者身分變動)致所填資訊不正確或不完整，客戶應主動於30日內將相關資料通知本行進行更新。客戶了解並同意本行有權合理認定客戶聲明內容之真偽或變更情形，並就此對客戶帳戶權利為必要的處置行為，包含但不限於辦理美國稅扣繳或終止帳戶服務。如客戶未主動告知或經本行合理懷疑具美國稅務居住者或其他稅務居住者身分而詢問客戶時，客戶有據實告知之義務，客戶並同意依實際狀況簽具自我聲明書等相關表格，並應同時依我國稅法之相關規定出具及提供所需文件予本行；如客戶未履行上開義務者，客戶同意賠償本行因未遵守我國相關稅賦法令之規定而可能遭受/支付之任何支出、損失、罰款或其他類似款項，並就此對客戶帳戶權利為必要的處置行為。

IV. The client undertakes to advise the Bank of any change in circumstances which affects the tax residency

status of the individual identified in the “Basic Information and Declaration” of this form or causes the information contained herein to become incorrect or incomplete, and to provide the Bank with a suitably updated self-certification form within 30 days of such change in circumstances. I acknowledge and agree that the Bank is rightful to reasonably identify the authenticity of the above declaration or changes in the circumstances and take the necessary actions with regards to my account, including, but not limited to, processing U.S. tax payment or terminating / suspending the account service. I agree to be fully liable for any damage, loss, penalty incurred by the Bank while in violation of relevant tax regulations (including but not limited to Taiwan(ROC) tax regulations).

第五條 本行依法可能將所徵提之文件及帳戶相關資訊提供予中華民國稅捐稽徵機關或美國國家稅務局 (Internal Revenue Services, IRS)，進行稅務目的金融帳戶資訊交換，提供予他方國家/地區稅捐稽徵機關。

V. The client is aware that the documents contained and information regarding the Account Holder, the Controlling Person and any Reportable Account(s) may be provided to the tax authorities of the Taiwan (ROC) and exchanged with tax authorities of another country (ies)/jurisdiction(s) in which the Account Holder may be a tax resident pursuant to intergovernmental agreements to exchange financial account information for tax purposes.

第六條 客戶已詳細閱讀「永豐銀行履行個人資料保護法第八條第一項告知義務內容」，了解並知悉本行為遵循美國海外帳戶稅收遵循法、金融機構執行共同申報及盡職審查作業辦法之必要，蒐集、處理、利用與國際傳輸美國海外帳戶稅收遵循法規範之申報資料，包含但不限於客戶之姓名、國籍、護照號碼、出生年月日、通訊方式、美國稅籍編號(一般即為美國社會安全碼SSN)等。客戶並已了解有關本行對客戶個人資料利用之期間、地區、對象及方式、客戶得行使之權利及方式，以及客戶如不提供對客戶權益之影響。如客戶交付客戶以外第三人之個人資料或客戶為法人而向本行交付負責人、董監事、經理人、相關員工、授權人員、保證人及擔保物提供者等之個人資料時，客戶會向該個人資料之當事人提供或說明本約定書告知條款，以使其受告知並充分知悉。

VI. The client hereby has agreed the statement of use of the Bank Personal Information, and acknowledge that for complying with FATCA, it is necessary for the Bank to collect, process and use my personal information, including my name, nationality, passport number, date of birth, contact information, and U.S. taxpayer identification number (U.S. Social Security Number), etc.

第七條 客戶如依美國海外帳戶稅收遵循法規定，致應於交易金額外負擔相關稅捐及費用，客戶茲授權本行得無須事先通知逕自應支付或返還予客戶之任一帳款或客戶於本行之存款帳戶中扣除抵償。

VII. The client to directly debit any taxes and fees which the client shall bear pursuant to the FATCA other than the transaction amount from any account to be paid or returned to the Bank or the savings account of the client without prior notice.

第八條 客戶提交予本行之各項稅務稅籍資料文件內容若有不實或不完整，可能造成客戶之直接、間接或潛在之損失或額外之稅務負擔，客戶須自行承擔，貴行不負擔任何責任。

VIII. The client must solely assume all direct, indirect and potential losses caused to itself by any untrue content of documents it presents to the Bank, including, without limitation, IRS tax documents, declaration of FATCA status and relevant identification filed. The Bank will not be responsible for such losses.

第九條 客戶了解並同意就其稅務居住者身分對本行有據實告知之義務。如客戶對判定稅務居住者身分有任何疑問，請瀏覽OECD網站 www.oecd.org/tax/automatic-exchange 或自行諮詢您的專業稅務顧問提供建議。

IX. The client understands and agrees to have an obligation to inform the Bank of its tax resident status. If client has any questions about the determination of your tax residency, please refer to the OECD website: www.oecd.org/tax/automatic-exchange or consult with your tax consultant for advice.