

## Client Alert

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## Recent Updates on the Implementation of AEOI and CRS in Malaysia

### Background and Recent Developments

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The automatic exchange of information (“**AEOI**”) and Common Reporting Standard (“**CRS**”) <sup>1</sup> regime was first implemented in Malaysia in late December 2016, which included the Income Tax (Automatic Exchange of Financial Account Information) Rules 2016 (“**AEOI Rules**”). <sup>2</sup> Recently, there has been some developments in the AEOI and CRS sphere in Malaysia, summarised as follows:



Effective 23 December 2017, the AEOI Rules were amended pursuant to the Income Tax (Automatic Exchange of Financial Account Information) (Amendment) Rules 2017 (“**2017 Amendment Rules**”).



In January 2018, the Inland Revenue Board of Malaysia (“**IRB**”) published the List of Reportable Jurisdictions and the List of Participating Jurisdiction.



On 5 February 2018, the IRB issued the Common Reporting Standard Guidance Notes in respect of the compliance requirements for the AEOI Rules (“**Guidance Notes**”).



On 5 February 2018, the Labuan Business Activity Tax (Automatic Exchange of Financial Account Information) Regulations 2018 (“**Labuan AEOI Regulations**”) was *gazetted* and are deemed to come into operation as of 1 July 2017.

<sup>1</sup> Common Reporting Standard set out in the Standard for Automatic Exchange of Financial Account Information in Tax Matters approved by the Council of the Organisation for Economic Co-Operation and Development as amended from time to time.

<sup>2</sup> For more information on AEOI and CRS in Malaysia, please refer to our previous client alert.



## How would these recent developments in Malaysia affect Reporting Financial Institutions?

- *Reporting Financial Institutions would not be required to report certain types of accounts to the IRB.*

Every Reporting Financial Institution has an obligation to identify the relevant Reportable Accounts from the Financial Account it maintains, by applying the due diligence procedure as prescribed in the CRS. There are some accounts which are excluded from review. Following the updates under the 2017 Amendment Rules, the AEOI Rules now provide that excluded accounts include accounts listed under the new Schedule 2 of the AEOI Rules, such as, amongst others:

- a depository account which is a dormant account, with a balance that does not exceed USD 1,000, and no transaction has been initiated by the account holder for the past 3 years; and
  - a securities account, which is a dormant account.
- *Reporting Financial Institutions have an extended period of until 31 July 2018 to submit their first reporting of 2017.*

Every Reporting Financial Institution is required to report information of non-resident account holders of Reportable Jurisdictions, to the IRB **on or before 30 June** of the year following the calendar year to which the return relates. Accordingly, the first reporting in respect of financial account information for the year 2017 will be required to be made to the IRB by 30 June 2018. Notwithstanding this, the reporting deadlines have been extended as follows:

<b>Preexisting individual accounts which are High Value Accounts</b>	• Reporting deadline <b>extended to 31 July 2018</b> , pursuant to amendments under the 2017 Amendment Rules.
<b>Preexisting individual accounts which are Low Value Accounts</b>	• Reporting deadline <b>extended to 31 July 2019</b> , pursuant to amendments under the 2017 Amendment Rules.
<b>Other Reportable Accounts</b>	• Reporting deadline for the year 2017 <b>extended to 31 July 2018</b> , and for the year 2018 <b>extended to 31 July 2019</b> , by way of an administrative concession provided by the IRB.



- **Reporting Financial Institutions note of the List of Reportable Jurisdictions and the List of Participating Jurisdictions and to collect the necessary information accordingly.**

#### List of Reportable Jurisdictions

On 15 January 2018, the IRB published the first List of Reportable Jurisdictions (i.e., 29 jurisdictions in total). This list will be updated by 30 June 2018, and will form the final list for reporting to IRB in 2018.

List of Reportable Jurisdictions		
Australia	Italy	Portugal
Belgium	Japan	San Marino
Bulgaria	Jersey	Seychelles
Colombia	Korea	Slovak Republic
Cook Island	Luxembourg	Slovenia
Denmark	Malta	South Africa
Germany	Mauritius	Spain
Guernsey	Mexico	Sweden
India	Netherlands	United Kingdom
Isle of Man	Pakistan	

#### List of Participating Jurisdictions

On 2 January 2018, the IRB published the List of Participating Jurisdictions<sup>3</sup> consisting of 101 jurisdictions. It is anticipated that the IRB will be updating this list on 15 January of every year.

### **Are Labuan entities subject to similar reporting and due diligence requirements?**

Yes, under the Labuan AEOI Regulations, any Labuan entity which is a Financial Institution, is deemed a Reporting Financial Institution and are subject to similar due diligence and reporting requirements. As such, any Labuan entity which is a Reporting Financial Institution will need to comply with the CRS, and will need to adhere with the same requirements and timelines above.

<sup>3</sup>[http://lampiran2.hasil.gov.my/pdf/pdfam/List\\_of\\_Participating\\_Jurisdictions02012018.pdf](http://lampiran2.hasil.gov.my/pdf/pdfam/List_of_Participating_Jurisdictions02012018.pdf)

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