

主动的非金融外国实体 FATCA 声明

银行专用

客户名称	客户编号
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客户地址

客户永久住址,如非上述地址

贵司的永久住址是指贵司的税务居民住址,或,如不适用,则指贵司的主要办事处地址

我们特此证明: 根据 1986 年美国国内税收法第四章, A 分编 1471 至 1474 章节(一般称为“海外账户税收合规法案”或“FATCA”)及依据该法案颁布的条例):

1. 我们并非在美国或根据美国法律或美国任何州(包括哥伦比亚特区)的法律注册成立、设立或组成的。
2. 我们并非金融机构(请参看备注)
3. 我们在前一个日历年的被动收入占总收入少于 50% (请参看备注)
4. 我们所持有的可带来或持有以产生被动收入的资产占资产少于 50% (按季度以被动资产加权平均百分比计算)
5. 我们代表自身而不是作为代理、中介机构或另一位人士的指定人士。
6. 我们主要的业务活动是:

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我们证明: 本表格上的数据全部准确。倘于任何时间因状况变更以致任何以上第 1 项至第 6 项的证明事项 变成不正确, 我们将于 30 天内通知恒生银行(中国)有限公司。

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如有需要请使用额外的签署纸

免责声明

英文译本仅供参考, 文义如与中文有歧义, 概以中文本为准。

FATCA Declaration for Active Non-Financial Foreign Entities

Bank use only

Customer Name

Customer Number

Customer Address

Customer Permanent Residence Address, if different from the above address

Your Permanent Residence Address is the address of where you are treated as resident for tax purposes, or, if not applicable, the address of your principal office

We hereby certify that, for purposes of chapter 4, subtitle A, sections 1471 through 1474 of the United States Internal Revenue Code of 1986 (the provisions commonly referred to as the "Foreign Account Tax Compliance Act" or "FATCA" and regulations thereunder) :

1. We are not incorporated, created or organised in the United States of America or under the law of the United States of America or of any of the States of the United States of America, including the District of Columbia
2. We are not a financial institution *(see notes)*
3. Less than half of our gross income for the last calendar year is passive income *(see notes)*
4. Less than half of our assets are assets that produce or are held for the production of passive income (calculated as a weighted average of the percentage of passive assets measured quarterly).
5. We are acting on our own behalf and not as agent, intermediary or nominee of another person.
6. Our principal business activity is:

We certify that the information on this form is accurate. If at any time, a change in circumstances occurs that causes any of the certifications '1' to '6' above to become no longer true, we will inform Hang Seng Bank (China) Limited within 30 days.

Signature

Full Name

Official Position

Date

Signature

Full Name

Official Position

Date

Signature

Full Name

Official Position

Date

Signature

Full Name

Official Position

Date

(Signed in accordance with the mandate)

Please use the Additional Signature Insert for more to sign in accordance with your mandate

Disclaimer

The English translation is for reference only. In case of any discrepancy between the Chinese version and the English version, the Chinese version shall prevail.

FATCA 声明 – 额外签署纸

FATCA Declaration – Additional Signature Sheet

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Official Position

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(签署需依照签署安排)
(Signed in accordance with the mandate)

海外账户税收合规法案 (FATCA)

此为签署以下声明之备注:

- 主动的非金融外国实体 FATCA 声明
- 非营利组织 FATCA 声明

重要: 本文件必须与作为其组成部分的免责声明一并阅读。

背景

金融监管机构、政府及银行正作出多项重要改变,以确保能长远保障金融系统及客户利益。其中一项变动为美国政府所颁布成为 1986 年美国国内税法一部份的《海外账户税收合规法案》(“FATCA”)。FATCA 旨在向美国税务机关申报由美国人士所拥有的金融资产。

FATCA对恒生银行(中国)有限公司及阁下的影响?

恒生银行(中国)有限公司(“恒生中国”)致力在所有经营地全面遵从 FATCA 法案。这代表我们需要向美国税务机关申报受影响的客户的收入和利润。为此,我们需要从客户取得更多数据,以识别美国人士(USPs)和外国金融机构(FFIs)或其他客户。

银行及其他金融组织需每年申报美国人士直接或间接持有的金融账户的资料。

如我们无法从客户取得所需的数据或文件,银行可能需要从向客户或客户账户支付的若干款项中代扣美国税项,称为“可扣缴款项”。我们也可能需要终止与客户的关系。

为了识别可能需按FATCA进行申报的客户,我们将根据FATCA法案列明的类别对客户进行分类。

这是否适用于阁下?

虽然大部份 FATCA 类别并不需被申报,部份类别亦可能适用于我们的客户。为了确保银行能按 FATCA 类别给客户做出配对,现要求客户确认其 FATCA 下的身份、审阅适用条件并确认其符合条件。

恒生中国不能够就这一FATCA分类过程提供任何税务意见。

根据 FATCA 银行需要就谁进行申报?

我们须就由特定美国人士 (Specified US Persons) 持有的账户申报若干资料。这包括由美国公民和美国居民、若干在美国设立或组成的企业或合伙公司、以及某些股东为美国公民或美国居民的被动实体所持有的账户(详情请参阅有关被动收入的章节及“根据 FATCA 何谓被动的非金融外国实体?”章节)。我们也需要就没有向我们提供文件以确认其 FATCA 下的税务身份的客户或财务对手作出若干资料申报。

何谓可扣缴款项?

简单来说,可扣缴款项为:固定或可确定的每年或定期(FDAP)的美国来源收入;或2016年12月31日后,来自出售或以其他方式处置(包括赎回)可产生美国来源利息或股息收入的资产所得的总资金收入。其定义在未来也许会变更及范围也许会扩大。这些款项的扣缴会在2017年1月1日前分阶段实施。

根据 FATCA 何谓“主动的非金融外国实体”?

主动的非金融外国实体 (Active Non-Financial Foreign Entity) 一般是指属于主动经营式但非从事金融业务的实体。根据FATCA, **如符合以下条件,银行无须就主动的非金融外国实体或其股东申报数据:**

- 该实体并非美国人士(请参阅以下美国人士的定义)
- 该实体并非金融机构。详情请参阅“根据FATCA何谓金融机构”章节
- 该实体在前一个日历年的被动收入占总收入少于50%。详情请参阅“何谓被动收入”章节
- 该实体所持有的可带来或持有以产生被动收入的资产占资产少于50% (按季度以被动资产加权平均百分比计算)。该实体的资产价值是按公平市价或该实体的资产负债表上所反映的资产账面价值(按美国或国际会计准则计算)而定

恒生中国不能够就这过程提供任何税务意见。

美国人士

“美国人士”包括:

- 美国居民或公民
- 在美国或根据美国法律或美国任何州的法律注册设立或组成的公司或合伙公司
- 任何非美国遗产(非美国遗产是指一遗产而其收入并非来源于美国、与在美国进行的贸易或商业行为无实际联系及并不涵盖于美国国内税法 A 分编的总收入项下)
- 任何信托符合- (i) 美国法院能够对信托行政执行主要监督,及(ii)一个或以上的美国人士拥有能控制信托所有重大决定的权力

何谓被动收入 (Passive Income) ?

被动收入一般包括:

- 股息,包括等同股息的收入(又称替代股息)
- 利息,包括等同利息收入和若干来自保险合同投资的回报
- 若干非衍生自主动经营式业务的租金和特许权使用费
- 年金
- 来自交易的净收益,包括与若干商品交易类型有关的远期及类似交易
- 若干外汇兑换收益
- 来自名义本金合同的净收益
- 来自具有现金价值之保险合同的款项或保险公司就其保险储备和年金合同所赚取的款项
- 来自出售可带来部份上述收入类的资产的净收益

被动收入不包括:

- 已收取或应计入的来自相关人士的利息、股息、租金或特许权使用费收入,而该等款项是可适当地分配到该相关人士的非被动收入
- 商品交易商及证券交易商在日常业务过程中产生的收入

有关被动收入的详细定义,请参阅美国国内税法第§1.1472-1(c)(1)(iv)(A)-(B)条。

根据 FATCA 何谓金融机构？

根据FATCA，“金融机构”的定义颇广泛，一般而言包括所有的银行、保管金融资产的实体、若干类型的保险公司、资产管理公司及若干投资基金或投资实体。委任受托人公司或第三方资产管理人、或一间或一组主要从事非金融贸易或业务之公司的控股公司、以及若干类型的财资公司，也可能符合金融机构的定义。

有关金融机构的详细定义，请参阅美国国内税收法第§1.1471-5(e)(1) 至 (6) 条。

根据 FATCA 何谓非营利组织？

“非营利组织”（Non-Profit Organisation）一般是指专门从事于宗教、慈善、科学、艺术、文化或教育活动的非营利性实体或组织。根据FATCA，银行无须就非营利组织申报数据。

FATCA法规设定若干条件，实体或组织必须满足这些条件才有资格成为FATCA承认的非营利组织。这些条件旨在确保在美国以外成立的实体或组织是真正本着慈善动机，而非作为方便逃避美国税项的工具。

根据 FATCA 何谓“被动的非金融外国实体”？

根据 FATCA，广泛而言，被动的非金融外国实体包括收取被动收入或持有被动资产而并没有归入其他 FATCA 类别的实体、组织或公司。这些实体并非从事金融机构业务。

恒生中国需了解这些实体的拥有权以决定是否需要就被动的非金融外国实体的实质美国持有人按 FATCA 进行申报。

免责声明

此文件仅提供予恒生中国向其发送之客户而非任何其他人士。内容为一般性质及只作信息摘要之用。客户不应视此为税务或法律意见。恒生中国不保证文件内容的准确性和完整性，对任何错误或由于依赖此等截至2014年7月1日的有关FATCA信息而导致的任何损失概不承担任何责任。客户应向专业顾问就其本身情况寻求专业的法律及税务意见。

英文译本仅供参考，文义如与中文有歧义，概以中文本为准。

Foreign Account Tax Compliance Act (FATCA)

Notes for signing:

- <FATCA Declaration for Active Non-Financial Foreign Entities>
- <FATCA Declaration for Non Profit Organisations>

IMPORTANT - This document must be read with the Disclaimer which forms part of it.

BACKGROUND

There are a number of substantial changes being made by financial regulators, governments and banks to ensure the protection and long-term safety of both the financial system and our customers' interests. One of these changes is the Foreign Account Tax Compliance Act (FATCA), which has been introduced by the US government as part of the United States Internal Revenue Code of 1986 (together with regulations made under the Code). The purpose of FATCA is to report financial assets owned by United States persons to the United States tax authorities.

How does FATCA affect Hang Seng Bank (China) Limited and you?

Hang Seng Bank (China) Limited ("Hang Seng China") has made a commitment to being fully FATCA compliant in all countries where we operate. This means we have to report affected customers' income and profit details to the US tax authorities. In order to do so, we will need to obtain additional information from our customers to identify US Persons (USPs) and Foreign Financial Institutions (FFIs). There may also be other customers who we have to identify for this purpose. Every year Banks and other Financial Organisations will be required to report information on financial accounts held directly or indirectly by US Persons.

Where we are not able to obtain the required information or documentation from our customers, we may be required to apply U.S. withholding taxes in respect of certain types of payments we make to our customers or our customers' accounts and these are known as 'withholdable payments'. We may also be required to end customer relationships.

In order to identify the customers where reporting under FATCA may apply, we need to match our customer base against certain categories set out in the FATCA legislation.

Does this apply to you?

Whilst most FATCA categories set out in the legislation are not reportable, some may be applicable to our customers. In order to make sure that we are able to match our customers against the FATCA categories, we are asking our customers to provide confirmation of their FATCA status, review the conditions that apply, and confirm that they are satisfied. Hang Seng China is not able to provide tax advice in respect of this process or for FATCA classification purposes.

Who do we need to report under FATCA?

We are required to report certain information on accounts held by *Specified US Persons*. This includes accounts held by U.S. citizens and U.S. residents, certain corporations or partnerships created or organised in the United States, as well as accounts held by certain passive Non-Financial Foreign Entities (*please see the section on Passive Income and the section What is meant by a Passive Non-Financial Foreign Entity (Passive NFFE) under FATCA?*) with shareholders who are U.S. citizens or U.S. resident persons. We will also be required to report certain information on customers or financial counterparties who do not provide us with documentation to establish a tax status under FATCA.

What is a withholdable payment?

In the simplest of terms, a withholdable payment is a payment of either: US source income that is fixed or determinable, annual or periodical (FDAP) income; or, after 31 December 2016, gross proceeds from the sale or other disposition (including redemption) of property that can produce US source interest or dividend income. This definition is subject to change and may be widened in the future. Withholding on these different types of payment is phased in over a period to 1 January 2017.

What is an Active Non-Financial Foreign Entity (Active NFFE) under FATCA?

The term 'Active NFFE' generally refers to an entity that operates an active trade or business other than that of a financial business.

We are **not required to report information on Active NFFEs or their shareholders under FATCA as long as the following criteria are met:**

- The entity is not a United States person (refer definition of United States person below)
- The entity is not a financial institution. Please refer to the section 'What is meant by a Financial Institution under FATCA' for further information
- Less than 50 percent of the entity's gross income for the preceding calendar year is passive income. Please refer to the section 'What is meant by Passive Income' for further information
- Less than 50 percent of the assets held by the entity are assets that produce or are held for the production of passive income (calculated as a weighted average of the percentage of passive assets measured quarterly). The value of the entity's assets is determined based on the fair market value or book value of the assets that is reflected on the entity's balance sheet (as determined under either a U.S. or an international financial accounting standard)

Hang Seng China is not able to provide tax advice in respect of this process.

United States person

The term 'United States person' includes:

- A citizen or resident of the United States
- A corporation or partnership created or organized in the United States of America or under the law of the United States or of any State of the United States of America
- Any estate other than non-United States estate (non-United States estate means 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, is not includible in gross income under subtitle A of the United States Internal Revenue Code)
- 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

What is meant by Passive income?

Passive income generally includes:

- Dividends including income equivalent to dividends (also known as substitute dividends)

- Interest including income equivalent to interest and certain returns from investments in insurance contracts
- Certain rents and royalties other than those derived from an active trade or business
- Annuities
- Net gains from transactions, including forwards and similar transactions relating to certain types of transactions in commodities
- Certain foreign currency exchange gains
- Net income from notional principal contracts
- Amounts received under cash value insurance contracts or amounts earned by an insurance company in connection with its reserves for insurance and annuity contracts
- Net gains from the sale of assets that give rise to certain of the above types of income

Passive income excludes:

- Any income from interest, dividends, rents or royalties that is received or accrued from a related person to the extent such amount is properly allocable to income of such related person that is not passive income
- Income generated by certain commodities dealers and securities dealers in the ordinary course of business

For a detailed definition of passive income, please refer to the United States Internal Revenue Code and regulations thereunder, §1.1472-1(c)(1)(iv)(A)-(B).

What is meant by a Financial Institution under FATCA?

The term 'financial institution' is broadly defined under FATCA and generally includes all banks, entities with custody of financial assets, certain types of insurance companies, asset management companies and certain investment funds or investment vehicles. An entity which appoints a trustee company or an entity that is a third party asset manager or acts as the holding company to a group of companies carrying on a financial business may also fall within the definition of financial institution, as well as certain types of treasury and group financing companies.

For a detailed definition of financial institution, please refer to United States Internal Revenue Code and regulations thereunder, §1.1471-5(e)(1) to (6).

What is a Non-Profit Organisation under FATCA?

The term 'Non-Profit Organisation' refers generally to an entity or organisation of a non-profit nature that exclusively engages in religious, charitable, scientific, artistic, cultural or educational activities. We are not required to report information on Non-Profit Organisations under FATCA.

The FATCA legislation imposes certain conditions which need to be satisfied in order for an entity or organisation to qualify as a 'Non-Profit Organisation' under FATCA. The conditions are aimed at ensuring that the entity or organisation is established outside of the United States of America, that it has a genuine charitable motive, and that it is not a vehicle to facilitate US tax avoidance.

What is meant by a Passive Non-Financial Foreign Entity (Passive NFFE) under FATCA?

Very broadly, Passive NFFEs are defined under FATCA as entities, organizations, or companies that are in receipt of passive income or hold passive assets and do not fall under any of the other FATCA classifications. These entities do not carry on a business of a financial institution.

Hang Seng China needs to understand the ownership of such entities to determine whether reporting under FATCA applies in respect of substantial US owners of a Passive NFFE.

DISCLAIMER

This document is intended solely for the customers of Hang Seng China to whom it is provided and not for any other person. It is a summary for information purposes only and general in nature. It should not be considered as tax or legal advice. Hang Seng China makes no guarantee of its accuracy and completeness and is not responsible for any errors, nor shall Hang Seng China be liable for any loss that results from reliance upon this information based on FATCA legislation as at 1st July 2014. Customers should seek professional legal and tax advice specific to their own situation.

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