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To: **Bills Committee on Inland Revenue (Amendment) Bill 2016**
Clerk to Bills Committee
Legislative Council Secretariat
Legislative Council Complex, 1 Legislative Council Road
Central, Hong Kong
Attn : Miss Mandy POON
Fax No: 3529 2837

23 February 2016

Dear Sir/Madam of the Bills Committee,

ASIFMA Submission to the Bills Committee on Inland Revenue (Amendment) Bill 2016

The Asia Securities Industry & Financial Markets Association (**ASIFMA**¹) welcomes the opportunity to make a submission to the Bills Committee in relation to the **Inland Revenue (Amendment) Bill 2016** ("the Bill"). We would like to give our views on the Bill to enable Hong Kong to comply with the international standard for automatic exchange of financial account information in tax matters.

Common Reporting Standard (CRS) is an initiative of the OECD to increase transparency to combat tax evasion. As a member of the OECD, Hong Kong must comply with this initiative.

There are a few reasons why Hong Kong should adopt CRS:

- a) In 2009, OECD named Hong Kong by putting Hong Kong on the black-list as a tax haven jurisdiction. In June 2015, EU categorized Hong Kong as one of the world's 30 worst offending tax haven (<http://www.scmp.com/news/world/article/1823567/blacklist-worlds-30-worst-offending-tax-havens-published-hong-kong>). The Hong Kong Government has made significant efforts in enhancing the Anti-Money Laundering (AML) and Know Your

¹ ASIFMA is an independent, regional trade association with over 90 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, professional service firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive and efficient Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the United States and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

Customers (KYC) rules to be in line with international practice. The Government has been marketing Hong Kong as an international financial centre by participating in international groupings such as ADB and APEC, and promoting Hong Kong as the offshore RMB Centre. Currently, there are over 100 countries adopting CRS with 56 of these countries already started in Jan 1, 2016. If Hong Kong does not adopt CRS in line with other international financial centres, it would not be compatible to Government's efforts in implementing the AML and KYC rules, and Hong Kong could be perceived shamefully, once again, as a tax haven. This is damaging to the reputation of Hong Kong.

- b) Under the OECD guidance, all investment entities in non-adopting jurisdiction will be categorized in such a way whereby controlling person of the entity will need to be disclosed. If Hong Kong does not participate in CRS, investment entities that are resident in Hong Kong will have to overcome such disclosure hurdle in opening accounts with financial institutions in other jurisdictions. This could greatly restrict the ability of Hong Kong resident investment entities going abroad.
- c) Following up on the above point, it will also discourage any business ventures to set up operations in Hong Kong if Hong Kong investment entities will be faced with disclosure hurdles in opening accounts outside Hong Kong.
- d) If Hong Kong is labelled as a tax haven, undesirable customers will consider setting up and doing business in Hong Kong. This will further taint the reputation of Hong Kong and financial institutions in Hong Kong could face significant challenges in screening their customer base.

Financial industry is neutral toward the adoption of CRS because its requirements are similar to that of Foreign Account Tax Compliance Act (FATCA) introduced by the US in 2014. Both FATCA and CRS require financial institutions to report financial information of account holders based on their residency. For law abiding taxpayers, this would be no more than reporting their income to tax authorities which should have been reported to in the first place.

If you would like to discuss anything contained in this submission, we would appreciate the opportunity to do so. ASIFMA will also be attending in person to the meeting scheduled on Tuesday, 1 March 2016, at 8:30 am in Conference Room 1 of the Legislative Council ("LegCo") Complex, to give views on the Bill Committee. Please do not hesitate to contact Patrick Pang, Managing Director and Head of Fixed Income & Compliance of ASIFMA, at ppang@asifma.org or +852 2531 6520.

Yours sincerely,



Mark Austen
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