



GOWLING WLG



Common Reporting Standards Implementation Update 2017

Legislative Update:

HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 4 OF 2017



C. Y. LEUNG
Chief Executive
15 June 2017

An Ordinance to amend the Inland Revenue Ordinance to expand the list of reportable jurisdictions for the more effective implementation of the arrangement relating to automatic exchange of financial account information in tax matters.

[1 July 2017]

Enacted by the Legislative Council.

1. Short title and commencement

- (1) This Ordinance may be cited as the Inland Revenue (Amendment) (No. 2) Ordinance 2017.
- (2) This Ordinance comes into operation on 1 July 2017.

2. Inland Revenue Ordinance amended

The Inland Revenue Ordinance (Cap. 112) is amended as set out in sections 3 and 4.

3. Section 50A amended (interpretation)

Section 50A(1), definition of *reportable jurisdiction*—

Repeal

everything after “Hong Kong”

Substitute

“that is specified in column 1 of Part 1 of Schedule 17E;”.

4. Schedule 17E amended (reportable jurisdictions and participating jurisdictions)

Schedule 17E, Part 1—

**Repeal everything after the heading and before the Note
Substitute**

“Column 1 Reportable jurisdiction	Column 2 Reporting year
Antigua and Barbuda	2018
Argentina, Republic of	2018
Australia, Commonwealth of	2018
Austria, Republic of	2018
Bahamas, Commonwealth of the	2018
Belgium, Kingdom of	2018
Brazil, Federative Republic of	2018
Brunei Darussalam	2018
Bulgaria, Republic of	2018
Canada	2018
Cayman Islands	2018
Chile, Republic of	2018
China, Mainland of	2018
Colombia, Republic of	2018
Costa Rica, Republic of	2018
Croatia, Republic of	2018
Curacao, Country of	2018
Cyprus, Republic of	2018
Czech Republic	2018

Inland Revenue (Amendment) (No. 2) Ordinance 2017

Ord. No. 4 of 2017

Section 4

A95

Column 1 Reportable jurisdiction	Column 2 Reporting year
Denmark, Kingdom of	2018
Estonia, Republic of	2018
Faroes	2018
Finland, Republic of	2018
French Republic	2018
Germany, Federal Republic of	2018
Gibraltar	2018
Greenland	2018
Grenada	2018
<u>Guernsey</u>	<u>2018</u>
Hellenic Republic (Greece)	2018
Hungary, Republic of	2018
Iceland, Republic of	2018
India, Republic of	2018
<u>Indonesia, Republic of</u>	<u>2018</u>
<u>Ireland</u>	<u>2018</u>
Isle of Man	2018
Israel, State of	2018
<u>Italian Republic</u>	<u>2018</u>
<u>Japan</u>	<u>2018</u>
Jersey	2018
<u>Korea, Republic of</u>	<u>2019</u>
Kuwait, State of	2018

Inland Revenue (Amendment) (No. 2) Ordinance 2017

Ord. No. 4 of 2017

Section 4

A97

Column 1 Reportable jurisdiction	Column 2 Reporting year
Latvia, Republic of	2018
Lebanon, Republic of	2018
Liechtenstein, Principality of	2018
Lithuania, Republic of	2018
Luxembourg, Grand Duchy of	2018
Malaysia	2018
Malta	2018
Mauritius, Republic of	2018
Montserrat	2018
Netherlands, Kingdom of the	2018
New Zealand	2018
Norway, Kingdom of	2018
Poland, Republic of	2018
Portuguese Republic	2018
Qatar, State of	2018
Romania	2018
Russian Federation	2018
Saint Vincent and the Grenadines	2018
Saudi Arabia, Kingdom of	2018
Seychelles, Republic of	2018
Singapore, Republic of	2018
Slovak Republic	2018
Slovenia, Republic of	2018

Inland Revenue (Amendment) (No. 2) Ordinance 2017

Ord. No. 4 of 2017
A99

Section 4

Column 1 Reportable jurisdiction	Column 2 Reporting year
South Africa, Republic of	2018
Spain, Kingdom of	2018
Sweden, Kingdom of	2018
Swiss Confederation	2018
Turkey, Republic of	2018
United Arab Emirates	2018
United Kingdom of Great Britain and Northern Ireland	2018
United Mexican States	2018
Uruguay, Oriental Republic of	2018
Vanuatu, Republic of	2018".

A BILL

To

Amend the Inland Revenue Ordinance to empower the Chief Executive in Council to give effect to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, and other tax agreements that apply to Hong Kong; and to amend the Ordinance to align the relevant provisions with the international standard for the automatic exchange of financial account information in tax matters.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Inland Revenue (Amendment) (No. 5) Ordinance 2017.

2. Inland Revenue Ordinance amended

The Inland Revenue Ordinance (Cap. 112) is amended as set out in sections 3 to 11.

3. Part 8 heading amended (double taxation relief and exchange of information)

Part 8, heading—

Repeal

“and Exchange of Information”



The Multilateral Convention on Mutual Administrative Assistance in Tax Matters

AMENDED BY THE 2010 PROTOCOL



MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION

Whereas, the jurisdictions of the signatories to the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (the "Agreement") are Parties of, or territories covered by, the Convention on Mutual Administrative Assistance in Tax Matters or the Convention on Mutual Administrative Assistance in Tax Matters as amended by the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (the "Convention") or have signed or expressed their intention to sign the Convention and acknowledge that the Convention must be in force and in effect in relation to them before the first exchange of financial account information takes place;

Whereas, the jurisdictions intend to improve international tax compliance by further building on their relationship with respect to mutual assistance in tax matters;

Whereas, the Common Reporting Standard was developed by the OECD, with G20 countries, to tackle tax avoidance and evasion and improve tax compliance;

Whereas, a country that has signed or expressed its intention to sign the Convention will only become a Jurisdiction as defined in Section 1 of this Agreement once it has become a Party to the Convention;

Whereas, the laws of the respective Jurisdictions require or are expected to require financial institutions to report information regarding certain accounts and follow related due diligence procedures, consistent with the scope of exchange contemplated by Section 2 of this Agreement and the reporting and due diligence procedures set out in the Common Reporting Standard;

Whereas, it is expected that the laws of the Jurisdictions would be amended from time to time to reflect updates to the Common Reporting Standard and once such changes are enacted by a Jurisdiction the definition of Common Reporting Standard would be deemed to refer to the updated version in respect of that Jurisdiction;

Whereas, Chapter III of the Convention authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of the Jurisdictions to agree the scope and modalities of such automatic exchanges;

Whereas, Article 6 of the Convention provides that two or more Parties can mutually agree to exchange information automatically, the exchange of the information will be on a bilateral basis between the Competent Authorities;

**SIGNATORIES OF THE MULTILATERAL COMPETENT AUTHORITY AGREEMENT
ON AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION AND
INTENDED FIRST INFORMATION EXCHANGE DATE**

Status as of 30 August 2017

JURISDICTION FROM WHICH THE COMPETENT AUTHORITY IS FROM	INTENDED FIRST INFORMATION EXCHANGE BY: (ANNEX F TO THE AGREEMENT)
1. ALBANIA	September 2018
2. ANDORRA	September 2018
3. ANGUILLA	September 2017
4. ANTIGUA AND BARBUDA	September 2018
5. ARGENTINA	September 2017
6. ARUBA	September 2018
7. AUSTRALIA	September 2018
8. AUSTRIA	September 2018
9. AZERBAIJAN	September 2018
10. BAHRAIN	September 2018
11. BARBADOS	September 2017
12. BELGIUM	September 2017
13. BELIZE	September 2018
14. BERMUDA	September 2017
15. BRAZIL	September 2018
16. BRITISH VIRGIN ISLANDS	September 2017
17. BULGARIA	September 2017
18. CANADA	September 2018
19. CAYMAN ISLANDS	September 2017
20. CHILE	September 2018
21. CHINA (PEOPLE'S REPUBLIC OF)	September 2018
22. COLOMBIA	September 2017
23. COOK ISLANDS	September 2018
24. COSTA RICA	September 2018
25. CROATIA	September 2017
26. CURAÇAO	September 2017
27. CYPRUS	September 2017
28. CZECH REPUBLIC	September 2017
29. DENMARK	September 2017
30. ESTONIA	September 2017

**SIGNATORIES OF THE MULTILATERAL COMPETENT AUTHORITY AGREEMENT
ON AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION AND
INTENDED FIRST INFORMATION EXCHANGE DATE**

Status as of 30 August 2017

31. FAROE ISLANDS	September 2017
32. FINLAND	September 2017
33. FRANCE	September 2017
34. GERMANY	September 2017
35. GHANA	September 2018
36. GIBRALTAR	September 2017
37. GREECE	September 2017
38. GREENLAND	September 2017
39. GRENADA	September 2018
40. GUERNSEY	September 2017
41. HUNGARY	September 2017
42. ICELAND	September 2017
43. INDIA	September 2017
44. INDONESIA	September 2018
45. IRELAND	September 2017
46. ISRAEL	September 2018
47. ISLE OF MAN	September 2017
48. ITALY	September 2017
49. JAPAN	September 2018
50. JERSEY	September 2017
51. KOREA	September 2017
52. KUWAIT	September 2018
53. LATVIA	September 2017
54. LEBANON	September 2018
55. LIECHTENSTEIN	September 2017
56. LITHUANIA	September 2017
57. LUXEMBOURG	September 2017
58. MALAYSIA	September 2018
59. MALTA	September 2017
60. MARSHALL ISLANDS	September 2018
61. MAURITIUS	September 2018
62. MEXICO	September 2017

**SIGNATORIES OF THE MULTILATERAL COMPETENT AUTHORITY AGREEMENT
ON AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION AND
INTENDED FIRST INFORMATION EXCHANGE DATE**

Status as of 30 August 2017

63. MONACO	September 2018
64. MONTserrat	September 2017
65. NAURU	September 2018
66. NETHERLANDS	September 2017
67. NEW ZEALAND	September 2018
68. <u>NIGERIA</u>	<u>September 2019</u>
69. NIUE	September 2017
70. NORWAY	September 2017
71. PAKISTAN	September 2018
72. POLAND	September 2017
73. PORTUGAL	September 2017
74. ROMANIA	September 2017
75. RUSSIAN FEDERATION	September 2018
76. SAINT KITTS AND NEVIS	September 2018
77. SAINT LUCIA	September 2018
78. SAINT VINCENT AND THE GRENADINES	September 2018
79. SAMOA	September 2018
80. SAN MARINO	September 2017
81. SAUDI ARABIA	September 2018
82. SEYCHELLES	September 2017
83. SINGAPORE	September 2018
84. SINT MAARTEN	September 2018
85. SLOVAK REPUBLIC	September 2017
86. SLOVENIA	September 2017
87. SOUTH AFRICA	September 2017
88. SPAIN	September 2017
89. SWEDEN	September 2017
90. SWITZERLAND	September 2018
91. TURKEY	September 2018
92. TURKS & CAICOS ISLANDS	September 2017
93. UNITED ARAB EMIRATES	September 2018
94. UNITED KINGDOM	September 2017

**SIGNATORIES OF THE MULTILATERAL COMPETENT AUTHORITY AGREEMENT
ON AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION AND
INTENDED FIRST INFORMATION EXCHANGE DATE**

Status as of 30 August 2017

95. URUGUAY	September 2018
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A BILL

To

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2. Inland Revenue Ordinance amended

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3. Part 8 heading amended (double taxation relief and exchange of information)

Part 8, heading—

Repeal

“and Exchange of Information”

CRS Amendments:

Principal Amendments

- Extended definition “*Annuity Contract*” to include an annuity payable for a term of years;
- Minor amendment to “*Cash Value*” definition
- Clarifying restatement of “*Financial Account*” extended to any Financial Institution (except a part B managed investment entity) established for purpose of avoiding reporting
- Expanded definition Insurance Company, statutory test >50% insurance related income or assets
- Passive NFE Controlling Person ownership threshold amended to “*more than*” specified percentage (25%) from “*not less than*”
- Reportable periods clarified to exclude any period prior to jurisdiction becoming a “reportable jurisdiction”

Principal Amendments

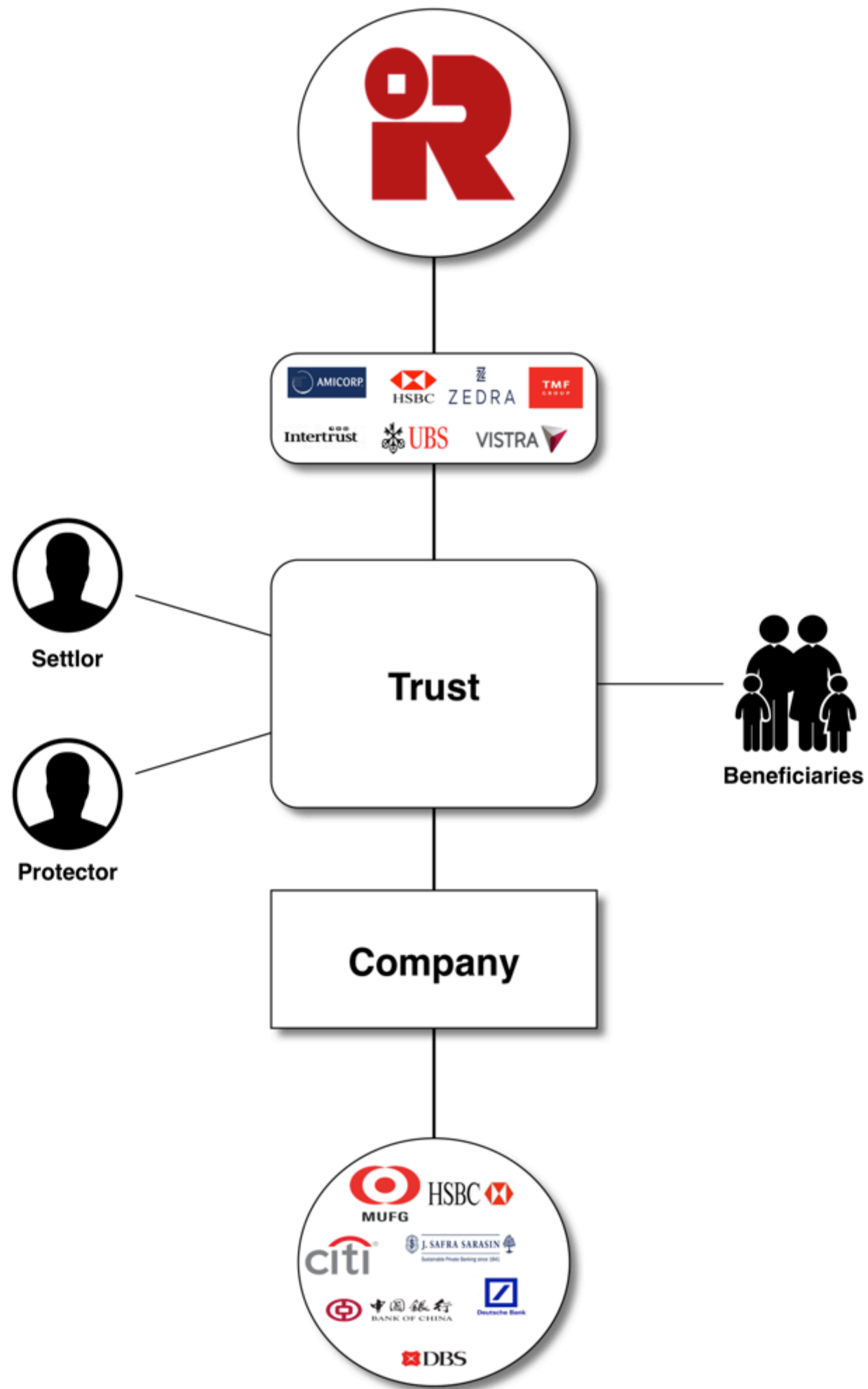
- Clarifying amendment Exempt Collective Investment Vehicle non-reporting FI status where interest held by any non-reportable entity: not limited to Passive NFE non-reportable Entity;
- Extended provisions in relation to dormant account status;
- Clarification: Financial Institutions may “only” rely on self-certificate to determine residences of Passive NFE controlling person(s);

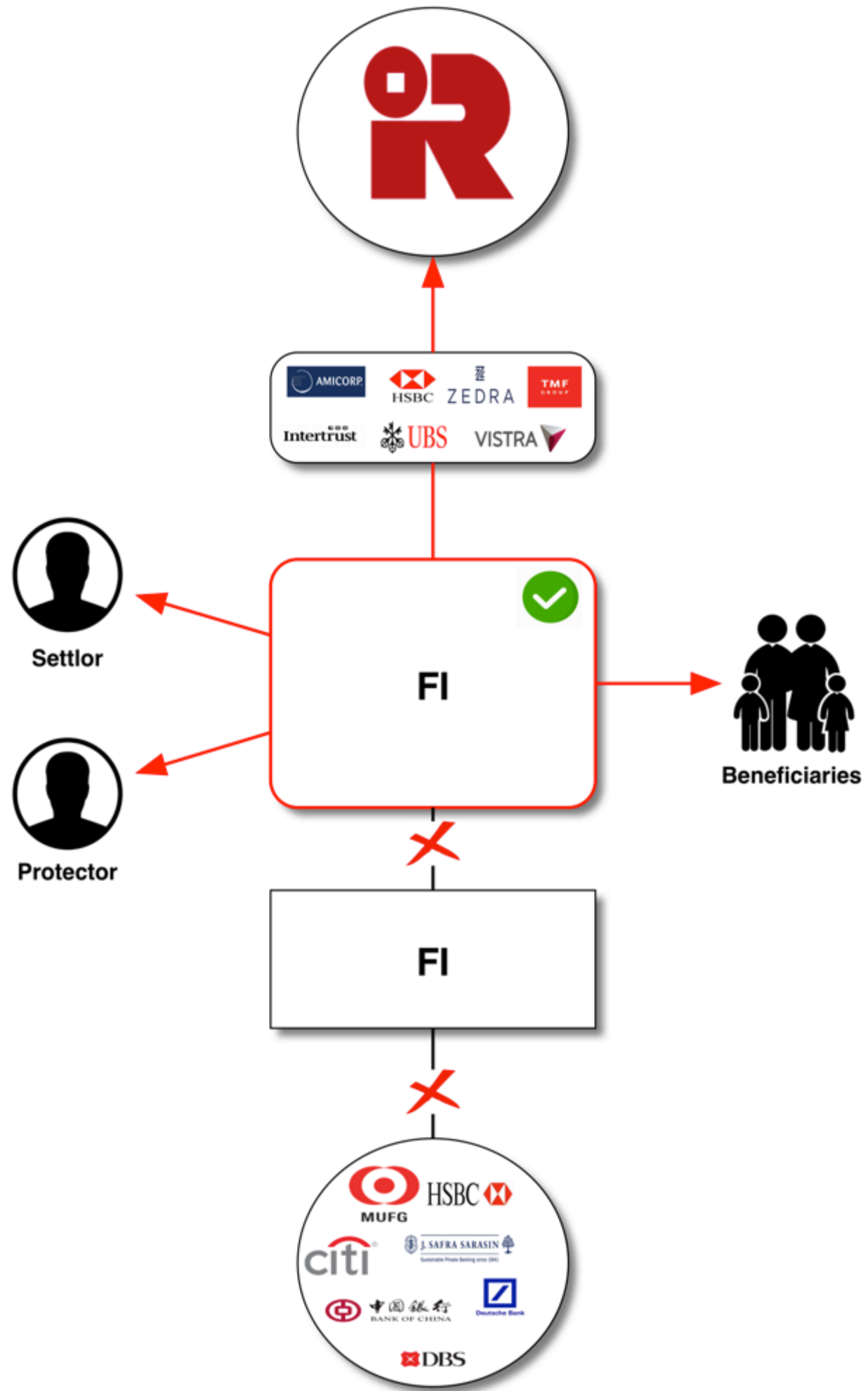
Inland Revenue (Amendment) (No. 3) Ordinance 2016

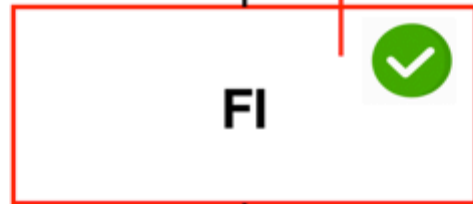
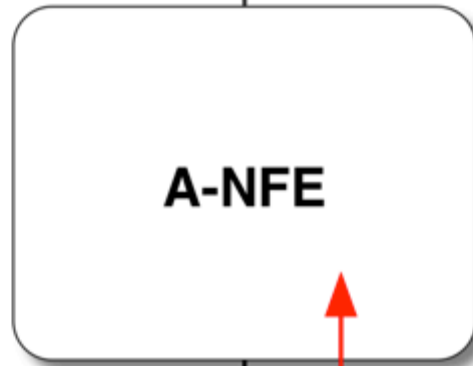
Contents

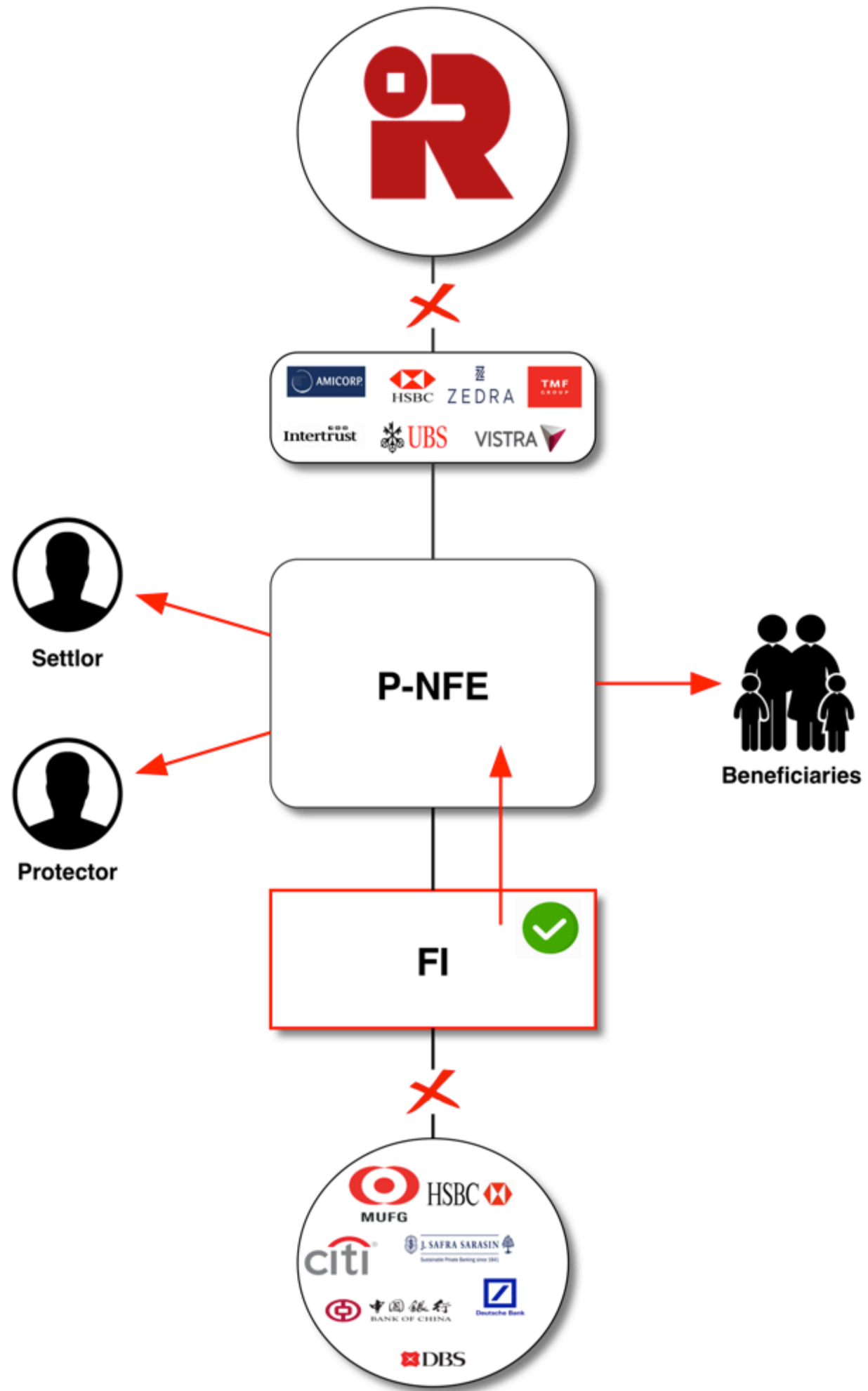
Section	Page
1. Short title	
2. Inland Revenue Ordinance	Inland Revenue (Amendment) (No. 3) Ordinance 2016
3. Section 2 amended (inter)	
4. Part 8A added	Ord. No. 22 of 2016 A2281
	<u>Section 4</u>
	Returns by Re
50A. Interpretation	
50B. Due diligenc financial instit	AML/KYC procedures (打擊洗錢暨認識客戶程序) means the customer due diligence procedures required to be carried out by a reporting financial institution pursuant to any anti-money laundering requirements or similar requirements (including requirements to know a customer) to which the reporting financial institution is subject;
50C. Obligations of to furnish retu	annuity contract (年金合約) (a) means a contract which its issuer agrees to make payments for a period of time determined, in whole or in part, by reference to the life expectancy of one or more individuals; and (b) includes a contract - (i) that is considered to be an annuity contract in accordance with the law, regulation or practice of the jurisdiction in which the contract was issued; and (ii) under which its issuer agrees to make payment for a term of years;
50D. Further oblig institutions rel	
50E. Application o obligations financial instit	
50F. Required infor	
50G. Modifications	
50H. Engagement o	

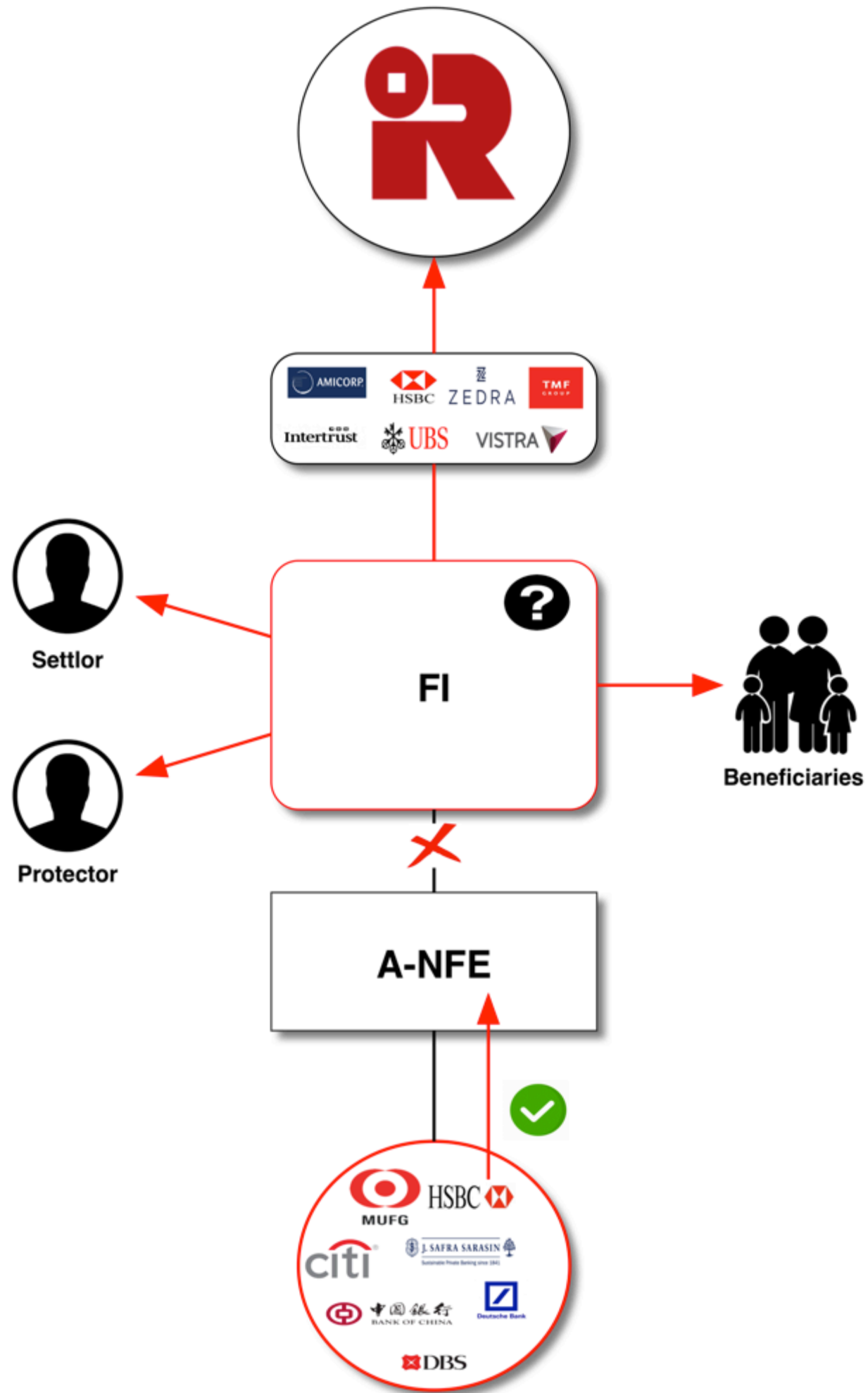
Trust Company CRS Implementation

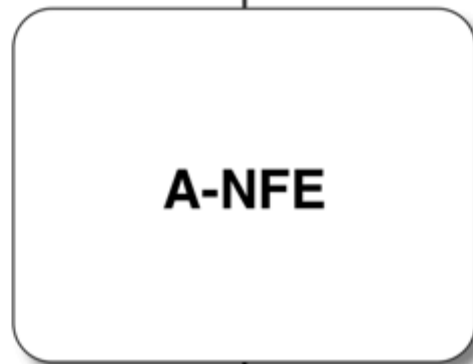


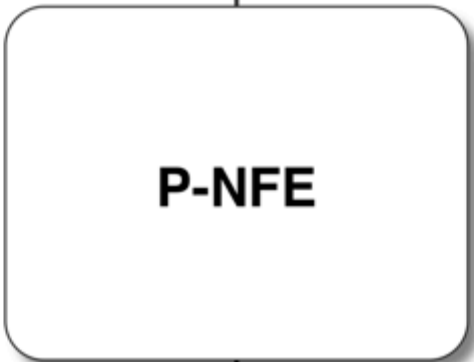


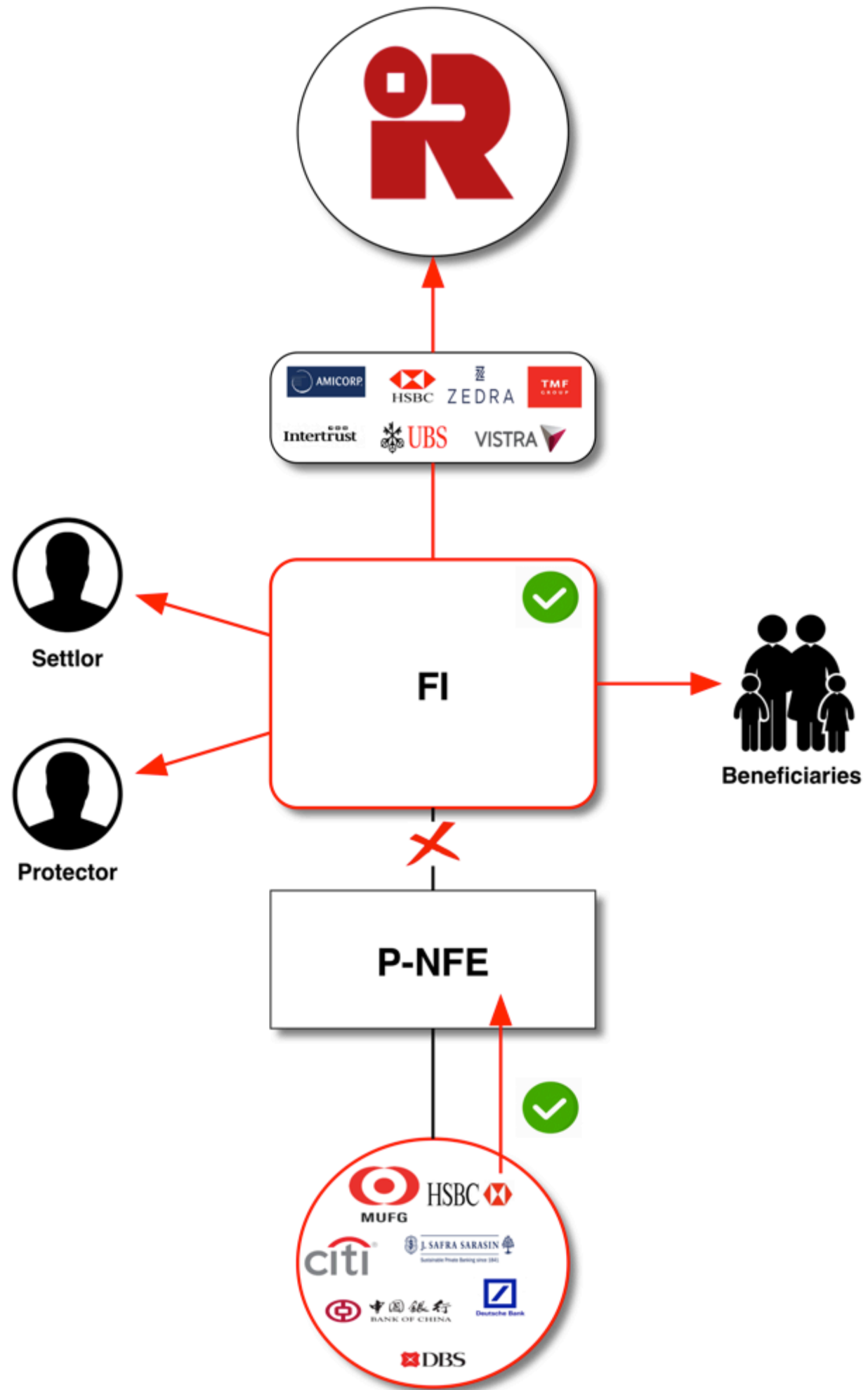


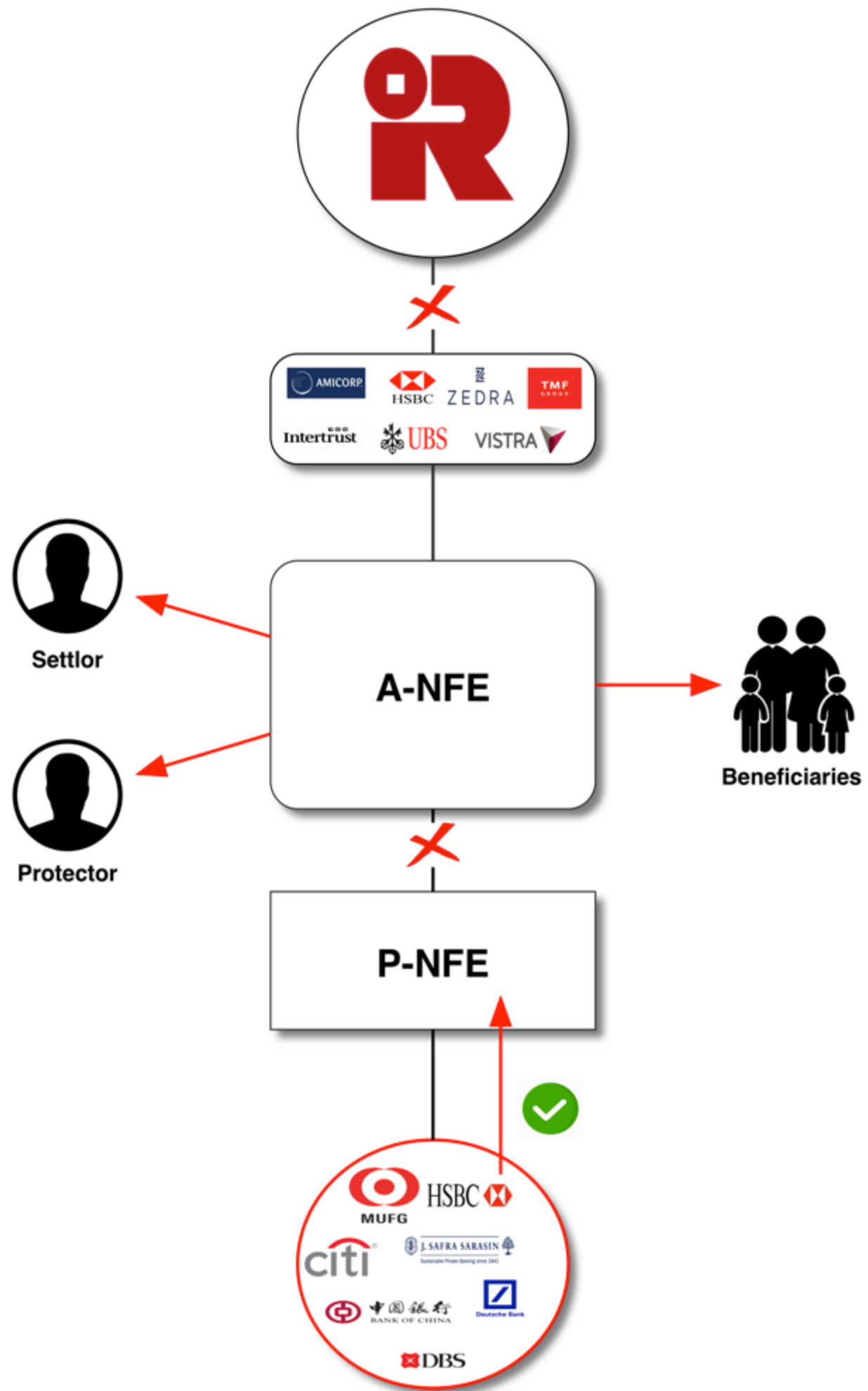


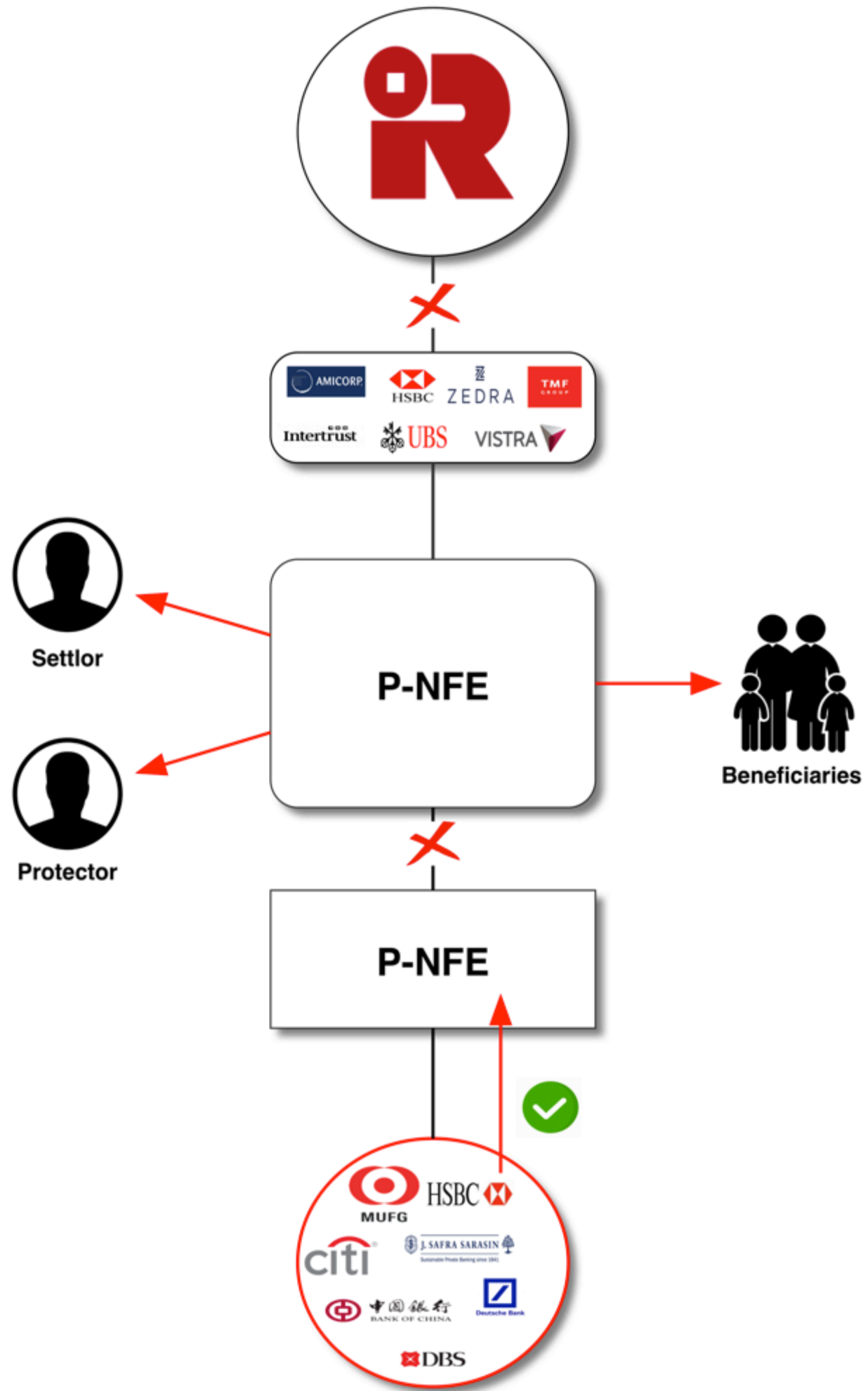












Future Developments:



RECOMMENDED FOR FULL-TEXT PUBLICATION
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 17a0186p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

MARK CRAWFORD; RAND PAUL, in his official capacity
as member of the United States Senate; ROGER
JOHNSON; DANIEL KUETTEL; STEPHEN J. KISH; DONNA-
LANE NELSON; L. MARC ZELL,

Plaintiffs-Appellants,

v.

UNITED STATES DEPARTMENT OF THE TREASURY;
UNITED STATES INTERNAL REVENUE SERVICE; UNITED
STATES FINANCIAL CRIMES ENFORCEMENT NETWORK,

Defendants-Appellees.

No. 16-3539

Appeal from the United States District Court
for the Southern District of Ohio at Dayton.
No. 3:15-cv-00250—Thomas M. Rose, District Judge.

Argued: January 24, 2017

Decided and Filed: August 18, 2017

Before: BOGGS, SILER, and MOORE, Circuit Judges.

COUNSEL

ARGUED: James Bopp, Jr., THE BOPP LAW FIRM, PC, Terre Haute, Indiana, for Appellants. Richard Caldarone, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellees. **ON BRIEF:** James Bopp, Jr., Richard E. Coleson, Courtney Turner Milbank, THE BOPP LAW FIRM, PC, Terre Haute, Indiana, for Appellants. Richard Caldarone, Gilbert S. Rothenberg, Teresa E. McLaughlin, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellees.

RECOMMENDED FOR FULL-TEXT PUBLICATION
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 17a0186p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

MARK CRAMER, in his official capacity
as member of the United States Senate; ROGER
JOHNSON; J. KISH; DONNA-
LANE NEASE, }
Appellants,

v.

UNITED STATES
UNITED STATES INTERNATIONAL
STATES FINANCIAL CENTER

SILER, and

COUNSEL

James Bopp, Jr., THE BOPP LAW FIRM, PC, Terre Haute, Indiana, for Appellants.
Richard Calderone, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for
Appellees. **BRIEF:** James Bopp, Jr., Richard E. Coleson, Courtney Turner Milbank, THE
BOPP LAW FIRM, PC, Terre Haute, Indiana, for Appellants. Richard Calderone, Gilbert S.
Rothenberg, Teresa E. McLaughlin, UNITED STATES DEPARTMENT OF JUSTICE,
Washington, D.C., for Appellees.



U.S. DEPARTMENT OF THE TREASURY

Second Report to the President on

Identifying and Reducing Tax Regulatory Burdens

Executive Order 13789

Steven T. Mnuchin
Secretary of the Treasury

October 2, 2017

Introduction

This Second Report recommends actions to eliminate, and in other cases mitigate, consistent with law, the burdens imposed on taxpayers by eight regulations that the Department of the Treasury (Treasury) has identified for review under Executive Order 13789. As stated in the order, it is the policy of the President that tax regulations provide clarity and useful guidance. Recent regulations, however, have increased tax burdens and impeded economic growth. The order therefore calls for immediate action to reduce tax regulatory burdens and provide useful and simplified tax guidance.

The order directed the Secretary of the Treasury to identify significant tax regulations issued on or after January 1, 2016, that (i) impose an undue financial burden on U.S. taxpayers, (ii) add undue complexity to the Federal tax laws, or (iii) exceed the statutory authority of the Internal Revenue Service (IRS). In an interim Report to the President dated June 22, 2017 (the "June 22 Report"), Treasury identified eight such regulations. Executive Order 13789 further directs the Secretary to submit to the President a report recommending "specific actions to mitigate the burden imposed by regulations identified in the interim report."

This Second Report sets forth the Secretary's recommendations. Treasury expects to issue additional reports on reducing tax regulatory burdens, including, as directed in the order, the status of Treasury's actions recommended in this Second Report.

Treasury Department Retrospective Regulatory Review

Treasury is committed to reducing complexity and lessening the burden of tax regulations. In response to Executive Order 13789, Treasury's Office of Tax Policy completed a comprehensive review of all tax regulations issued in 2016 and January 2017. The June 22 Report identified eight proposed, temporary, or final regulations for withdrawal, revocation, or modification. Treasury continues to analyze all recently issued significant regulations and is considering possible reforms of several recent regulations not identified in the June 22 Report. These include regulations under Section 871(m), relating to payments treated as U.S. source dividends, and the Foreign Account Tax Compliance Act.

In addition, in furtherance of the policies stated in Executive Order 13789, Executive Order 13771, and Executive Order 13777,¹ Treasury and the IRS have initiated a comprehensive review, coordinated by the Treasury Regulatory Reform Task Force, of all tax regulations, regardless of when they were issued. Thus, most of the regulations subject to this review predate January 1, 2016. This review will identify tax regulations that are unnecessary, create undue complexity, impose excessive burdens, or fail to provide clarity and useful guidance, and Treasury and the IRS will pursue reform or revocation of those regulations. Included in the review are longstanding temporary or proposed regulations that have not expired or been finalized. As part of the process coordinated by the Treasury Regulatory Reform Task Force, the IRS Office of Chief Counsel has already identified over 200 regulations for potential revocation, most of which have been outstanding for many years. These regulations remain in the Code of Federal Regulations (CFR)

1. Executive Order 13771, titled "Reducing Regulation and Controlling Regulatory Costs," manages the costs associated with the regulatory compliance by, among other things, generally requiring the identification of two regulations for repeal for every new regulation that is proposed. Executive Order 13777, titled "Enforcing the Regulatory Reform Agenda," sets forth procedures for implementing and enforcing regulatory reform.

115TH CONGRESS
1ST SESSION

S. 869

To repeal the violation of sovereign nations' laws and privacy matters.

IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 4), 2017

Mr. PAUL (for himself and Mr. WICKER) introduced the following bill; which
was read twice and referred to the Committee on Finance

A BILL

To repeal the violation of sovereign nations' laws and privacy
matters.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. REPEAL OF WITHHOLDING AND REPORTING**
4 **WITH RESPECT TO CERTAIN FOREIGN AC-**
5 **COUNTS.**

6 (a) IN GENERAL.—The Internal Revenue Code of
7 1986 is amended by striking chapter 4.

8 (b) CONFORMING AMENDMENTS FOR RULES FOR
9 ELECTRONICALLY FILED RETURNS.—Section 6011(e)(4)
10 of such Code is amended—

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27th October 2017.

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