BMO InvestorLine

Order Execution Only Account

LIMITATION ON BENEFIT TREATY STATEMENT - Non-individual Canadian Residents Only

Reset Form

▶ **Legal name of Entity (herein after referred to as**

▶ **Account number(s)**

A LIMITATION ON BENEFIT TREATY STATEMENT

“The Entity”, a resident of **Canada**, meets all provisions of the Canada-U.S. Tax Convention that are necessary to claim a reduced rate of withholding, including any limitation on benefits provisions, and derives the income within the meaning of section 894 of the Internal Revenue Service Income Tax Code, and the regulations thereunder, as the beneficial owner. In particular, “The Entity” meets the requirements of the limitation on benefits provisions in the Canada-U.S. Tax Convention on the basis that one of the following categories applies (please check only one box below):

- ☐ Company or trust that meets "the ownership and base erosion" test (including Small Private Companies and Holding Companies)
- ☐ Estate Resident in Canada (not including a testamentary trust)
- ☐ Government
- ☐ Publicly traded corporation and trusts
- ☐ Subsidiary of publicly traded corporation and trusts
- ☐ Tax exempt pension fund
- ☐ Other tax-exempt organization
- ☐ Company that meets the derivative benefits test
- ☐ Active business
- ☐ Favorable discretionary determination received
- ☐ No limitation on benefit (LOB) article in Treaty (not applicable to Canada)
- ☐ Other (please add provision under which you qualify):

Authorized Officer name (please print) | Authorized Officer signature | Date (YY/MM/DD)

B EXPLANATION OF THE LIMITATION ON BENEFIT TREATY STATEMENT

This explanation is meant to assist certain clients in obtaining only a general understanding of their requirements under the new withholding tax rules. It is not intended to be, nor should it be construed to be, legal or tax advice to any client, prospective or otherwise. Clients are encouraged to consult their own tax or legal advisors for further clarification, if required.

In order to receive reduced treaty rates of withholding tax on U.S. investment income, clients must certify that they are eligible for treaty benefits and must specify the limitation on benefits (“LOB”) provisions under the Canada-U.S. Tax Convention (`Treaty`) on which the client is relying. Failure to certify the treaty statement and the LOB statement would result in the application of non-treaty rate withholding.

The reference to section 894 of the Code and the regulations thereunder refers to the Internal Revenue Service Income Tax Code and the related Income Tax Regulations. The LOB article, found in Section XXIX-A of the Treaty, defines who can benefit from treaty rates. Certification of the statement indicates that the recipient of U.S. source income meets the definition of a “qualifying person” as set forth in Article XXIX-A of the Treaty. Treaty benefits may still be available to clients that are not “qualifying persons”, if that person satisfies other tests stipulated in the Treaty.

B EXPLANATION OF THE LIMITATION ON BENEFIT TREATY STATEMENT CONT.

Listed below are explanations of the LOB categories under the Treaty. Entities can benefit from reduced withholding rates once they certify the treaty and LOB statements. Please note that there are various tests which must be met by each entity in order to be classified as a “qualified person”. The categories applicable to the Treaty are:

1. **Company or trust that meets "the ownership and base erosion" test** – This test generally requires that more than 50% of either the votes and value of the company, or the interests in the trust, be owned, directly or indirectly, by qualifying persons who are individuals, governments, tax-exempt entities, publicly-traded companies, or trusts resident in the same country as the company or trust or the U.S., and less than 50% of the company or trust`s gross income is accrued or paid, directly or indirectly, to persons other than such qualifying persons.

2. **Estate Resident in Canada** – An estate resident in Canada is entitled to treaty benefits, (not including a testamentary trust).

3. **Government** – This test is generally met if the entity is the Contracting State (e.g. Government of Canada), political subdivision, or local authority.

4. **Publicly traded corporation and trusts** – This test generally requires the corporation`s principal class of shares to be primarily and regularly traded on a recognized stock exchange in its country of residence or the US. Under the Canada-U.S. Treaty, this test also captures a trust of which the principal class of units are primarily and regularly traded on a recognized stock exchange.

5. **Subsidiary of publicly traded corporation and trusts** – This test generally requires that more than 50% of the votes and value of the company`s shares be owned, directly or indirectly, by five or fewer companies that are publicly-traded corporations (described in item 4 above), as long as each company in the chain of ownership is a qualifying person. Under the Canada-US Treaty, more than 50% of the beneficial interest in a trust must also be owned, directly or indirectly, by qualifying persons and each company or trust in the chain of ownership must be a qualifying person resident in Canada or the U.S.

6. **Tax exempt pension fund** – This test generally requires that more than half the beneficiaries or participants in the trust or fund be residents of the country of residence of the trust or fund itself or the U.S.

7. **Other tax-exempt organization** – This test generally requires that more than half the beneficiaries, members, or participants of religious, charitable, scientific, artistic, cultural, or educational organizations be residents of the country of residence of the organization or the U.S. Under the Canada-U.S. Treaty, this test requires that more than half of the beneficiaries, members, or participants of not-for-profit organizations (including private foundations, charities, trade unions, trade associations or similar organizations) be qualifying persons resident in Canada or the U.S.

8. **Company that meets the derivative benefits test** – Under Canada-US Treaty, this test generally requires that more than 90% of the aggregate votes and value of the company’s shares be owned, directly or indirectly, by qualifying persons or persons who are entitled to identical benefits under their country’s own Treaty with the U.S. In addition, this test generally requires that less than 50% of the company`s gross income be paid or accrued, directly or indirectly, to persons other than qualifying persons.

9. **Active business** – This test generally requires that (a) the person be engaged in an active trade or business (other than the business of making or managing investments, unless such activities are carried on by a bank, insurance company or securities dealer) in its country of residence, (b) the company’s activities in that country be substantial in relation to its U.S. activities, and (c) any US source income be derived in connection to or incidental to that trade or business.

10. **Favourable discretionary determination received** – The test requires that the company obtain a favorable determination granting benefits from the U.S. competent authority that, despite the company`s failure to meet a specific objective Limitation on Benefits test in the applicable treaty, it may nonetheless claim the requested benefits. Note: Unless a treaty or technical explanation specifically provides otherwise, you may not claim discretionary benefits while your claim for discretionary benefits is pending.

11. **No limitation on benefit (LOB) article in Treaty (not applicable to Canada)** – This generally requires that the entity is a resident in a foreign country that has entered into a Treaty with the U.S. that does not contain a Limitation on Benefits article

12. **Other** – Any other provision under Article XXIX-A of the Treaty