GAIN | CAPITAL

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TREATY STATEMENT – SUMMARY DEFINITIONS

These are selected summaries of defined terms provided to assist you with the completion of the Treaty Statement form.

For further information, please see the IRS website, the IRS Notice 2016-76 https://www.irs.gov/pub/irs-drop/n-16-76.pdf or contact your tax advisor.

Term	**Definition summary**
Beneficial owner	Beneficial owner generally refers to a person (an individual or an entity) who is required to include the income in gross income on a tax return. A person is not a beneficial owner of income, however, to the extent that person is receiving the income as a nominee, agent, or custodian.
Persons	The term "persons" (for tax purposes) encompasses either individuals or legal entities. It does not matter if the owner of the company is an individual or a legal entity, as long as they satisfy one of the tests to qualify for treaty benefits.
Applicable tax treaty	Applicable tax treaty generally refers to the income tax treaty in place between the United States and the client's country of tax residency.
Section 894	Section 894 of the U.S. Tax Code provides that foreign persons are not entitled to any reduced U.S. withholding tax rate under any U.S. income tax treaty on income derived through an entity that is treated as a partnership (or otherwise as fiscally transparent), if: (1) the income is not treated, for purposes of the tax laws in the foreign country, as income of the person; (2) the treaty contains no provision relating to the applicability of the treaty to income derived through a partnership, and (3) the foreign country imposes no tax on the distribution of the income from the entity to the person.
Resident of <country>	The name of the country in which the entity is resident for income tax treaty purposes
Limitation on benefits	Limitation on benefits generally refers to certain provisions within income tax treaties which limit the available benefits under such treaties to those who meet certain conditions, including those related to business, residency and investment commitments of the entity seeking such treaty benefit. For further definitions and background information relating to limitation of benefits, please see Instructions for Form W-8BEN-E https://www.irs.gov/pub/irs-pdf/iw8bene.pdf
Item(s) of income	US source "dividend equivalent" income
Tax exempt	Generally refers to an entity that is exempt from tax (e.g. religious, charitable, educational organization) in its own country of tax residency. Such entities would be eligible for treaty benefits (e.g. reduced US dividend withholding tax) on US sourced dividends.
Treaty Benefits	Generally refers to reduced withholding tax rates (e.g. on dividends, interest, royalties) that are available under income tax treaties between the US and the client's country of tax residence. For example, without treaty benefits, US sourced dividends would be subject to a 30% US withholding tax; however, a UK tax resident (i.e. a beneficial owner)

	receiving a US sourced dividend would be entitled to a reduced 15% dividend withholding tax.
Qualified persons	Qualified persons generally refers to a resident of a contracting state who is entitled to the benefits of the tax treaty otherwise accorded to residents of a contracting state.
Government	This test is met if the entity is the Contracting State, political subdivision, or local authority
Tax-exempt pension trust or 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.
Other tax-exempt organisation	This test generally requires that more than half the beneficiaries, members, or participants of religious, charitable, scientific, artistic, cultural, or educational organisations be residents of the country of residence of the organization.
Publicly-traded corporation	This test generally requires the corporation's principal class of shares to be primarily and regularly traded on a recognised stock exchange in its country of residence, while other treaties may permit trading in either the U.S. or the treaty country, or in certain third countries if the primary place of management is the country of residence.
Subsidiary of publicly-traded corporation	This test generally requires that more than 50% of the vote and value of the company's shares be owned, directly or indirectly, by five or fewer companies that are publicly-traded corporations and that themselves meet the publicly-traded corporation test, as long as all companies in the chain of ownership are resident in either the U.S. or the same country of residence as the subsidiary.
Company that meets the ownership and base erosion test	This test generally requires that more than 50% of the vote and value of the company's shares be owned, directly or indirectly, by individuals, governments, tax-exempt entities, and publicly-traded corporations resident in the same country as the company, as long as all companies in the chain of ownership are resident in the same country of residence, and less than 50% of the company's gross income is accrued or paid, directly or indirectly, to persons who would not be good shareholders for purposes of the ownership test.
Company that meets the derivative benefits test	This test is generally limited to NAFTA, EU, and EEA country treaties, and may apply to all benefits or only to certain items of income (interest, dividends, and royalties). It generally requires that more than 95% of the aggregate vote and value of the company's shares be owned, directly or indirectly, by seven or fewer equivalent beneficiaries (ultimate owners who are resident in an EU, EEA, or NAFTA country and are entitled to identical benefits under their own treaty with the U.S. under one of the ownership tests included within the LOB article (other than the stock ownership and base erosion test)). In addition, this test requires that less than 50% of the company's gross income be paid or accrued, directly or indirectly, to persons who would not be equivalent beneficiaries. For example, if the company is a UK corporation that does not meet the ownership and base erosion test, but is directly or indirectly owned by another UK entity that is entitled to treaty benefits (e.g. under the ownership/base erosion test, or is a publicly listed company

	in the UK), then the company would also be entitled to 'derivative' treaty benefits.
Contracting State	In this context, the term Contracting State generally refers to the country that has entered into an income tax treaty with the United States.
Resident of a contracting state	In this context, a legal entity (e.g. a company) which files corporate income tax returns and pays corporate income taxes in the country where it operates, and where such country has an income tax treaty with the United States in effect, is a "resident of a contracting state".
Company with an item of income that meets the active trade or business test	This test generally requires that the company be engaged in an active trade or business in its country of residence, that its activities in that country be substantial in relation to its U.S. activities, if the payer is a related party, and the income be derived in connection to or incidental to that trade or business.
Favorable discretionary determination received	This 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 LOB 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.
Other	For other LOB tests that are not listed above (e.g., a headquarters test), identify the other test relied upon, or enter N/A if the treaty has no LOB article. For example, if you meet the headquarters test under the US-Netherlands income tax treaty, you should write "Headquarters test, Article 26(5)" in the space provided.
U.S. equities	US equity refers to equity issued by any company incorporated under the laws of the United States, regardless of exchange where the equity may be listed. For example, a US incorporated company listed in the Australian stock exchange would be considered a US equity, while a Brazilian incorporated entity listed in a US stock exchange would not be considered a US equity.