

## Form W-8BEN-E: Part III

**Please note, in order to avoid a rejection of a form W-8, the Beneficial Owner name provided must reconcile with the Account Holder name and, consequently, the GIIN (if provided as a financial institution). If there is an alternative, the Account Holder will need to explain the status for our verification in order to ensure proper reporting.**

DMA recognizes that completing the part with Limitation of Benefits (LOB) Provisions is quite challenging and has therefore constructed this guideline. The guideline though doesn't change the fact that the specification of LOB provisions are required from the entities.

Please notice that DMA can't give advice on exactly which Articles that is relevant for an entity. This guideline should not be considered as actual advisement.

## Completing LOB provisions

The relevant Double Taxation Agreement (DTA) between US and the country of residence of the entity must be investigated and the applicable articles must be specified in the W-8BEN-E in order to get relief at source on US sourced dividends and interests. This requires that the entity investigate the following in the relevant DTA:

- 1) If there is a LOB Provision Article?
- 2) If the entity is covered by one of the categories outlined in the LOB Article?
- 3) If not, specify what other Articles then apply?

**Ad 1)** a LOB Provision Article means an article that specifies special rules for special types of companies, organizations and/or funds.

**Ad 2)** Check the box that applies

**Ad 3)** Check the box "other" and complete the line with the relevant dividend and/or interest article(s) from the DTA, e.g. Article xx (x) and Article xx.x (cf. US/South Africa DTA) \*EXAMPLE ONLY\*.

If an entity is not covered by any of the definitions in the LOB Article (if any) in the DTA the "general" Dividend Article and/or the Interest Article is often to be used for reducing source tax in US.

**THE US TAX TREATIES CAN BE FOUND USING THIS LINK:**

<https://www.irs.gov/businesses/international-businesses/united-states-income-tax-treaties-a-to-z>

Example of completed LOB part

**Part III Claim of Tax Treaty Benefits (if applicable). (For chapter 3 purposes only.)**

**14** I certify that (check all that apply):

**a**  The beneficial owner is a resident of South Africa within the meaning of the income tax treaty between the United States and that country.

**b**  The beneficial owner derives the item (or items) of income for which the treaty benefits are claimed, and, if applicable, meets the requirements of the treaty provision dealing with limitation on benefits. The following are types of limitation on benefits provisions that may be included in an applicable tax treaty (check only one; see instructions):

<input type="checkbox"/> Government	<input type="checkbox"/> Company that meets the ownership and base erosion test
<input type="checkbox"/> Tax exempt pension trust or pension fund	<input type="checkbox"/> Company that meets the derivative benefits test
<input type="checkbox"/> Other tax exempt organization	<input type="checkbox"/> Company with an item of income that meets active trade or business test
<input type="checkbox"/> Publicly traded corporation	<input type="checkbox"/> Favorable discretionary determination by the U.S. competent authority received
<input type="checkbox"/> Subsidiary of a publicly traded corporation	<input checked="" type="checkbox"/> Other (specify Article and paragraph): <u>Article XX.X (X) and Article XX.X(X)</u>

**c**  The beneficial owner is claiming treaty benefits for U.S. source dividends received from a foreign corporation or interest from a U.S. trade or business of a foreign corporation and meets qualified resident status (see instructions).

**15** **Special rates and conditions** (if applicable—see instructions):  
 The beneficial owner is claiming the provisions of Article and paragraph \_\_\_\_\_  
 of the treaty identified on line 14a above to claim a \_\_\_\_\_ % rate of withholding on (specify type of income): \_\_\_\_\_  
 Explain the additional conditions in the Article the beneficial owner meets to be eligible for the rate of withholding: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*\*Line 15 must only be used if you are claiming treaty benefits that require you to meet conditions not covered by the representations you make in line 14 (or other certifications on the form).*

**Purpose of Claim of Tax Treaty Benefits**

The specification of the LOB Provisions was included in the W-8BEN-E due to a revision of the form. The LOB Provisions are mandatory and must be completed. It is a part of the Claim of Tax Treaty Benefits that DMA clients can obtain if they are resident in a country with an income tax treaty (double taxation agreement/DTA) with US and receives US sourced interest or dividend income. Generally a 30% withholding tax is imposed on certain US source income paid to foreign persons. This withholding tax may though be reduced or eliminated pursuant to tax treaty benefit provisions (including LOB Provisions) of a DTA between the US and the foreign person’s country of residence. At this point we are only able to facilitate a reduction to 15%. Any further claims must be submitted to the IRS directly by the client. By completing Part III in the Form W-8BEN-E, a foreign entity certifies that it is the beneficial owner of that income and satisfies the relevant treaty benefit provisions of the country specific treaty. **If necessary, independent tax or legal advice must be sought. This guideline MUST be read in consultation with the W-8BEN-E instructions provided by the IRS. Please see the following link for IRS Forms and Publications which may be searched: [IRS Forms & Publications](#)**