Instructions for the Requester of Forms W–8BEN, W–8BEN–E, W–8ECI, W–8EXP, and W–8IMY

(Rev. April 2018)

Department of the Treasury
Internal Revenue Service

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to the Forms W-8 and their instructions for requesters, such as legislation enacted after they were published, go to *IRS.gov/UAC/About-Form-W8*.

What's New

On January 6, 2017, the Treasury Department and the IRS finalized certain regulations under chapter 3 (TD 9808) and chapter 4 (TD 9809) and published temporary regulations under chapters 3 and 4 to supplement certain provisions of those final regulations. Among other things, the final and temporary regulations under chapters 3 and 4 modified certain requirements with respect to the collection of Forms W-8, the contents of the forms, their validity periods, and the due diligence requirements of withholding agents. Forms W-8 (and their instructions) were updated in June and July 2017, generally to reflect the amendments to the regulations under chapters 3 and 4.

On January 24, 2017, the Treasury Department and the IRS finalized certain regulations under sections 871(m) and 1441 (TD 9815) and published temporary regulations under section 871(m) to supplement certain provisions of those final regulations. Among other things, the final and temporary regulations under sections 871(m) and 1441 modified the rules for withholding and reporting certain payments made to qualified derivative dealers (QDDs). The Treasury Department and the IRS also issued *Notice 2017-42*, 2017-34 I.R.B. 212, which announced certain intended amendments to the regulations, such as delaying until 2019 withholding under chapters 3 and 4 on dividends paid to a QDD in its equity derivatives dealer capacity.

The transition rules related to the Qualified Securities Lender (QSL) regime described in *Notice 2010-46*, 2010-24 I.R.B. 757, have been extended to include payments made in calendar years 2018 and 2019. See *Notice 2018-05*, 2018-6 I.R.B. 341. Therefore, withholding agents may accept and rely on a valid Form W-8IMY on which an entity represents its chapter 3 status as a QSL until December 31, 2019.

In addition, on September 25, 2017, the Treasury Department and the IRS released *Notice 2017-46*, 2017-41 I.R.B. 275, providing revised guidance for certain withholding agents to obtain and report taxpayer identification numbers and dates of birth of their account holders and on March 5, 2018, the Treasury Department and the IRS issued supplemental guideline in *Notice 2018-20*, 2018-12 I.R.B. 444. See *Foreign TINs* and *Notes for Validating Form W-8BEN-E*, later, for the revised requirements for certain withholding agents to obtain on Form W-8 an account holder's foreign TIN and, for an individual, date of birth.

Purpose of Instructions

These instructions supplement the instructions for the forms listed below and provide notes to assist withholding agents and foreign financial institutions (FFIs) in validating the forms for chapters 3 and 4 purposes. These instructions also outline the due diligence requirements applicable to withholding agents for establishing a beneficial owner's foreign status and claim for reduced withholding under an income tax treaty. These instructions are not inclusive of all requirements that may apply to a withholding agent for validating Forms W-8. A withholding agent should also reference the applicable regulations under chapters 3 and 4 and the instructions for each Form W-8 listed below.

- Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals).
- Form W-BEN-E, Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities).
- Form W-8ECI, Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States.
- Form W-8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding and Reporting.
- Form W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding and Reporting.

For definitions of terms not defined in these instructions, see the Forms W-8 and their accompanying instructions.

TIP *Throughout these instructions, a reference to or mention of "Form W-8" includes Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and W-8IMY.*

These instructions reflect the regulatory changes described earlier that are relevant to Forms W-8 and certain other changes reflected on the most current revisions to the Form W-8 series published as of the date of publication of these instructions. Thus, different rules may apply to withholding agents with respect to prior revisions of Forms W-8 for which these regulatory changes did not yet apply, and different requirements may apply to future revisions of these forms. See *Requesting Prior Versions of Form W-8*, later, including the limitations on such use.

Who Is a Withholding Agent?

Any person, U.S. or foreign, in whatever capacity acting, that has control, receipt, custody, disposal, or payment of an amount subject to withholding for chapter 3 purposes or a withholdable payment for chapter 4 purposes is a withholding agent. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity, including (but not limited to) any foreign intermediary, foreign partnership, or U.S. branch of certain foreign banks and insurance companies. If several persons qualify as withholding agents for a single payment, the tax required to be withheld must only be withheld once. Generally, the person who pays (or causes to be paid) an amount subject to withholding under chapter 3 or a withholdable payment to the foreign person (or to its agent) must withhold. See the Instructions for Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, and Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, for return filing and information reporting obligations with respect to payments made to foreign persons.

For effectively connected taxable income (ECTI) allocable to a foreign partner, the partnership is generally the withholding agent and must file Form 8804, Annual Return for Partnership Withholding Tax (Section 1446); Form 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax; and Form 8813, Partnership Withholding Tax Payment Voucher (Section 1446).

Responsibilities of a Withholding Agent To Obtain Form W-8

Chapter 3 Responsibilities (Other Than Section 1446)

Generally, an amount is subject to withholding for purposes of chapter 3 if it is an amount from sources within the United States that is fixed or determinable annual or periodical (FDAP) income. FDAP income is all income included in gross income, including interest (and original issue discount (OID)), dividends, rents, royalties, and compensation. FDAP income does not include most gains from the sale of property (including market discount and option premiums) or items of income excluded from gross income without regard to the U.S. or foreign status of the owner of the income, such as interest under section 103(a). Amounts subject to chapter 3 withholding do not include amounts that are not FDAP as well as other specific items of income described in Regulations section 1.1441-2 (such as interest on bank deposits and short term OID).

For purposes of sections 1441 and 1442, if you are a withholding agent, you must withhold 30% of any payment of an amount subject to chapter 3 withholding made to a payee that is a foreign person unless you can reliably associate the payment with documentation (for example, Form W-8 or Form W-9, Request for Taxpayer Identification Number and Certification) upon which you can rely to treat the payment as made to (a) a payee that is a U.S. person or (b) a beneficial owner that is a foreign person entitled to a reduced rate of, or exemption from, withholding. In certain circumstances, however, you may be allowed to associate a payment with documentary evidence rather than a Form W-8 for a payment made outside the United States with respect to an offshore obligation under Regulations section 1.6049-5(c)(1). A withholding agent must also withhold under section 1443 on certain payments to foreign tax-exempt organizations that are unrelated business taxable income or subject to the 4% excise tax imposed by section 4948.

However, a withholding agent making a payment to a foreign person need not withhold under chapter 3 if the foreign person assumes responsibility for withholding on the payment as a qualified intermediary (QI) (other than a QI that is acting as a QDD for payments with respect to underlying securities that are subject to withholding), or if the foreign person is a withholding foreign partnership (WP), or a withholding foreign trust (WT) that has provided a valid Form W-8IMY certifying to such status. For 2017 and 2018, however, a withholding agent is not required to withhold on dividends paid to a QI acting as a QDD. Withholding under chapter 3 is also not required if the payment is made to a U.S. branch of a foreign insurance company or foreign bank or a territory financial institution that agrees to be treated as a U.S. person under the requirements of Regulations section 1.1441-1(b)(2)(iv)(A) and provides a valid Form W-8IMY certifying to such status.

Chapter 4 Responsibilities

For purposes of chapter 4, if you are a withholding agent, you must withhold 30% of any payment that is a withholdable payment (as defined in Regulations section 1.1473-1(a)) made to a nonparticipating FFI that is not an exempt beneficial owner or to a non-financial foreign entity (NFFE) that is not an excepted NFFE and does not disclose its substantial U.S. owners (or certify that it has no substantial U.S. owners). In addition, if you are a withholding agent and also a participating FFI, you must withhold to the extent required under Regulations section 1.1471-4(b) and the FFI agreement, which, in addition to the requirements described in the previous sentence, require withholding on withholdable payments made to recalcitrant account holders.

You must determine if a payment is a withholdable payment without regard to any exceptions from withholding applicable under chapter 3. For each such withholdable payment, you must obtain a Form W-8 (or other documentation permitted under Regulations section

1.1471-3(d)) upon which you are permitted to rely under chapter 4 to determine the chapter 4 status of a payee that is a foreign person for purposes of whether withholding applies under chapter 4. Thus, a determination of whether a Form W-8 is valid for purposes of providing an exemption from chapter 4 withholding is a separate determination from whether the Form W-8 may be relied upon to provide an exemption from (or reduction in) withholding under chapter 3. For purposes of determining whether withholding under chapter 4 applies to a payment to a QI, WP, or WT, the exceptions in chapter 3 for QIs, WPs, and WTs will apply, provided the entity includes its chapter 4 status on Form W-8IMY. See also *Notes for Validating Form W-8IMY* under *Form W-8IMY*, later, for the requirements for withholdable payments made to certain U.S. branches that act as intermediaries.

Section 1446 Responsibilities

Generally, under section 1446, a partnership that allocates ECTI to a foreign partner must withhold at the highest tax rate applicable to that person for the type of income allocated (for example, ordinary income or capital gains) in accordance with the provisions of Regulations sections 1.1446-1 through 1.1446-6. Unless the partnership is a publicly traded partnership, the partnership must withhold in the year the ECTI is allocable to the foreign partner, rather than the year in which the distribution is made. The partnership may rely on documentation (for example, Form W-8 or Form W-9) to determine if the partner is foreign or domestic and the type of partner (for example, individual or corporate) and whether the partner qualifies for certain tax preferential rates (for example, capital gains and collectibles). The documentation must contain a U.S. TIN for the partner. Generally, a foreign person that is a partner in a partnership that submits a Form W-8 for purposes of section 1441 or 1442 will satisfy the documentation requirements under section 1446. However, a partnership that knows or has reason to know that the documentation provided is incorrect or unreliable must presume the partner is foreign. Additionally, a partnership may rely on other means to determine the non-foreign status of a partner, but will only be protected from liability (including penalties) if such determination is correct. A partnership is in no event required to rely on other means to determine the non-foreign status of a partner and may demand that the partner provide an acceptable certificate (for example, a Form W-8BEN).

Other Uses of Form W-8

Chapter 61 and section 3406. The Form W-8 you collect may also be used to establish a person's status for purposes of domestic information reporting under chapter 61 and backup withholding under section 3406, including for a payment settlement entity to determine whether a participating payee is a foreign person for purposes of section 6050W. In general, if you receive a Form W-8 that you can reliably associate with the payment, you are exempt from reporting the payment on a Form 1099 and withholding under section 3406.

FFI documenting account holders. If you are an FFI maintaining a financial account, you may be required to perform due diligence procedures to identify and document the account holder under the chapter 4 regulations or an applicable intergovernmental agreement (IGA) even if you are not making a payment to the account holder that is subject to withholding. You may use Form W-8 to document the chapter 4 status of an account holder and to validate a claim of foreign status made by the account holder, such as when the account has certain U.S. indicia. For example, a participating FFI may treat an individual account holder claiming foreign status that has U.S. indicia (as described in Regulations section 1.1471-4(c)(5)(iv)(B)) as a foreign person for purposes of the FFI's U.S. account reporting requirements (that is, Form 8966) when the individual provides a Form W-8BEN and certain documentary evidence establishing foreign status.

If you are an FFI documenting an account holder of an account that you determine is excepted as a financial account under Regulations section 1.1471-5(b)(2), a Form W-8 (or other permitted documentation for chapter 4 purposes) is not required unless the form is associated with amounts subject to withholding under chapter 3. In such a case, a valid chapter 4 status (including that the account is not a financial account) is not required to be provided on the form.

Requesting Form W-8

Generally, if you are making a payment of an amount subject to chapter 3 withholding or a withholdable payment, you must withhold as required at the 30% rate under chapter 3 or 4 unless you can reliably associate the payment with a Form W-8 or other permitted documentation to permit withholding at a reduced rate or an exemption from withholding. You can reliably associate a payment with a Form W-8 if you hold a valid form that contains the information required for purposes of chapter 3 or 4 (as applicable), you can reliably determine how much of the payment relates to the form, and you may rely upon the form under the due diligence requirements. See *Due Diligence Requirements in General*, later.

You should request a Form W-8 from any person to whom you are making a payment that you believe to be a foreign person. You should request the form before making a payment so that you have the form when you make the payment. See, however, Regulations sections 1.1441-1(b)(7)(ii) and 1.1471-3(c)(7)(ii) for when you may be able to rely on a Form W-8 obtained after the date of a payment to support reduced withholding for chapter 3 or 4 purposes.

A withholding agent or payor that fails to obtain a valid Form W-8 or Form W-9 and fails to withhold as required under the presumption rules may be assessed tax at the 30% rate under chapter 3 or 4 or the 28% backup withholding rate under section 3406, as well as interest and penalties for lack of compliance. If you are a partnership allocating income that is effectively connected with the conduct of the partnership's U.S. trade or business and you fail to withhold as required under section 1446, you will be liable for the tax required to be

withheld. In addition, you may be liable for interest, penalties, and additions to the tax even if there is no underlying tax liability due from a foreign partner on its allocable share of the partnership's ECTI.

If you are a withholding agent making a payment of an amount subject to chapter 3 withholding or a withholdable payment and you make the payment to an intermediary, you must obtain documentation from such intermediary (including the intermediary's chapter 4 status if the payment is a withholdable payment), as well as any required documentation for the beneficial owner(s) of the payment to the extent required under the chapter 3 or 4 regulations.

Do not send Forms W-8 to the IRS. Instead, keep the forms in your records for as long as they may be relevant to the determination of your liability under section 1461 (for amounts subject to chapter 3 withholding), section 1474 (for withholdable payments), or Regulations section 1.1471-4(c)(2)(iv) (for an FFI documenting account holders).

Form W-8 provided or signed electronically. You may rely on a valid Form W-8 received by facsimile or scanned and furnished to you by email unless you know that the person transmitting the Form W-8 is not authorized to do so.

You may also rely on an otherwise valid Form W-8 received electronically from a third-party repository if the form was uploaded or provided to the third-party repository and there are processes in place to ensure that the withholding certificate can be reliably associated with a specific request from you and a specific authorization from the person providing the form (or an agent of the person providing the form) for you to receive the withholding certificate. You may also rely on a withholding statement received from a third-party repository if the intermediary provides a Form W-8IMY and withholding statement through the repository, provides an updated withholding statement to you in the event of any change in the information previously provided, and ensures there are processes in place to update you when there is a new withholding statement (and Forms W-8, as necessary) in the event of any change that would affect the validity of the prior forms or withholding statement. For purposes of this paragraph, a third party repository is an entity that maintains withholding certificates but is not an agent of the applicable withholding agent or the person providing the certificate. See Regulations section 1.1441-1(e)(4)(iv)(E) for the complete requirements for relying on a withholding certificate from a third-party repository.

If you are a withholding agent that maintains a system for furnishing Forms W-8 electronically, you must satisfy the requirements of Regulations section 1.1441-1(e)(4)(iv)(B). You may otherwise accept a Form W-8 with an electronic signature if the Form W-8 reasonably demonstrates that the form has been electronically signed by a person authorized to do so (for example, with a time and date stamp and statement that the form has been electronically signed). You may not treat a Form W-8 with a typed name in the signature line as validly signed without further information supporting that the signature is an electronic signature.

Requesting Prior Versions of Form W-8

If the IRS issues an updated version of a Form W-8, you may accept the prior version of the form until the later of six full months after the revision date shown on the form or the end of the calendar year the updated form is issued (based on the revision date shown on the form), unless the IRS has issued guidance that affects the period for acceptance of the prior version (for example, if a new payee status is required under revised regulations that is not in the prior version and is relevant to the payee's claim). You were allowed to accept a Form W-8BEN with a revision date of February 2014 until December 31, 2017.

Due Diligence Requirements in General

When you receive a completed Form W-8, you must review it for completeness and accuracy with respect to the claims made on the form, as well as any information attached to the form, such as withholding statements and beneficial owner withholding certificates associated with a Form W-8IMY. In general, you may rely on the information and certifications provided on the form unless you have actual knowledge or reason to know that the information is unreliable or incorrect. If you know or have reason to know that any information is unreliable or incorrect, you must obtain a new Form W-8 or other appropriate documentation. You may accept a valid Form W-8 for chapter 3 or 61 purposes (or for backup withholding purposes) that does not contain a valid chapter 4 status with respect to payments that are not withholdable payments.

Reason to know. In general, you have reason to know that a Form W-8 is unreliable or incorrect if:

- The form is incomplete with respect to any item that is relevant to the claims made;
- The form contains any information that is inconsistent with the claims made;
- The form lacks information necessary to establish that the beneficial owner is entitled to a reduced rate of withholding; or
- You have other account information that is inconsistent with the claims made, or you have knowledge of relevant facts or statements contained in the withholding certificate or other documentation that would cause a reasonably prudent person in your position to question the claims made. For example, if you have information in your records that contradicts information provided on the form, you may not rely on the form.

With respect to a claim for benefits under an income tax treaty, your reason to know requirement that the treaty claim is unreliable or incorrect includes when the beneficial owner claims benefits under a treaty that does not exist or is not in force. For this purpose, you may use the list maintained at *IRS.gov/businesses/international-businesses/united-states-income-tax-treaties-a-to-z* to check whether a treaty exists and is in force.

If you are a financial institution (as defined in Regulations section 1.1471-5(e)), insurance company, or broker or dealer in securities maintaining an account for a direct account holder that is the beneficial owner of the

payment, and you make a payment of U.S. source FDAP income to the direct account holder, you have reason to know that a Form W-8 that is a beneficial owner withholding certificate (excluding Form W-8ECI) is unreliable or incorrect for establishing foreign status (or residency in a treaty country in item 4, directly below) only if one or more of the following circumstances exist. See also Regulations section 1.441-7(b)(3)(ii) for special rules that apply to preexisting obligations (as defined for such purpose).

1. You have classified the account holder claiming foreign status as a U.S. person in your account information, the Form W-8 has a current permanent residence address or a current mailing address in the United States, you have a current residence or current mailing address in the United States as part of the account information, the direct account holder notifies you of a new residence or mailing address in the United States, or, only to the extent described in Regulations section 1.1441-7(b)(5), you have a U.S. telephone number as the sole telephone number for the account holder. However:

a. An individual who has provided a Form W-8BEN may be treated as a foreign person if:

i. You have in your possession or obtain documentary evidence establishing foreign status (as described in Regulations section 1.1471-3(c)(5)(i)) that does not contain a U.S. address, and the individual provides you with a reasonable explanation, in writing, supporting his or her claim of foreign status;

ii. For a payment made outside the U.S. with respect to an offshore obligation (as defined in Regulations section 1.6049-5(c)(1)), you have in your possession or obtain documentary evidence establishing foreign status (as described in Regulations section 1.1471-3(c)(5)(i)) that does not contain a U.S. address;

iii. For a payment made with respect to an offshore obligation (as defined in Regulations section 1.6049-5(c)(1)), you classify the individual as a resident of the country where the obligation is maintained, you are required to report payments made to the individual annually on a tax information statement that is filed with the tax authority of the country in which the obligation is maintained, and that country has an income tax treaty or information exchange agreement in effect with the United States; or

iv. For a case in which you have classified the account holder as a U.S. person in your account information, you have in your possession or obtain documentary evidence (as described in Regulations section 1.1471-3(c)(5)(i)(B)) evidencing citizenship in a country other than the United States.

b. You may treat an entity that has provided you with a Form W-8BEN-E as a foreign person if you do not know or have reason to know that the entity is a flow-through entity and:

i. You have in your possession or obtain documentation establishing foreign status that substantiates that the entity is actually organized or created under the laws of a foreign country; or

ii. For a payment made with respect to an offshore obligation (as defined in Regulations section 1.6049-5(c)(1)), you classify the entity as a resident of the country in which the account is maintained, you are required to report a payment made to the entity annually on a tax information statement that is filed with the tax authority of the country in which the obligation is maintained, and that country has an income tax treaty or tax information exchange agreement in effect with the United States.

2. The form is provided with respect to an offshore obligation (as defined in Regulations section 1.6049-5(c)(1)) and the direct account holder has provided standing instructions directing you to pay amounts from its account to an address in, or an account maintained in, the United States, unless the account holder provides either a reasonable explanation in writing that supports its foreign status or documentary evidence establishing its foreign status (as described in Regulations section 1.1471-3(c)(5)(i)).

3. The Form W-8BEN is provided by an individual that is a direct account holder and is used to establish foreign status and you have, either on accompanying documentation or as part of your account information, an unambiguous indication of a place of birth for the individual in the United States, unless you have in your possession or obtain documentary evidence (described in Regulations section 1.1471-3(c)(5)(i)(B)) evidencing citizenship in a country other than the United States and either:

a. A copy of the individual's Certificate of Loss of Nationality of the United States, or

b. A reasonable written explanation of the account holder's renunciation of U.S. citizenship or the reason the account holder did not obtain U.S. citizenship at birth.

4. The Form W-8 is provided by a direct account holder and is used to establish residence in a treaty country and:

a. The permanent residence address on the form is not in the treaty country or the direct account holder notifies you of a new permanent residence address that is not in the treaty country, unless the direct account holder provides a reasonable explanation for the permanent residence address outside the treaty country or you have in your possession, or obtain, documentary evidence (described in Regulations section 1.1471-3(c)(5)(i)) that establishes residency in the treaty country.

b. The permanent residence address is in the treaty country, but the mailing address on the form is not in the treaty country or you have a current mailing address that is not in the treaty country as part of your account information for the direct account holder, unless:

i. You have in your possession, or obtain, documentary evidence (as described in Regulations section 1.1471-3(c)(5)(i)) supporting the claim of residence in the treaty country and the additional documentation does not contain an address outside the treaty country;

ii. You have in your possession, or obtain, documentation that establishes that the direct account holder is an entity organized in a treaty country (or an entity managed and controlled in a treaty country, if required by the applicable treaty);

iii. You know that the address outside the treaty country (other than a P.O. box or in-care-of address) is a branch of the direct account holder that is a resident of the treaty country; or

iv. The direct account holder provides a written statement that reasonably establishes entitlement to treaty benefits.

c. The direct account holder has standing instructions for you to pay amounts from the account to an address or account outside the treaty country unless the account holder provides a reasonable explanation, in writing, establishing the account holder's residence in the applicable treaty country or you have in your possession or obtain documentary evidence (described in Regulations section 1.1471-3(c)(5)(i)) establishing the account holder's residence in the applicable treaty country.

Where required, a reasonable explanation supporting an individual's claim of foreign status means a written statement prepared by the individual, or, in the alternative, a checklist provided by you and completed by the individual stating that the individual meets one of the requirements listed in Regulations section 1.1441-7(b)(12)(i) through (iv).

Hold mail instruction. An address that is provided subject to an instruction to hold all mail to that address is not a permanent residence address, such that you may not rely upon the Form W-8. However, the address can be used as a permanent residence address if the person has provided you with the documentary evidence that is permitted under Regulations section 1.1441-1(c)(38)(ii). If, after a Form W-8 is provided, a person's permanent residence address is subsequently subject to a hold mail instruction, this is a change in circumstances requiring the person to provide the documentary evidence described in the preceding sentence in order to use the address as a permanent residence address.

For additional information on the standards of knowledge for chapter 3 purposes for relying on a claim of foreign status or a claim of residency in a treaty country, see Regulations section 1.1441-7(b). For additional information on the standards of knowledge for Forms W-8 provided for chapter 4 purposes, see Regulations section 1.1471-3(e).

Dual claims under a tax treaty. If you are making payments to a foreign entity that is simultaneously claiming a reduced rate of tax under a tax treaty on its own behalf and a separate treaty claim on behalf of its interest holders for different payments or for different portions of the same payment, you may accept the dual claims even though you hold different withholding certificates that require you to treat the entity inconsistently. Alternatively, you may choose to apply only the claim made by the entity, provided that the entity may be treated as the beneficial owner of the income. If, however, inconsistent claims are made for the same portion of a payment, you may either reject both claims and request consistent claims for that portion of the payment, or you may choose which reduction in rate to apply.

Requirements for Obtaining and Verifying a Global Intermediary Identification Number (GIIN)

If you receive a Form W-8BEN-E, W-8IMY, or W-8EXP from an entity payee claiming certain chapter 4 statuses, you must obtain and verify the entity's GIIN against the published IRS FFI list. See Regulations section 1.1471-3(e)(3). You must obtain and verify the GIIN for the following chapter 4 statuses.

- Participating FFIs (including reporting Model 2 FFIs),
- Registered deemed-compliant FFIs (including reporting Model 1 FFIs),
- Direct reporting NFFEs,
- Sponsored direct reporting NFFEs, and
- Certain nonreporting IGA FFIs (as described below).

If you receive a Form W-8BEN-E or Form W-8IMY from a nonreporting IGA FFI that is a trustee-documented trust that indicates its trustee is foreign, you must obtain a GIIN of the trustee on the form.

If you receive a Form W-8 from a nonreporting IGA FFI that checks Model 2 IGA in Part XII of Form W-8BEN-E, Part XIX of Form W-8IMY, or Part III, line 15 of Form W-8EXP (as applicable), and identifies a category of entity that is a registered deemed-compliant FFI under Annex II of an applicable Model 2 IGA, you must obtain and verify the GIIN of the nonreporting IGA FFI against the published IRS FFI list. Additionally, if you receive a Form W-8BEN-E or Form W-8IMY from a nonreporting IGA FFI that provides a citation to a section of the Regulations for its registered deemed-compliant status in Part XII of Form W-8BEN-E or Part XIX of Form W-8IMY (as applicable) or the FFI identifies itself as a registered deemed-complaint FFI in Part I, line 4, of Form W-8EXP, you must obtain and verify the GIIN of the nonreporting IGA FFI against the published IRS FFI list. See Regulations sections 1.1471-1(b)(83) for the definition of nonreporting IGA FFI and 1.1471-3(d)(7)(i) for the documentation requirements for nonreporting IGA FFIs.

For an entity claiming status as a certified deemed-compliant FFI that is a sponsored, closely held investment vehicle described in Regulations section 1.1471-5(f)(2)(iii) on a Form W-8BEN-E or Form W-8IMY, you must obtain the GIIN for the sponsoring entity and verify it against the published IRS FFI list. For an entity claiming status as a sponsored investment entity or controlled foreign corporation described in Regulations section 1.1471-5(f)(1)(i)(F), you must obtain and verify the GIIN of the sponsored investment entity or controlled foreign corporation against the published IRS FFI list, not the GIIN of the sponsoring entity.

If you receive a Form W-8BEN-E, Form W-8IMY, or Form W-8EXP from an entity payee that is claiming chapter 4 status as a participating FFI (including a reporting Model 2 FFI), registered deemed-compliant FFI (including a reporting Model 1 FFI and a sponsored FFI described in the Treasury regulations under section 1471), direct reporting NFFE, sponsored direct reporting NFFE, or nonreporting IGA FFI required to provide a GIIN (as described earlier) that contains "Applied for" in the box for the GIIN, the payee must provide its GIIN within 90 days of providing the form. A Form W-8 from such a

payee that does not include a GIIN, or includes a GIIN that does not appear on the published IRS FFI list, will be invalid for purposes of chapter 4 beginning on the date that is 90 days after the date the form is provided. See Regulations section 1.1471-3(e)(3)(iii) and (iv).

You may only accept a Form W-8BEN-E or Form W-8IMY with Part II completed if the entity shown in Part II is an FFI that is a branch of the entity identified in Part II, line 1, and the branch is receiving a withholdable payment, or if the entity shown in Part II is a disregarded entity that is identified in Part I, line 3, as receiving the payment. If you receive a Form W-8BEN-E or Form W-8IMY from a branch (other than a U.S. branch) or disregarded entity described in the preceding sentence that is receiving a payment associated with the form, you must verify the GIIN of the branch (unless the branch is treated as a nonparticipating FFI) or disregarded entity that is provided in Part II against the published IRS FFI list and not that of the entity identified in Part I, line 1. In such a case, you may accept the form without a GIIN on line 9a (for Form W-8BEN-E) or line 9 (for Form W-8IMY). If you receive a Form W-8BEN-E from a U.S. branch, the branch may provide the GIIN of any other branch of the FFI (including the GIIN for the FFI's residence country). A U.S. branch providing a Form W-8IMY is not required to provide a GIIN.

Presumption Rules

If you do not receive a valid Form W-8 or Form W-9 that you may rely upon under the due diligence requirements, or cannot otherwise determine whether a payment should be treated as made to a U.S. or foreign person, you must apply the presumption rules provided in the Regulations under sections 1441, 1446, 1471, 6045, and 6049. If the presumption rules are applied to treat a person as a foreign person, the 30% withholding rate applies and cannot be reduced (for example, no treaty rate). You may not rely on the presumption rules if you have actual knowledge that a higher withholding rate is applicable. If you determine that you are making a withholdable payment to an entity and cannot reliably associate the payment with a Form W-8 or other permitted documentation that is valid for chapter 4 purposes, you are required to treat the entity payee as a nonparticipating FFI.

When To Request a New Form W-8

Request a new Form W-8:

- Before the expiration of the validity period of an existing Form W-8 (when applicable);
- If the existing form does not support a claim of reduced rate or is incomplete with respect to any claim made on the form (such as may result, for example, from a new regulatory requirement relevant to the Form W-8); or
- If you know or have reason to know of a change in circumstances that makes any information on the current form unreliable or incorrect for purposes of chapter 3 or 4 (to the extent applicable) based on the claims made on the form.

Example. A foreign individual investor opens an account with a broker to purchase U.S. Treasury bonds and provides Form W-8BEN to obtain the portfolio interest exemption. The investor does not complete Part II of Form W-8BEN because he or she is not claiming treaty benefits. Later, the investor purchases U.S. stock and claims treaty benefits on dividend income. The withholding agent must obtain a new Form W-8BEN at that time that provides the information required in Part II to be able to withhold based on the treaty claim and not at the 30% withholding tax rate.

Changes in circumstances for chapter 4 purposes. For chapter 4 purposes, a change in circumstances generally occurs when there is a change in a person's chapter 4 status. You must treat a Form W-8 as invalid when you know or have reason to know of a change in circumstances that affects the correctness of the form. However, you may continue to treat an FFI as having the same chapter 4 status that it had prior to the change in circumstances until the earlier of 90 days from the date of the change or the date that new documentation is obtained.

You are not considered to have reason to know of a change in circumstances if an FFI's chapter 4 status changes solely because the jurisdiction where the FFI is resident, organized, or located is treated as having an IGA in effect or if the jurisdiction had a Model 2 IGA in effect and is later treated as having a Model 1 IGA in effect. If such change in circumstances occurs, the FFI may provide you with oral or written confirmation (including by email) of its new chapter 4 status rather than providing a new Form W-8, and you must retain a record of this confirmation.

If an FFI is resident, organized, or located in a jurisdiction that is treated as having an IGA in effect, and the jurisdiction's status on the Treasury Department's IGA list (located at *www.treasury.gov/resource-center/tax-policy/treaties/pages/FATCA.aspx*) is later updated to indicate that it is no longer treated as having an IGA in effect, you will have reason to know of a change in circumstances with respect to the FFI's chapter 4 status on the date that the jurisdiction ceases to be treated as having an IGA in effect. See *Announcement 2016–27*, 2016-33 I.R.B. 238. If such change in circumstances occurs, the FFI may provide you with oral or written confirmation (including by email) of its new chapter 4 status rather than providing a new Form W-8, and you must retain a record of this confirmation.

Period of Validity

Generally, a Form W-8 is valid from the date signed until the last day of the third succeeding calendar year unless a change in circumstances occurs that makes any information on the form incorrect. For example, a Form W-8BEN signed on September 30, 2018, generally remains valid through December 31, 2021. However, under certain conditions a Form W-8 will be valid indefinitely unless there has been a change in circumstances. For example, a Form W-8BEN and documentary evidence supporting an individual's claim of foreign status (other than the portion of the form making a claim for treaty benefits) are indefinitely valid if the form and documentary evidence are provided within 30 days of each other. A Form W-8BEN-E and documentary evidence supporting an entity's claim of foreign status (other than the portion of the form making a claim for

treaty benefits) that are received by a withholding agent before the validity period of either the form or the documentary evidence would otherwise expire are indefinitely valid. A Form W-8IMY is valid indefinitely as described in this paragraph, but see *Notes for Validating Form W-8IMY*, later, for the validity period for a Form W-8IMY provided by a QDD. For further information on the period of validity for a Form W-8 for chapter 3 purposes, see Regulations section 1.1441-1(e)(4)(ii), and for chapter 4 purposes, see Regulations section 1.1471-3(c)(6)(ii).

Forms Received That Are Not Dated or That Contain Inconsequential Errors or Omissions

If a Form W-8 is valid except that the person providing the form has not dated the form, you may date the form from the day you receive it and measure the validity period from that date. Generally, you may treat a withholding certificate as valid if it contains an error or omission that is inconsequential and you have sufficient documentation on file to supplement the missing information. However, a failure to establish an entity type or make a required certification is not inconsequential. For example, if an entity receiving a withholdable payment selects a certified deemed-compliant FFI status on line 5 of Form W-8BEN-E but does not complete the corresponding required certifications in Part V, the form is invalid for chapter 4 purposes. On the other hand, if you receive a Form W-8 for which the person signing the form does not also print a name before the signature when required on the form, you are not required to treat the form as incomplete if you have documentation or information supporting the identity of the person signing the form. An abbreviation of a country of residence on Form W-8BEN is an inconsequential error if it is an ambiguous abbreviation. For further information about withholding certificates that contain inconsequential errors, see Regulations sections 1.1441-1(b)(7)(iv) for chapter 3 purposes and 1.1471-3(c)(7)(i) for chapter 4 purposes.

Foreign TINs

If you are a U.S. office or branch of a depository institution, custodial institution, investment entity, or specified insurance company (each as defined in Regulations section 1.1471-5(e)) documenting an account holder (as defined in Regulations section 1.1471-5(a)(3)) of an account that is a financial account (as defined in Regulations section 1.1471-5(b)) you must obtain the account holder's TIN for its jurisdiction of tax residence (foreign TIN) on a Form W-8 that is a beneficial owner withholding certificate in order for the form to be valid for a payment of U.S. source income reportable on Form 1042-S (as determined before the application of this requirement), unless:

- The account holder is resident of a jurisdiction that is not listed in section 3 of *Revenue Procedure 2017-46*, 2017-43 I.R.B. 372, which may be further updated in future published guidance;
- The account holder is resident in a jurisdiction that has been identified by the IRS on a list of jurisdictions for which witholding agents are not required to obtain foreign TINs;
- The account holder is a government, international organization, foreign central bank of issue, or resident of a U.S. territory; or
- You obtain a reasonable explanation for why the account holder has not been issued a foreign TIN.

A reasonable explanation that an account holder does not have a foreign TIN must address why the account holder was not issued a foreign TIN only to the extent provided in the instructions for the applicable Form W-8. If an account holder provides an explanation other than the one described in the instructions for the applicable Form W-8, you must determine whether the explanation is reasonable. You may accept an explanation that is written in the line on the form for a foreign TIN, in the margins of the form, or on a separate attached statement associated with the form. If the account holder writes the explanation on the line for foreign TINs or in the margins of the form, the account holder may shorten it to "not legally required".

See *Notice 2017-46* for transitional rules for withholding agents to obtain foreign TINs for accounts documented with otherwise valid Forms W-8 that were signed before January 1, 2018. See also *Notice 2017-46* for the standards of knowledge (including when there is a change in circumstances) with respect to the foreign TIN requirement. See *Notice 2018-20* for additional information on the IRS list of jurisdictions for which withholding agents are not required to obtain foreign TINs.

Alternative Certifications Under an Applicable IGA

If you are an FFI subject to a Model 1 or Model 2 IGA using Form W-8BEN-E or Form W-8IMY to document account holders pursuant to the due diligence requirements of Annex I of an applicable IGA, you may request alternative certifications from your account holders in accordance with the requirements of, and definitions applicable to, the IGA instead of the certifications on Form W-8BEN-E or W-8IMY. You should provide those certifications to account holders from whom you request a Form W-8BEN-E or W-8IMY, and the account holder should attach the completed certification to the Form W-8BEN-E or W-8IMY in lieu of completing a certification otherwise required. In such a case, you must provide a written statement to the account holder stating that you have provided the alternative certification to meet your due diligence requirements under an applicable IGA and you must associate the certification with the Form W-8BEN-E or W-8IMY.

If you are a withholding agent (including an FFI), you may also request and rely upon an alternative certification from an entity account holder to establish that the account holder is a NFFE (rather than a financial institution) under an applicable IGA. An entity providing such a certification will still be required, however, to provide its chapter 4 status (that is, the type of NFFE) in Part I, line 5, as determined under the regulations if you are a withholding agent other than an FFI documenting an account holder under Annex 1 of an applicable IGA. For example, if you are a U.S. withholding agent that receives a Form W-8BEN-E or W-8IMY from an entity account holder certifying to its status as a passive NFFE, you may request a written certification that the entity is not a

financial institution as defined under the IGA applicable to the entity and document it under the regulations by obtaining the NFFE's certification of its chapter 4 status in Part I, line 5. In the case of an FFI documenting an account holder under Annex 1 of an applicable IGA however, a nonprofit organization treated as an active NFFE under the Annex may provide an FFI with an alternative certification that it is an NFFE that qualifies as a nonprofit organization under an applicable IGA. In such a case, the nonprofit organization will not be required to check a box in Part I, line 5, and the FFI may treat the entity as an excepted NFFE.

If you receive an alternative certification under an applicable IGA described in the preceding paragraphs, you may rely on such certification unless you know or have reason to know the certification is incorrect.

Rules for Specific Types of Forms W–8

Form W–8BEN

You should request Form W-8BEN from any foreign individual for the purposes described previously in these instructions (that is, if you are making a payment subject to chapter 3 withholding or a withholdable payment; if you are a partnership documenting a partner for purposes of section 1446; if a payee claims foreign status for purposes of domestic information reporting and backup withholding; or if you are an FFI using this form to document an account for purposes of chapter 4).

Notes for Validating Form W-8BEN

Line 6 (Foreign TIN). If you do not obtain a foreign TIN (or a reasonable explanation for why the account holder has not been issued a foreign TIN) on line 6 (or on a separate statement) when required (see *Foreign TINs*, earlier), you must treat the form as invalid for payments of U.S. source income reportable on Form 1042-S (as determined before the application of this requirement).

Line 8 (Date of birth). If you are a U.S. office or branch of a depository institution, custodial institution, investment entity, or specified insurance company (each as defined in Regulations section 1.1471-5(e)) documenting an individual account holder (as defined in Regulations section 1.1471-5(a)(3)) of an account that is a financial account (as defined in Regulations section 1.1471-5(b)), you must obtain the individual account holder's date of birth on the Form W-8BEN in order for the form to not be invalid for a payment of U.S. source income reportable on Form 1042-S (as determined before the application of this requirement). If the individual's date of birth is not provided on the Form W-8BEN, the form is not invalid if you otherwise have the date of birth in your account files for the account holder or you obtain the date of birth on a written statement (including a written statement transmitted by email) from the account holder and associate the written statement with the Form W-8BEN. See *Notice 2017-46* for transitional rules for withholding agents to obtain dates of birth for accounts documented with otherwise valid Forms W-8 that were signed before January 1, 2018.

Line 10 (Special rates and conditions). If the beneficial owner is required to explain the additional conditions in the treaty that it meets to be eligible for the rate of withholding on line 10, you may accept a brief explanation for this purpose. You may accept a treaty claim without this explanation under an interest or dividends (other than dividends subject to a preferential rate based on ownership) article of a treaty or other income article, unless such article requires additional representations.

Form W–8BEN–E

You should request Form W-8BEN-E from any foreign entity for the purposes described previously in these instructions for Form W-8BEN or if the payee is to establish that certain income from notional principal contracts is not effectively connected with the conduct of a U.S. trade or business (for reporting on Form 1042-S). See Regulations section 1.1441-4.

Notes for Validating Form W-8BEN-E

Part I, Line 4 (Chapter 3 status). If you receive a Form W-8BEN-E from an entity that indicates in Part I, line 4, that it is a disregarded entity, partnership, simple trust, or grantor trust, and the entity has checked "No" in Part I, line 4 (regarding the entity's claim of treaty benefits), you should not accept the Form W-8BEN-E if the form is used with respect to reportable amounts or withholdable payments. In such a case, you should request the entity complete a Form W-8IMY if the entity is a partnership, simple trust, or grantor trust, or have the owner of a disregarded entity complete the appropriate Form W-8. If you are an FFI documenting an entity account holder solely for chapter 4 purposes (that is, you are not required to document the payee for purposes of withholding or domestic information reporting), the entity does not need to provide a chapter 3 status on line 4 of the form.

Part I, Line 9b (Foreign TIN). If you do not obtain a foreign TIN (or a reasonable explanation for why the account holder has not been issued a foreign TIN) on line 9b (or on a separate statement) when required (see *Foreign TINs*, earlier), you must treat the form as invalid for payments of U.S. source income reportable on Form 1042-S (as determined before the application of this requirement).

Part II (Disregarded Entity or Branch Receiving Payment). If you are making payments to multiple branches/disregarded entities that would be completing Part II, and the Part I information for each branch/disregarded entity is the same, instead of obtaining separate Forms W-8BEN-E with respect to each branch/disregarded entity, you may accept a single Form W-8BEN-E with a separate schedule attached that includes all of the information required by Part II for each branch/disregarded entity and you are able to allocate each payment to each branch/disregarded entity associated with the form. See *Requirements for Obtaining and Verifying a Global Intermediary Identification Number (GIIN)*, earlier, for when a GIIN is required when Part II is completed.

Part III (Claim of Tax Treaty Benefits), Line 14(b). For a Form W-8BEN-E obtained on or after January 1, 2017,

an entity claiming a reduced rate of withholding under an income tax treaty that contains a limitation on benefits article must identify the limitation on benefits provision that it satisfies by checking one of the boxes in line 14(b). In general, the entity is only required to check one box, even if it satisfies more than one provision. If the applicable treaty has no limitation on benefits article, the entity must check the box for "Other" and enter "N/A" in the line provided. You may rely on the entity's claim in line 14(b) unless you have actual knowledge that the claim is incorrect.

Part III, Line 15 (Special rates and conditions). If the beneficial owner is required to explain the additional conditions in the treaty that it meets to be eligible for the rate of withholding on line 15, you may accept a brief explanation. You may accept a treaty claim without this explanation under an interest or dividends (other than dividends subject to a preferential rate based on ownership) article of a treaty or other income article, unless such article requires additional representations.

Part IX, Line 24 (Owner-documented FFI). You may accept this certificate and treat an entity as an owner-documented FFI only if you are a designated withholding agent under the chapter 4 regulations. Also, an owner-documented FFI that is a nonreporting IGA FFI must check "owner-documented FFI" (and not "nonreporting IGA FFI") in line 5 and complete Part X. You may accept a Form W-8BEN-E from an entity claiming status as an owner-documented FFI that does not check box 24d in Part X regardless of whether you know that the entity is a trust that has one or more contingent beneficiaries.

Form W–8ECI

You should request Form W-8ECI from any foreign person or organization to which you are making a payment if it is the beneficial owner of the income (or an entity engaged in a U.S. trade or business submitting the form on behalf of its owners, partners, or beneficiaries) and claims that the income is effectively connected with the conduct of a trade or business in the United States. However, if you are a partnership, you should request a Form W-8BEN or W-8BEN-E (as applicable) from a foreign partner that is allocated income that is effectively connected with the conduct of the partnership's trade or business in the United States. Nevertheless, a foreign partner that has made an election under section 871(d) or section 882(d) must provide that election to the partnership along with a Form W-8ECI.

If you receive a Form W-8ECI without a U.S. TIN entered on line 7, you may not treat the income as effectively connected with a U.S. trade or business and you must apply the appropriate presumption rules. If you receive a Form W-8ECI without a foreign TIN (or a reasonable explanation for why the account holder has not been issued a foreign TIN) on line 8 (or on a separate statement) when required (see *Foreign TINs*, earlier), you must treat the form as invalid for payments of U.S. source income reportable on Form 1042-S (as determined before the application of this requirement).

Your receipt of Form W-8ECI serves as a representation by the payee or beneficial owner that the items of income identified on line 11 are effectively connected with the conduct of a trade or business within the United States. Therefore, if a beneficial owner provides you with a Form W-8ECI, you may treat all of the U.S. source income identified on line 11 paid to that beneficial owner as effectively connected with the conduct of a trade or business within the United States and not as a withholdable payment for purposes of chapter 4. Accordingly, a chapter 4 status is not required for a payee who provides a valid Form W-8ECI unless you are an FFI requesting a Form W-8ECI from an account holder for purposes of your chapter 4 due diligence requirements.

If you pay items of income that are not identified on line 11 by the beneficial owner as effectively connected with the conduct of a trade or business within the United States, generally you are required to obtain another type of Form W-8 from the beneficial owner.

Generally, you may not treat an amount as income effectively connected with the conduct of a trade or business within the United States unless the beneficial owner gives you a valid Form W-8ECI. However, there are exceptions (described below) for income paid on notional principal contracts and payments made to certain U.S. branches.

Notional principal contracts reportable on Form 1042-S. Withholding at a 30% rate is not required on amounts paid under the terms of a notional principal contract whether or not a Form W-8ECI is provided (except when a payment made under such contract is U.S. source income, such as a dividend equivalent amount under section 871(m)). However, if the income is effectively connected with the conduct of a U.S. trade or business, it is reportable by you on Form 1042-S (regardless of whether the payment is U.S. source income). You must treat income as effectively connected with the conduct of a U.S. trade or business, even if a Form W-8ECI has not been received, if the income is paid to a qualified business unit of a foreign person located in the United States or if the income is paid to a qualified business unit of a foreign person located outside the United States and you know, or have reason to know, that the payment is income effectively connected with the conduct of a U.S. trade or business. However, a payment is not treated as income effectively connected with the conduct of a U.S. trade or business if the payee provides a Form W-8BEN-E representing that the payment is not income effectively connected with a U.S. trade or business or makes a representation in a master agreement that governs the transactions in notional principal contracts between the parties (for example, an International Swaps and Derivatives Association agreement), or in the confirmation on the particular notional principal contract transaction, that the payee is a U.S. person or a non-U.S. branch of a foreign person.

Payments to certain U.S. branches treated as effectively connected income. If you make a payment to a U.S. branch of a foreign bank or insurance company that does not provide a withholding certificate but has provided an EIN, the payment is presumed to be effectively connected with the conduct of a trade or business within the United States even if the foreign person (or its U.S. branch) does not give you a Form W-8ECI. If you do not

obtain a Form W-8ECI or the U.S. branch's EIN, the income paid cannot be treated as income effectively connected with a U.S. trade or business.

Form W–8EXP

You should request Form W-8EXP from any foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession to which you are making a payment of an amount subject to chapter 3 withholding if such person is claiming an exemption from withholding under sections 1441, 1442, and 1443 pursuant to section 115(2), 501(c), 892, or 895, or claiming a rate of withholding under section 1443(b). Except as provided below, you should request Form W-8EXP from a person claiming an exemption from withholding under chapter 4 as an exempt beneficial owner or tax-exempt organization under section 501(c) or that is claiming any other chapter 4 status shown on the form when also claiming a chapter 3 status described in the preceding sentence. In certain cases, a GIIN may be required based on the chapter 4 status claimed on the form. See the *Requirements for Obtaining and Verifying a Global Intermediary Identification Number (GIINs)*, earlier.

If you are an FFI documenting an account holder that is a tax-exempt organization or exempt beneficial owner (each as defined for chapter 4 purposes) to which you do not pay amounts subject to withholding under chapter 3, you may require that the account holder complete Form W-8BEN-E (rather than Form W-8EXP) to establish its status for chapter 4 purposes.

A Form W-8EXP submitted by a foreign person that is a partner in a partnership for purposes of withholding under sections 1441 through 1443 will also establish that partner's foreign status for purposes of section 1446. However, except as provided in Regulations section 1.1446-3(c)(3) (regarding certain tax-exempt organizations described in section 501(c)), the submission of Form W-8EXP will have no effect on whether the partner is subject to withholding under section 1446.

You may treat a payee as an international organization without requiring a Form W-8EXP if the payee is designated as an international organization by an executive order (pursuant to 22 U.S.C. 288 through 288(f)) and other facts surrounding the payment reasonably indicate that the beneficial owner of the payment is an international organization. With regard to amounts derived from bankers' acceptances for chapter 3 purposes, you may treat a payee as a foreign central bank of issue without requiring a Form W-8EXP if the name of the payee and other facts surrounding the payment reasonably indicate that the beneficial owner of the payment is a foreign central bank of issue.

A U.S. TIN is required if the beneficial owner is claiming an exemption or reduced rate of withholding based solely on a claim of tax-exempt status under section 501(c) or private foundation status. However, a U.S. TIN is not required from a foreign private foundation that is subject to the 4% excise tax on gross investment income (under section 4948(a)) that would be exempt from withholding except for section 4948(a) (for example, portfolio interest).

If you receive a Form W-8EXP without a foreign TIN (or a reasonable explanation for why the account holder has not been issued a foreign TIN) on line 8b (or on a separate statement) when required (see *Foreign TINs*, earlier), you must treat the form as invalid for payments of U.S. source income reportable on Form 1042-S (as determined before the application of this requirement).

Form W–8IMY

You should request Form W-8IMY from any entity that is a QI (including a QI acting as a QDD), nonqualified intermediary (including certain U.S. branches and territory financial institutions), a withholding foreign partnership (WP), a withholding foreign trust (WT), or a flow-through entity to which you make a withholdable payment or pay a reportable amount. A flow-through entity includes a foreign partnership (other than a WP), a foreign simple or grantor trust (other than a WT), and, for any payments for which a treaty benefit is claimed, any entity to the extent it is treated as fiscally transparent under the laws of the treaty jurisdiction, as provided in section 894 and the regulations thereunder (without regard to whether it is fiscally transparent under the laws of the United States). Before January 1, 2020, Form W-8IMY may also be provided by an entity to claim chapter 3 status as a qualified securities lender (QSL) with respect to payments of U.S. source substitute dividends and may be relied upon regardless of whether the QSL acts as an intermediary with respect to substitute dividends associated with the form. You may accept a Form W-8IMY from an individual acting as an agent or intermediary (as appropriately amended to account for individual status), but you are not required to obtain such form if you are able to associate payments you make to the person(s) for whom the individual acts.

You may accept multiple Forms W-8IMY from an intermediary that is acting in multiple capacities (for example, as a QI for one account but a nonqualified intermediary or QDD for another account). However, a QI may provide you with a single Form W-8IMY that covers more than one category of QI shown on the form provided that it properly identifies to you the accounts and/or transactions on a withholding statement. You may accept a single Form W-8IMY for multiple branches of the entity providing the form if the information in Part I is the same for each branch and a separate schedule is attached that includes all of the Part II information on each branch and sufficient information to associate the payments with each branch.

The chapter 4 status of an intermediary or flow-through entity is required on Part I of the form if the form is associated with a withholdable payment. Part II must be completed when a withholdable payment is made to a branch or disregarded entity described in Part II of the form.

Generally, for purposes of both chapters 3 and 4, except to the extent otherwise provided in the Regulations under sections 1441 or 1471, a Form W-8IMY must be associated with a withholding statement and withholding certificates (or documentary evidence, where permitted) for the beneficial owners. Generally, the withholding statement must allocate the payment to each payee (or

pool of payees, where permitted, as described later), provide the rate of withholding for each payee (or pool of payees), and provide certain identification information on each payee that is not included in a pool. See Regulations section 1.1441-1(e)(3)(iv)(C)(3) for the allowance for a withholding agent to accept an alternative withholding statement from a nonqualified intermediary (which also applies to a flow-through entity).

If you are a participating FFI or registered deemed-compliant FFI, you may also request Form W-8IMY from an intermediary or flow-through entity that is an account holder to establish its chapter 4 status or status under an applicable IGA even when no payments subject to withholding or domestic information reporting are made to the account. In such a case, a withholding statement is not required.

Notes for Validating Form W-8IMY

QIs, WPs, and WTs (in general). A QI, WP, or WT acting in its capacity as such must provide the EIN that was issued to the entity in such capacity (that is, its QI-EIN, WP-EIN, or WT-EIN) on Form W-8IMY and not any other EIN it may have in its nonqualified intermediary, nonwithholding foreign partnership, or nonwithholding foreign trust capacity. Because status as a QI, WP, or WT for a financial institution is limited to certain classes of FFIs, if you are making a withholdable payment to a QI, WP, or WT that is a financial institution, you must verify that the QI, WP, or WT certifies its status as one of the permitted classes in Regulations sections 1.1441-1(e)(5)(ii) (for a QI), 1.1441-5(c)(2)(ii) (for a WP), or 1.1441-5(e)(5)(v) (for a WT) and provides its GIIN (except in the case of certain foreign central banks of issue and retirement funds).

If a QI checks line 15b of Part III of the form to certify that it assumes primary Form 1099 reporting and backup withholding responsibility, you may accept the form even if you do not know if there are any U.S. accounts receiving reportable payments at the time of the certification. If a QI does not check line 15b or 15c of Part III of the form, you must confirm that the QI is not receiving payments for U.S. accounts that are reportable on Form 1099, and the QI must provide an updated Form W-8IMY or must provide a withholding statement if it allocates payments to such accounts for which it does not assume primary withholding responsibility. A QI may check line 15e of Part III of the form to indicate that it allocates a portion of the payment to a chapter 4 withholding rate pool of U.S. payees that includes account holders of another intermediary or flow-through entity even if the withholding statement does not show any intermediaries or flow-through entities at the time the certification is provided. However, a QI is not required to check line 15e of Part III of the form until it provides a withholding statement identifying an intermediary or flow-through entity that receives a payment allocated to a chapter 4 withholding rate pool of U.S. payees.

QIs acting as QDDs. You should only accept a Form W-8IMY from a QI acting as a QDD to the extent you are making payments with respect to potential section 871(m) transactions or underlying securities to the QDD when the entity claims QDD status in Part III of the form. A QDD must indicate its entity classification on line 16b of the form. If you are making such payment that is an amount subject to chapter 3 withholding to a QI that is acting as a QDD and the QDD is claiming treaty benefits applicable to the status identified on line 16b on the payment, you may treat the Form W-8IMY as a beneficial owner withholding certificate and provide such benefits if the QDD provides a statement associated to the Form W-8IMY that includes the necessary information with respect to the treaty claim required in Part III of Form W-8BEN-E. In such case, the portion of the certificate making a claim for treaty benefits is valid until the end of the third calendar year following the year in which the Form W-8IMY is signed (unless a change in circumstances occurs sooner), and the validation rules for a treaty claim apply. A QDD may instead provide a separate Form W-8BEN-E to make the treaty claim. You may otherwise treat a Form W-8IMY provided by a QDD (other than a flow-through entity or disregarded entity) as a beneficial owner withholding certificate for establishing foreign status of the QDD for a payment of U.S. source FDAP income (as long as the QDD provides its foreign TIN (when required) on a QDD withholding statement or a separate statement). A QDD that is receiving payments that it beneficially owns that are not covered by its QI agreement should provide the appropriate Form W-8 based on its status (and not Form W-8IMY). The QDD must provide to you a withholding statement to identify the home office or branch that is treated as the owner for U.S. income tax purposes and, in certain circumstances (described in the instructions for Form W-8IMY), the QDD's foreign TIN (or a reasonable explanation for why it has not been issued a foreign TIN, if required). Notwithstanding the preceding sentence, you are not required to obtain a QDD withholding statement if the branch or home office of the QDD is identified on the form and the form is provided only for payments beneficially owned by the QDD (and a foreign TIN is provided when required). See *Foreign TINs*, earlier, for when you must treat the form as invalid if a foreign TIN or reasonable explanation is not provided.

QIs assuming withholding on payments of substitute interest. If a QI represents its status as a QI on a Form W-8IMY with respect to payments of interest and substitute interest and checks line 15g of Part III of the form, you may treat the QI as assuming withholding for payments of interest and substitute interest it receives from you in connection with a sale-repurchase or similar agreement, a securities lending transaction, or collateral that the QI holds in connection with its activities as a dealer in securities.

QSLs. If you make payment of a U.S. source substitute dividend to a QSL (prior to January 1, 2020), the QSL is required to provide its U.S. TIN. If you make a payment to a QSL (prior to January 1, 2020) that is a withholdable payment, you must collect a Form W-8IMY that includes the QSL's chapter 4 status and GIIN (as applicable) to avoid withholding under chapter 4. A QSL that is a QI should check line 15f of Part III of the form and a QSL that is a nonqualified intermediary should check line 17d of Part IV of the form. You may not associate a Form W-8IMY from a QSL with a payment of a substitute dividend on or after January 1, 2020, and you should obtain a revised withholding certificate.

For information on transition rules for 2018 and 2019 for withholding agents to apply with respect to QSLs, see *Notice 2018-05*.

U.S. branches. If you make a payment to a U.S. branch of a foreign bank or insurance company that represents that it is acting as an intermediary and has agreed to be treated as a U.S. person, you are not required to obtain the GIIN or chapter 4 status of the entity, but you must obtain the U.S. branch's EIN. If you make a withholdable payment after June 30, 2017, to a U.S. branch of an FFI that is acting as an intermediary and that does not agree to be treated as a U.S. person, the branch must provide its EIN (but does not need to provide a GIIN or chapter 4 status) and certify that the branch is applying the rules described in Regulations section 1.1471-4(d)(2)(iii)(C) by checking the box on line 19c in Part VI of the form. If you do not obtain the certification from a U.S. branch described in the preceding sentence, you must treat the branch as a nonparticipating FFI and withhold under chapter 4 on withholdable payments made to the branch. You are not required to treat as invalid a Form W-8IMY from an account holder that completes Part VI of the form (to the extent required) but does not complete Part II of the form.

Territory financial institutions acting as intermediaries. If you make a payment to a territory financial institution acting as an intermediary, you must obtain the territory financial institution's EIN if it agrees to be treated as a U.S. person for chapters 3 and 4. You are not required to obtain a GIIN from a territory financial institution.

Participating FFIs and registered deemed-compliant FFIs that are flow-through entities or acting as intermediaries. If a participating FFI or registered deemed-compliant FFI that is an intermediary or flow-through entity provides you with a withholding statement and documentation for its account holders or payees, you are not required to verify the information on the account holders or payees provided in the documentation for chapter 4 purposes unless the information in the documentation is facially incorrect, and you are not required to obtain additional documentation for an account holder or payee in addition to the withholding certificate unless you are obtaining the documentation for purposes of chapter 3 or 61, or unless you know that the documentation review conducted by the participating FFI or registered deemed-compliant FFI was not adequate for purposes of chapter 4. See Regulations section 1.1441-7(b)(10) for the due diligence requirements for indirect account holders for purposes of chapter 3 and see Regulations section 1.1471-3(e)(4)(vi)(B) for standards that apply in such case to determine whether chapter 4 withholding applies. You may rely on documentation that does not include a chapter 4 status for an account holder of an intermediary or flow-through entity that is an FFI when the withholding statement provided by such entity indicates that the payment is made to an account excluded as a financial account under Regulations section 1.1471-5(b)(2).

An intermediary or flow-through entity that is a participating FFI or registered deemed-compliant FFI may provide a status for chapter 4 purposes found under the requirements of (and documentation or information that is publicly available that determines the chapter 4 status of the payee permitted under) an applicable IGA for an account holder, and you may rely upon such status and documentation, provided that you have the information necessary to report on Form 1042-S. Additionally, see *Alternative Certifications Under an Applicable IGA*, earlier, for further details on alternative certifications.

In general, if you make a withholdable payment to an intermediary or flow-through entity that is a participating FFI or registered deemed-compliant FFI, the FFI may provide an FFI withholding statement that allocates a portion of the payment to a chapter 4 withholding rate pool. If an intermediary provides with its Form W-8IMY an FFI withholding statement that allocates a portion of the payment to a chapter 4 withholding rate pool of U.S. payees, the FFI must provide a chapter 4 status on line 5. If the intermediary described in the preceding sentence is a nonqualified intermediary, it must provide the certification required in Part IV with respect to its compliance with the requirements of Regulations section 1.6049-4(c)(4) (or similar requirements under chapter 61 for a payment other than interest). If the intermediary is a QI, it must certify that it meets the requirements of Regulations section 1.6049-4(c)(4)(iii) and, to the extent the U.S. payees are account holders of an intermediary or flow-through entity receiving a payment from the QI, the QI has obtained or will obtain documentation sufficient to establish each such intermediary or flow-through entity status as a participating FFI, registered deemed-compliant FFI, or FFI that is a QI. An allocation of a payment shown on a withholding statement and made on or after April 1, 2017, to a nonqualified intermediary, nonwithholding foreign partnership, or nonwithholding foreign trust of an amount subject to chapter 3 withholding to a chapter 4 withholding rate pool of U.S. payees must identify the payees consistent with the description in Regulations section 1.1471-3(c)(3)(iii)(B)(2)(iii) (describing account holders of an FFI that is a non-U.S. payor that are not subject to withholding under chapter 3 or 4 or under section 3406, and that are holders of U.S. accounts reported by the FFI under its FATCA requirements as a participating FFI or registered deemed-compliant FFI).

Section 1446 requirements. You should request Form W-8IMY for purposes of section 1446 only from a foreign upper-tier partnership or foreign grantor trust. Generally, for purposes of section 1446, the Form W-8IMY submitted by these entities is used to transmit the forms of the owners of these entities. The other forms should be accompanied with the information necessary to reliably associate your effectively connected partnership items with the upper-tier partners, in the case of a foreign upper-tier partnership, and the grantor or other owner, in the case of a foreign grantor trust. Then you must look through these entities to the beneficial owners when determining your section 1446 tax obligation. A domestic upper-tier partnership may also provide you this information. Under those circumstances you may, but are not required to, pay the section 1446 withholding tax of the foreign partners of the domestic upper-tier partnership. See Regulations section 1.1446-5.

Requirements for Hybrid and Reverse Hybrid Entities

A hybrid entity is an entity that is treated as fiscally transparent under the Code but is not treated as fiscally transparent under the tax laws of a country with which the United States has an income tax treaty.

If you are making a payment to a foreign hybrid entity that is making a claim for treaty benefits on its own behalf, the hybrid entity should provide a Form W-8BEN-E to claim treaty benefits. If the hybrid entity is a flow-through entity (not a disregarded entity) claiming treaty benefits on its own behalf on a payment that is a withholdable payment, it should also provide you a Form W-8IMY (including its chapter 4 status) along with a withholding statement (if required) establishing the chapter 4 status of each of its partners or owners to determine whether withholding applies to any portion of the payment. Allocation information is not required on this withholding statement unless one or more partners or owners are subject to chapter 4 withholding. If the hybrid entity is a disregarded entity claiming treaty benefits on a payment that is a withholdable payment, unless the disregarded entity is treated as the payee for chapter 4 purposes and has its own GIIN, the single owner should provide a Form W-8BEN-E or Form W-8BEN (as applicable) to you along with the Form W-8BEN-E for the hybrid entity. Line 10 of the Form W-8BEN-E may be used by the hybrid entity to associate the Forms W-8.

A foreign reverse hybrid entity is an entity that is a corporation for U.S. tax purposes but is fiscally transparent under the tax laws of a country with which the United States has an income tax treaty. If a foreign reverse hybrid entity is receiving a payment for which the entity is claiming a reduced rate of withholding for its owners, you must obtain from the entity a Form W-8IMY (including its chapter 4 status if the payment is a withholdable payment) along with a withholding statement and documentation for each owner for which the entity claims treaty benefits. If a foreign reverse hybrid entity is receiving a withholdable payment and is not claiming treaty benefits on behalf of any of its owners, you should obtain only a Form W-8BEN-E from the entity to establish its chapter 4 status.

Substitute Forms W-8 for Payments of Reportable Amounts and Withholdable Payments

You may develop and use your own Form W-8 (a substitute form) for chapters 3 and 4 purposes if its content is substantially similar to the IRS's official Form W-8 (to the extent required by these instructions), it satisfies certain certification requirements, and it includes a signature under a penalties of perjury statement that is identical to the one stated on the official form. You may develop and use a substitute form that is in a foreign language provided that you make an English translation of the form and its contents available to the IRS upon request. You may combine multiple Forms W-8 into a single substitute form.

A form that satisfies these substitute forms requirements may be treated as a similar agreed form for purposes of an applicable IGA unless the partner jurisdiction declines such treatment.

A substitute form does not need to contain all of the provisions contained on the official form, so long as it contains those provisions that are relevant to the transaction for which it is furnished. You may omit the chapter 4 certifications on your substitute form if such certifications are not required based on the payments made to the payees. If you are an FFI documenting the chapter 4 status of your account holders under your chapter 4 requirements or an applicable IGA, however, you may not omit the chapter 4 certifications. If you are making a withholdable payment, you may choose to provide a substitute form that does not include all of the chapter 4 statuses provided on the Form W-8, but the substitute form must include any chapter 4 status for which withholding may apply.

You may incorporate a substitute Form W-8 into other business forms you customarily use, such as account signature cards, provided the required certifications are clearly set forth. However, you may not:

1. Use a substitute form that requires the payee, by signing, to agree to provisions unrelated to the required certifications; or

2. Imply that a person may be subject to 30% withholding or backup withholding unless that person agrees to provisions on the substitute form that are unrelated to the required certifications.

A substitute Form W-8 is valid only if it contains the same penalties of perjury statement and certifications as the official forms and the required signature. However, if the substitute form is contained in some other business form, the words “information on this form” may be modified to refer to that portion of the business form containing the substitute form information. The design of the substitute form must be such that the information and certifications that are being attested to by the penalties of perjury statement clearly stand out from any other information contained in the form.

Content of Substitute Form

Substitute Form W-8BEN. The substitute Form W-8BEN must contain all of the information required in Part I, lines 1 through 8. The certifications in Part II must be included in a substitute form only if treaty benefits are claimed, and then only to the extent that the certifications are required. For example, Form W-8BEN, line 10 (special rates and conditions), is not required if the form is being requested from an individual receiving a payment of U.S. source dividends from stocks that are actively traded on an established securities market. The substitute Form W-8BEN must include a statement that if the person providing the form is a resident in a FATCA partner jurisdiction (that is, a Model 1 IGA jurisdiction with reciprocity), certain tax account information may be provided to the jurisdiction of residence.

The substitute form must contain the penalties of perjury statement identical to the statement on the official Form W-8BEN. Additionally, if the substitute form is

incorporated into other business forms, the following statement must be presented in the same manner as the penalties of perjury statement and must appear immediately above the single signature line: "The Internal Revenue Service does not require your consent to any provisions of this document other than the certifications required to establish your status as a non-U.S. individual and, if applicable, obtain a reduced rate of withholding."

Substitute Form W-8BEN-E. The substitute Form W-8BEN-E must contain all of the information required in Part I, lines 1 through 6, and lines 8 and 9 if a U.S. or foreign TIN or a GIIN is required. See however, *Substitute Forms W-8 for Payments of Reportable Amounts and Withholdable Payments*, earlier, for when you may omit a chapter 4 certification on a substitute Form W-8. The certifications in Part II must be included in a substitute form if you are making a withholdable payment to a disregarded entity or a branch that must be reported in Part II. The certifications in Part III must be included only if treaty benefits are claimed, and then only to the extent that the certifications are required. See *Alternative Certifications Under an Applicable IGA*, earlier, in these instructions, for circumstances in which the chapter 4 certifications may be replaced with alternative certifications.

If the substitute form is incorporated into other business forms, the following statement must be presented in the same manner as the penalties of perjury statement and must appear immediately above the single signature line: "The Internal Revenue Service does not require your consent to any provisions of this document other than the certifications required to establish your status as a non-U.S. person, establish your chapter 4 status (if required), and, if applicable, obtain a reduced rate of withholding."

Substitute Form W-8ECI. The substitute Form W-8ECI must contain all of the information required in Part I other than line 9. The certifications in Part II of Form W-8ECI must be included in a substitute form.

If the substitute form is incorporated into other business forms, the following statement must be presented in the same manner as the penalties of perjury statement and must appear immediately above the single signature line: "The Internal Revenue Service does not require your consent to any provisions of this document other than the certifications required to establish your status as a non-U.S. person and that the income for which this form is provided is effectively connected with the conduct of a trade or business within the United States."

Substitute Form W-8EXP. The substitute Form W-8EXP must contain all of the information required in Part I, lines 1 through 5, line 7 (if a U.S. TIN is required), and line 8. See however, *Substitute Forms W-8 for Payments of Reportable Amounts and Withholdable Payments*, earlier, for when you may omit a chapter 4 certification on a substitute Form W-8. The substitute Form W-8EXP must also contain all of the statements and certifications contained in Parts II and III, as applicable, with respect to the purpose for which the form is provided, but a specific statement or certification needs to be included (in its entirety) only if it is relevant to the type of entity providing the form. For example, if a withholding agent is documenting a beneficial owner that is a foreign government for purposes of both chapters 3 and 4, the withholding agent may use a substitute Form W-8EXP that contains the required information in Part I, plus the required statements and certifications from Parts II and III that are related to foreign governments, and does not need to include the statements and certifications for other types of entities that would otherwise be providing the Form W-8EXP.

If the substitute form is incorporated into other business forms, the following statement must be presented in the same manner as the penalties of perjury statement and must appear immediately above the single signature line: "The Internal Revenue Service does not require your consent to any provisions of this document other than the certifications required to establish your status as a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession, and your chapter 4 status (if required)."

Substitute Form W-8IMY. The substitute Form W-8IMY must contain all of the information required in Part I, lines 1 through 6, line 8 (if a U.S. TIN is required), and line 9 (if a GIIN is required). See however, *Substitute Forms W-8 for Payments of Reportable Amounts and Withholdable Payments*, earlier, for when you may omit a chapter 4 certification on a substitute Form W-8. The information required in Part II must be included in a substitute form if you are making a withholdable payment to a disregarded entity that has its own GIIN or a branch (including a branch that is a disregarded entity that does not have its own GIIN) operating in a jurisdiction other than the jurisdiction of residence of the entity named in Part I of the form. The substitute Form W-8IMY must also contain all of the statements and certifications relevant to chapter 3 contained in Parts III through VIII if you are making a payment subject to withholding under chapter 3 and the statements and certifications relevant to the chapter 4 status contained in Parts IX through XXVIII for the intermediary or flow-through entity providing the form if you are making a withholdable payment or if you are an FFI documenting your account holders for purposes of chapter 4 or an applicable IGA. For example, if the only intermediaries to which a U.S. withholding agent makes payments are qualified intermediaries that are participating FFIs, the withholding agent may use a substitute Form W-8IMY that contains only the required information from Part I (including line 9 to collect the intermediaries' GIINs), plus the statements and certifications from Part III. A substitute Form W-8IMY must also incorporate the same attachments as the official form (such as a withholding statement and beneficial owner documentation, to the extent otherwise required). You may also include any information in a substitute Form W-8IMY, or require any information to be associated with the form, that is reasonably related to your obligation to withhold and correctly report payments.

If the substitute form is incorporated into other business forms, the following statement must be presented in the same manner as the penalties of perjury statement and must appear immediately above the single signature line:

"The Internal Revenue Service does not require your consent to any provisions of this document other than the certifications required to establish: (1) your status as a qualified intermediary, a nonqualified intermediary, a specific type of U.S. branch, a withholding foreign partnership, a withholding foreign trust, a nonwithholding foreign partnership, a nonwithholding foreign simple trust, or a nonwithholding foreign grantor trust; (2) your chapter 4 status; and/or (3) prior to January 1, 2020, your status as a qualified securities lender."

Non-IRS Form for Individuals Not Receiving Reportable Amounts

If you are an FFI documenting an account holder that is an individual and you are not making a payment of a reportable amount to such account holder, you may use a non-IRS form rather than a substitute Form W-8BEN. The form must include the name and address of the individual that is the payee or beneficial owner, all countries in which the individual is resident for tax purposes, the individual's country of birth, a taxpayer identification number, if any, for each country of residence, and the individual's date of birth. The form may also request other information required for purposes of tax or anti-money laundering (AML) due diligence in the United States or in other countries. A form that satisfies these requirements may be treated as a similar agreed form for purposes of an applicable IGA unless the partner jurisdiction declines such treatment.

Generally, a non-IRS form for individuals must contain a signed and dated certification made under penalties of perjury that the information provided on the form is accurate and will be updated by the individual within 30 days of a change in circumstances that causes the form to become incorrect. However, the signed certification provided on a form need not be signed under penalties of perjury if the form is accompanied by documentary evidence that supports the individual's claim of foreign status. Such documentary evidence may be the same documentary evidence that is used to support foreign status in the case of a payee whose account has U.S. indicia as described in Regulations sections 1.1471-3(e) and 1.1471-4(c)(4)(i)(A).