

# Limitation on Benefits (LOB)

## TREATY STATEMENT

Name of account holder: \_\_\_\_\_  
meets all provisions of the Treaty that are necessary to claim a reduced rate of withholding, including any limitation on benefits provisions, and derives the U.S. source income within the meaning of section 894 of the Code, and the regulations thereunder, as the beneficial owner.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

### Explanation of the Limitation of Benefits Article and Treaty Statement

The Internal Revenue Service of the United States of America recently adopted new procedures for payors of U.S. source income to foreign persons that will impact all clients receiving payments from sources within the United States (the "New Treasury Regulations"). The New Treasury Regulations, effective January 1, 2001, change the procedures and certification requirements a payee must comply with to claim foreign status or to claim an exemption from or reduced rate of withholding on payments from U.S. sources. **Please note that individuals who are natural persons (individuals) resident in Canada, The Federal, Provincial or Municipal Government or any agency of such government are not required to provide the treaty statement above.**

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

The New Treasury Regulations impact all clients that currently claim reduced rates of withholding tax on investment income earned on U.S. securities under the Canada-U.S. Income Tax Convention 1980, (herein referred to as the "Treaty") as amended by the Protocols signed on June 14, 1983, March 28, 1984, March 17, 1995, and July 29, 1997. In order to claim a reduced rate of withholding under the Treaty on payments of U.S. source investment income received after January 1, 2001, certain clients must certify that they are eligible for Treaty Benefits. Failure to certify the Treaty Statement above may result in the payments being subject to a 30% withholding tax instead of the reduced Treaty rates of generally 15% on U.S. source dividends and 10% on U.S. source interest.

As part of the certification process, affected clients are asked to certify the TREATY STATEMENT above. **[Name of account holder] meets all provisions of the Treaty that are necessary to claim a reduced rate of withholding, including any limitation on benefits provisions, and derives the U.S. source income within the meaning of section 894 of the Code, and the regulations thereunder, as the beneficial owner.**

The reference to section 894 of the Code and the regulations thereunder, refers to the Internal Revenue Code of 1986, as amended and the United States Treasury Regulations thereunder.

The Limitation on Benefits ("LOB") Article, found in Section XXIX-A of the Treaty defines the clients who can sign the above statement. By signing the above statement, a client certifies that such client is a "qualifying person" as set forth in Article XXIX-A of the Treaty. Treaty benefits may still be available to clients that are not "qualifying persons", if that person satisfies other tests stipulated in the Treaty.

#### Qualifying Persons

Listed below are various entities that could meet the definition of a "qualifying person" under Article XXIX-A of the Treaty. These entities may continue to enjoy reduced withholding rates upon certification of the LOB Treaty statement. **Please note that there are various tests which must be met by each entity in order to be classified as a "qualified person". The following is not intended to be an exhaustive list.**

1. a publicly traded company or trust whose principal class of shares are regularly traded on a recognized stock exchange;
2. a subsidiary of a publicly traded company or trust if certain requirements are met;
3. private companies and unlisted trusts if certain requirements are met;
4. an estate in Canada;
5. a non-profit organization if certain requirements are met; and
6. Registered Retirement Savings Plans, Registered Retirement Income Funds, LIRA's, Pension Funds, etc.

#### Non-Qualifying Persons

A person that is a resident of Canada but does not fit into one of the categories for "qualifying person", listed above, may still be entitled to Treaty benefits if either the Active Business Test or the Derivatives Tests (as defined in Article XXIX-A of the Treaty) are met.

