

# CLAIM FORM

In the Matter of UBS Financial Services Incorporated of Puerto Rico  
Administrative Proceeding File No. 3-16846  
UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

## GENERAL INSTRUCTIONS

- A. To participate in the fair fund established in connection with the administrative proceeding entitled *In the Matter of UBS Financial Services Incorporated of Puerto Rico*, Administrative Proceeding File No. 3-16846 (“UBS Puerto Rico Fair Fund”), you or your authorized representative must fully complete this Claim Form. This Claim Form must be signed by the Beneficial Owner(s) or by their authorized representative under the penalty of perjury. If you fail to submit a timely, properly completed and addressed Claim Form, your claim may be rejected and you may be precluded from any recovery under this action.
- B. Eligible Claimants do not include:
1. UBS Financial Services Incorporated of Puerto Rico (“UBSPR” or “Respondent”) or any Person who served as an officer or director of UBSPR during the Relevant Period, or any subsidiary or affiliate of UBSPR directly involved in the conduct detailed in the Orders;
  2. Any employee or former employee of UBSPR or any of its affiliates who has been terminated for cause, or has otherwise resigned, in connection with the conduct described in the Orders;
  3. Any Person who, as of the Claims Bar Date, has been the subject of criminal charges related to the conduct found in the Orders or any related Commission action, unless and until such defendant is found not guilty in all such criminal actions prior to the Claims Bar Date, and proof of the finding(s) is included in such defendant’s timely filed Claim Form;
  4. Any affiliates, assigns, creditors, heirs, distributees, spouses, parents, children or controlled entities of any of the foregoing Persons described in paragraphs 1-3 above;
  5. The Fund Administrator and those persons assisting the Fund Administrator in its role as Fund Administrator; or
  6. Any purchaser or assignee of another Person’s right to obtain a recovery from the Fair Fund; however, this provision shall not be construed to exclude those Persons who obtained such a right by gift, inheritance, devise or operation of law.
- C. Submission of the Claim Form does not guarantee that you will receive payment.
- D. You must mail your completed and signed Claim Form so that it is **postmarked on or before March 9, 2018**, addressed as follows:

UBS Puerto Rico Fair Fund  
c/o Rust Consulting, Inc.  
Fund Administrator - 5474  
P.O. Box 2570  
Faribault, MN 55021-9570

## CLAIMANT IDENTIFICATION

- A. If you purchased certain UBSPR non-exchange-traded, closed-end funds (“CEFs”) through proceeds received from UBSPR non-purpose lines of credit (“LOC”) (collectively, “Eligible Securities”) during the period from January 1, 2011 through September 13, 2013 (the “Relevant Period”) in your name, you are the Beneficial Owner (holder) as well as the record owner. If, however, the Eligible Securities were registered in the name of a third party, such as a nominee or brokerage firm, you are the Beneficial Owner and the third party is the record owner.
- B. If the Beneficial Owner is an entity, the entity name should be provided (e.g., corporation, trust, estate, etc.) If this account is an IRA, the name of the IRA should be provided (e.g., John Doe IRA).
- C. THIS CLAIM FORM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNER OR OWNERS, OR THE LEGAL REPRESENTATIVE OF SUCH BENEFICIAL OWNER(S) OF THE ELIGIBLE SECURITIES UPON WHICH THIS CLAIM IS BASED.
- D. The Social Security (or taxpayer identification) number and telephone number of the Eligible Claimant may be used in verifying this Claim Form. Failure to provide the foregoing information could delay verification of your Claim Form or result in rejection of your Claim Form.
- E. All joint owners must sign this Claim Form. Executors, administrators, guardians, conservators and trustees (“Representative”) must complete and sign this Claim Form on behalf of persons and/or entities represented by them, proof of their authority must accompany this Claim Form and their titles or capacities must be stated.

## CLAIM FORM

- A. Use Section II of this Claim Form titled “Schedule of Transactions in Eligible Securities” to supply all required details of your transaction(s) in Eligible Securities.
- B. Please provide all of the required supporting information with respect to all of your withdrawals from a UBSPR LOC and your purchases and sales of UBSPR CEFs during the Relevant Period. Failure to report all such transactions may result in the rejection of your Claim Form. Broker confirmations or other valid third party supporting documentation of your purchases and sales of Eligible Securities should be attached to your Claim Form. Failure to provide this documentation could delay verification of your Claim Form or result in rejection of your Claim Form.
- C. A Claim Form received by the Fund Administrator shall be deemed to have been submitted when **postmarked on or before March 9, 2018**.
- D. You should be aware that it will take a significant amount of time to fully process all of the Claim Forms and to administer the UBS Puerto Rico Fair Fund. This work will be completed as promptly as time permits, given the need to investigate and tabulate each Claim Form.
- E. This Claim Form is designed to require the minimum amount of information necessary to process your Claim Form. The Fund Administrator may request additional information as required to efficiently and reliably calculate your Claim Form.

## TAX INFORMATION

**The Beneficial Owner must complete and return to the Fund Administrator either the enclosed Form W-9 or the appropriate Form W-8, as applicable. See below for more information.**

### A. U.S. Persons and Entities:

U.S. Persons (U.S. citizens or other U.S. person, including resident aliens) should complete the enclosed Form W-9. The information requested on the enclosed Form W-9 is **REQUIRED** and **MUST** be completed if you are a U.S. Person.

Joint Owners: For joint accounts, only the first listed joint owner in Part I of the Claim Form is required to complete the enclosed Form W-9.

### B. Non-U.S. Persons and Entities:

If you are **NOT** a U.S. person, do **NOT** use the enclosed Form W-9. You should instead complete one of the following IRS forms:

- If you are a foreign individual, Form W-8BEN, Certificate of Foreign Status Of Beneficial Owner For United States Tax Withholding And Reporting (Individuals) (Rev. January 2017 or later).
- If you are a foreign entity, Form W-8BEN-E, Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities) (Rev. April 2016 or later).
- A foreign individual or entity claiming that income is effectively connected with the conduct of a trade or business within the U.S. (unless claiming treaty benefits), 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 (Rev. February 2014 or later).
- A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming that income is effectively connected U.S. income or that is claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b) (unless claiming treaty benefits), Form W-8ECI or W-8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding and Reporting (Rev. September 2016 or later).
- Any person acting as an intermediary, Form W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding and Reporting (Rev. September 2016 or later).

You may obtain these forms by visiting [www.irs.gov](http://www.irs.gov) or by contacting the Fund Administrator.

## REMINDER CHECKLIST

1.  **Signature Required** – Sign the certification section. If this Claim Form is submitted on behalf of Joint Account Holders, then both must sign.
2.  **Claims Bar Date** – This Claim Form, along with your supporting documentation, must be **postmarked on or before March 9, 2018**.
3.  **Mailing Address** – Mail to:  

UBS Puerto Rico Fair Fund  
c/o Rust Consulting, Inc.  
Fund Administrator - 5474  
P.O. Box 2570  
Faribault, MN 55021-9570
4.  **Supporting Documentation** – Remember to attach the required supporting documentation. Do NOT provide originals of any documentation. If the name appears different on the supporting documentation, you must provide proof of name/bank account change (i.e. marriage certificate/divorce decree, death certificate or appropriate court documents).  

Required supporting documentation may include: (a) monthly stock brokerage or other investment account statements; (b) trade confirmation slips; (c) applicable year-end statement(s); (d) a signed letter from your broker on firm letterhead verifying the information you are providing; (e) a Deposit or Escrow Receipt showing your holdings; or (f) other equivalent proof of your transactions. All documentation must be legible and include your account name, date of withdrawal, date of purchase/sale, quantity, total transaction amount and security name or CUSIP. If you are claiming any transfer transactions, securities transferred in or out cannot be treated as eligible purchases or sales unless you provide acceptable documentation showing that the original purchase date for the transfer in or sale date for the transfer out of these securities was during the relevant time period. Please send copies of documents, not originals.
5.  **Retain Copies of Submitted Documents** – Keep a copy of your Claim Form and all documents submitted for your records. Keep copies of everything you submit.
6.  **Notice of Address Change** – If you move after submitting this Claim Form, please notify the Fund Administrator of the change in your address by writing to the address above or by sending an email to [info@SECUBSFairFund.com](mailto:info@SECUBSFairFund.com).
7.  **Tax Information** – In Section I you must provide a Social Security Number or Employer Identification Number of the Claimant. You must also complete and return to the Fund Administrator either the enclosed Form W-9 or the appropriate Form W-8, as applicable.

IF YOU HAVE ADDITIONAL QUESTIONS,

Call 1-877-657-9155;

Email [info@SECUBSFairFund.com](mailto:info@SECUBSFairFund.com);

Visit [www.SECUBSFairFund.com](http://www.SECUBSFairFund.com); or

Write to the Fund Administrator at:

UBS Puerto Rico Fair Fund  
c/o Rust Consulting, Inc.  
Fund Administrator - 5474  
P.O. Box 2570  
Faribault, MN 55021-9570

**POSTMARKED  
ON OR BEFORE  
MARCH 9, 2018**

**FOR OFFICIAL USE ONLY**  
  
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In the Matter of UBS Financial Services Incorporated of Puerto Rico  
Administrative Proceeding File No. 3-16846  
UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

**CLAIM FORM**

**SECTION I - CLAIMANT IDENTIFICATION**

Name of Beneficial Owner (First, Middle, Last): \_\_\_\_\_

Name of Joint Beneficial Owner (if applicable): \_\_\_\_\_

Name of Custodian, (if applicable): \_\_\_\_\_

Entity Name and Representative (if applicable): \_\_\_\_\_

Account Type:  Individual(s)     Corporation     UGMA Custodian     IRA  
 Partnership     Estate     Trust     Other: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Foreign Province: \_\_\_\_\_ Foreign Postal Code: \_\_\_\_\_

Country (if other than United States): \_\_\_\_\_

Daytime Phone Number: \_\_\_\_\_

Evening Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Account Number: \_\_\_\_\_

Social Security Number or Taxpayer Number: \_\_\_\_\_

Enter Taxpayer Identification Number above for the Beneficial Owner(s) **(You must also complete and return either the enclosed Form W-9 or the appropriate Form W-8, as applicable).**





**SECTION II – SCHEDULE OF TRANSACTIONS IN ELIGIBLE SECURITIES**

YOU MUST SUBMIT DOCUMENTATION SUPPORTING THE INFORMATION BELOW.

**WITHDRAWALS OF UBSPR LOCs**

1. List all withdrawals from your UBSPR LOC during the period from January 1, 2011 through September 13, 2013:

A. Date(s) of Withdrawal Month/Day/Year	B. Principal Amount
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

**PURCHASES AND SALES OF UBSPR CEFs**

2. List all purchases and sales of UBSPR CEFs during the period from January 1, 2011 through September 13, 2013:

A. CUSIP <sup>1</sup>	B. Transaction Type	C. Trade Date Month/Day/Year	D. Quantity	E. Principal Amount
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**ENDING HOLDINGS OF UBSPR CEFs**

3. Quantity of Eligible Securities *held at the close of trading on September 13, 2013:*  
(If none, write "zero" or "0"; if other than zero, must be documented)

Quantity

If additional space is required, please photocopy this page and attach.

<sup>1</sup> CUSIP's for the relevant CEFs are: 745274100, 74527K104, 74527M100, 74527N108, 74527Q101, 745276105, 745296103, 74529P101, 74527G103, 87675M102, 87675H103, 87675W100, 74514M105, 74514P108, 74514T100, 74527W108, 74528E107, 744907106, 744908104, 744909102, 74528A105, 74528B103, 74528D109.



**SECTION III – CERTIFICATION AND DECLARATION OF CLAIMANT**

I (We) declare UNDER PENALTY OF PERJURY under the laws of the United States of America that:

1. I (We) hereby warrant and represent that I (we) am (are) not excluded as defined below.
  - a) Respondent or any Person who served as an officer or director of UBSPR during the Relevant Period, or any subsidiary or affiliate of UBSPR directly involved in the conduct detailed in the Orders;
  - b) Any employee or former employee of UBSPR or any of its affiliates who has been terminated for cause, or has otherwise resigned, in connection with the conduct described in the Orders;
  - c) Any Person who, as of the Claims Bar Date, has been the subject of criminal charges related to the conduct found in the Orders or any related Commission action, unless and until such defendant is found not guilty in all such criminal actions prior to the Claims Bar Date, and proof of the finding(s) is included in such defendant’s timely filed Claim Form;
  - d) Any affiliates, assigns, creditors, heirs, distributees, spouses, parents, children or controlled entities of any of the foregoing Persons described in paragraphs a-c above;
  - e) The Fund Administrator and those persons assisting the Fund Administrator in its role as Fund Administrator; or
  - f) Any purchaser or assignee of another Person’s right to obtain a recovery from the Fair Fund; however, this provision shall not be construed to exclude those Persons who obtained such a right by gift, inheritance, devise or operation of law.
4. I (We) have read my (our) foregoing Claim Form, including any attachments and enclosures, and that the Claim Form including any attachments and enclosures is true and correct in every aspect.
5. I (We) affirm that at this time I (we) have not received any compensation from any other sources regarding this matter. In the event that I (we) receive any compensation for my (our) losses from any individual or litigation other than the present matter involving the Commission, I (we) will immediately notify the Fund Administrator.
6. I (We) understand the deadline for filing and returning this Claim Form is the 9th day of March, 2018 and that the completed documents and all required supporting documentation must be postmarked on or before that date and received at UBS Puerto Rico Fair Fund, c/o Rust Consulting, Inc., Fund Administrator - 5474, P.O. Box 2570, Faribault, MN 55021-9570. I (we) understand that if I (we) fail to comply with the deadline, it may result in the denial of my (our) Claim Form.
7. I (We) have not authorized and am (are) not aware of anyone else who has filed a Claim Form on my (our) behalf for the same losses covered in this Claim Form.
8. All notices regarding the UBS Puerto Rico Fair Fund shall be sent to me (us) at my (our) residence address set forth above, unless I (we) provide to you in writing any change of address.

I (We) declare under penalty of perjury under the laws of the United States of America that the foregoing information supplied by the undersigned is true and correct.

\_\_\_\_ / \_\_\_\_ / \_\_\_\_  
Date Executed (Month/Day/Year)

\_\_\_\_ / \_\_\_\_ / \_\_\_\_  
Date Executed (Month/Day/Year)

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Signature of Joint Claimant (if any)

\_\_\_\_\_  
Full Printed Name

\_\_\_\_\_  
Full Printed Name

\_\_\_\_\_  
Signature of person signing on behalf of Claimant

\_\_\_\_\_  
Type or print name of person signing on behalf of Claimant

\_\_\_\_\_  
Capacity of person signing on behalf of Claimant, if other than an individual (e.g., Administrator, Trustee, President, Power of Attorney, etc.)



Form <b>W-9</b> (Rev. December 2014) Department of the Treasury Internal Revenue Service	<h2 style="margin: 0;">Request for Taxpayer Identification Number and Certification</h2>	<b>Give Form to the requester. Do not send to the IRS.</b>
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Print or type See Specific Instructions on page 2.	1. Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.		
	2 Business name/disregarded entity name, if different from above		
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <b>Note.</b> For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____		4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.)		Requester's name and address (optional)
	6 City, state, and ZIP code		UBS Puerto Rico Fair Fund c/o Rust Consulting, Inc. Fund Administrator - 5474 P.O. Box 2570 Faribault, MN 55021-9570
	7 List account number(s) here (optional)		

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3

**Note:** If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

	<b>Social security number</b> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
	<b>or</b> <b>Employer identification number</b> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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**General Instructions**

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

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)

- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN. *If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.*

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.



**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

## What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.