

JP Morgan RMBS Fair Funds  
c/o Rust Consulting, Inc.  
Distribution Agent - 4257  
P.O. Box 2599  
Faribault, MN 55021-9599

## IMPORTANT LEGAL MATERIALS



UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA  
SEC v. J.P. MORGAN SECURITIES LLC, ET AL.  
CASE NO. 12-CV-1862 (RLW)

## BULK SETTLEMENT PRACTICE PROOF OF CLAIM FORM

### I. GENERAL INSTRUCTIONS

- A. To participate in the Bulk Settlement Practice Fair Fund established in connection with the enforcement action (“Action”) captioned *Securities and Exchange Commission v. J. P. Morgan Securities LLC, EMC Mortgage, LLC, Bear Stearns Asset Backed Securities I, LLC, Structured Asset Mortgage Investments II, Inc., SACO I, Inc., and J. P. Morgan Acceptance Corporation I*, Case No. 12-CV-1862 (RLW), you or your authorized representative must fully complete this Proof of Claim Form. This Proof of Claim Form must be signed by the beneficial owner of the Harmed Trust or by your authorized representative under the penalty of perjury. If you fail to complete this Proof of Claim Form, your Proof of Claim Form may be rejected and you may be precluded from any recovery under this action.
- B. Submission of this Proof of Claim Form does not guarantee that you will receive payment.
- C. You must mail your completed and signed Proof of Claim Form so that it is **postmarked no later than November 28, 2017**, addressed as follows:
- JP Morgan RMBS Fair Funds  
c/o Rust Consulting, Inc.  
Distribution Agent - 4257  
P.O. Box 2599  
Faribault, MN 55021-9599
- D. “Eligible Claimants” of the Bulk Settlement Practice Fair Fund is defined as all persons (other than an Excluded Party) who purchased Eligible Certificates on Eligible Purchase Dates. The securities that represented the different tranches of each of the Trusts are referred to as “Certificates.” “Eligible Certificates” shall mean the certificates in the harmed trusts which are identified in Exhibit A to the Plan of Distribution for the Bulk Settlement Practice. “Excluded Certificates” include those certificates identified in the relevant prospectus supplements as “Non-Offered Certificates” and those Certificates with negligible initial principal value. “Eligible Purchase Dates” shall mean purchases of Eligible Certificates in a Trust which were made within 30 days of the issuance of the relevant prospectus supplement for that Trust. For a complete list of the “Harmed Trusts” including Eligible Certificates (securities) for each Trust and Eligible Purchase Dates, please see Exhibit A to the Plan of Distribution for the Bulk Settlement Practice which is posted on the Bulk Settlement Practice Fair Fund website at [www.JPMorganRMBSFairFunds.com](http://www.JPMorganRMBSFairFunds.com). An “Excluded Party” is defined as Defendants and all other entities or individuals who (a) are or have at any time been a parent, subsidiary, affiliate, partner, or member of any of the Defendants; (b) exercised control of or were controlled by any of the Defendants; or (c) during the period 2005 to the present, were employed by, or served as officers or directors, or were members of any of the Defendants or any other entity that is deemed to be an Excluded Party pursuant to parts (a) and (b) hereof.

- E. Certain Potentially Eligible Claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. All Potentially Eligible Claimants MUST submit a manually signed paper Proof of Claim Form whether or not they also submit electronic copies. If you wish to file your Proof of Claim Form electronically, you must call the Distribution Agent toll-free at 1-888-568-7650, send an e-mail to [info@JPMorganRMBSFairFunds.com](mailto:info@JPMorganRMBSFairFunds.com), or visit [www.JPMorganRMBSFairFunds.com](http://www.JPMorganRMBSFairFunds.com) to obtain the required file layout. Electronic files will NOT be considered properly submitted unless the Distribution Agent issues to the Potentially Eligible Claimant a written acknowledgment of receipt and acceptance of the electronically submitted data. If you do not receive such an acknowledgement, please contact the Distribution Agent.
- F. A single Proof of Claim Form should be submitted on behalf each legal entity including all transactions made by that entity, regardless of how many separate accounts held by that entity (for example, a corporation with multiple brokerage accounts should include all purchases and/or acquisitions made in the Harmed Trusts on one Proof of Claim, regardless of the number of accounts in which the transactions effectuated).

## II. CLAIMANT IDENTIFICATION

- A. If you held the Certificate(s) in your name, you are the beneficial owner (holder) as well as the record owner. If, however, the Eligible Certificates were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial owner and such third party is the record owner.
- B. THIS PROOF OF CLAIM FORM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNER OR OWNERS, OR THE LEGAL REPRESENTATIVE OF SUCH OWNER OR OWNERS OF THE ELIGIBLE CERTIFICATES IN THE HARMED TRUSTS UPON WHICH THIS CLAIM IS BASED.
- C. If the Beneficial Owner is an entity, the entity name should be provided (e.g., corporation, trust, estate, etc.).
- D. All joint owners must sign this Proof of Claim Form. Executors, administrators, conservators and trustees must complete and sign this Proof of Claim Form on behalf of persons and/or entities represented by them. Proof of their authority must accompany this Proof of Claim Form and their titles or capacities must be stated.
- E. The Social Security (or taxpayer identification) number and telephone number of the Eligible Claimant may be used in verifying this Proof of Claim Form. Failure to provide the foregoing information could delay verification of your Proof of Claim Form or result in rejection of your Proof of Claim Form.

## III. PROOF OF CLAIM FORM

- A. Use Part II of this Proof of Claim Form titled "Purchases and/or Acquisitions of Eligible Certificates in Harmed Trusts" to supply all required details of your purchases and/or acquisitions in the Harmed Trusts. Refer to Exhibit A to the Plan of Distribution for the Bulk Settlement Practice which is posted on the Bulk Settlement Practice Fair Fund website at [www.JPMorganRMBSFairFunds.com](http://www.JPMorganRMBSFairFunds.com) for a listing of the Eligible Certificates in the Harmed Trusts.
- B. Please provide all of the requested transactional information related to purchases and/or acquisitions of Eligible Certificates in the Harmed Trusts, including the Eligible Purchase Date and/or acquisition Date, CUSIP number, the original face value, original purchase price of the certificate and total cost of purchase. Failure to provide all transactional information may result in the rejection of your Proof of Claim Form.
- C. Broker confirmations or other valid third party supporting documentation of your purchases and/or acquisitions of Eligible Certificates in the Harmed Trusts should be attached to your Proof of Claim Form. Failure to provide this documentation could delay verification of your Proof of Claim Form or result in rejection of your Proof of Claim Form.

**NOTE: PROSPECTUSES AND/OR PROSPECTUS SUPPLEMENTS WILL NOT BE ACCEPTED AS SUPPORTING DOCUMENTATION.**

- E. This Proof of Claim Form must be submitted to the Distribution Agent with a **postmark dated on or before November 28, 2017**.
- F. This Proof of Claim Form requests information necessary to process your Proof of Claim Form. The Distribution Agent may request additional information as required to efficiently and reliably calculate your Proof of Claim Form.

## IV. TAX INFORMATION

The Beneficial Owner must complete and return to the Distribution Agent either the Substitute 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 Substitute Form W-9. The information requested on the Substitute 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 B of the Claim Form is required to complete Substitute IRS Form W-9.

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

If you are NOT a U.S. person, do NOT use the enclosed Substitute 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 Distribution Agent.

### REMINDER CHECKLIST

**1. Required** – 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 Distribution Agent either the Substitute Form W-9 or the appropriate Form W-8, as applicable.

**2. Postmark Date** – This form, with your supporting documentation, must be submitted to the Distribution Agent such that it is **postmarked on or before November 28, 2017**.

**3. Mailing Address** – Mail to:

JP Morgan RMBS Fair Funds  
c/o Rust Consulting, Inc.  
Distribution Agent - 4257  
P.O. Box 2599  
Faribault, MN 55021-9599

**4. Supporting Documentation** – Remember to attach the required supporting documentation. Do NOT provide originals of brokerage statements or any other documentation. If the name appears different on the supporting documentation, you must provide proof of name/bank account change.

Required supporting documentation may include: (a) trade confirmation slips; (b) applicable statement(s); (c) a signed letter from your broker on firm letterhead verifying the information you are providing; or (d) other equivalent proof of your transactions. All documentation must be legible and include your account name, eligible purchase and/or acquisition date, CUSIP number, the original face value, original purchase price of the certificate and total cost of purchase. If you are claiming any transfer transactions, Eligible Certificates transferred in cannot be treated as eligible purchases unless you provide acceptable documentation showing that the original purchase date for the transfer in of the Eligible Certificates occurred on Eligible Purchase Dates. Please send copies of documents, not originals.

**NOTE: PROSPECTUSES AND/OR PROSPECTUS SUPPLEMENTS WILL NOT BE ACCEPTED AS SUPPORTING DOCUMENTATION.**

**5. Retain Copies of Submitted Documents** – Keep a copy of your Proof of 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 Proof of Claim Form, please notify the Distribution Agent in writing, to the address above, of the change in your address.

**7. If You Have Additional Questions:**

Call: 1-888-568-7650

Website: [www.JPMorganRMBSFairFunds.com](http://www.JPMorganRMBSFairFunds.com)

Email: [info@JPMorganRMBSFairFunds.com](mailto:info@JPMorganRMBSFairFunds.com)

Write to the Bulk Settlement Practice Fair Fund Distribution Agent at:

JP Morgan RMBS Fair Funds  
c/o Rust Consulting, Inc.  
Distribution Agent - 4257  
P.O. Box 2599  
Faribault, MN 55021-9599

MUST BE POSTMARKED

NO LATER THAN

NOVEMBER 28, 2017

FOR OFFICIAL USE ONLY

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UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA  
SEC v. J.P. MORGAN SECURITIES LLC, ET AL.  
CASE NO. 12-CV-1862 (RLW)

**BULK SETTLEMENT PRACTICE PROOF OF CLAIM FORM**

Use Blue or Black Ink Only

**PART I. CLAIMANT IDENTIFICATION** - Complete either Section A or B and then proceed to C. Please type or print.

**A. Complete this Section ONLY if the Beneficial Owner is an Entity; i.e., corporation, trust, etc. Otherwise, proceed to B.**

Entity Name: \_\_\_\_\_

Name of Representative, if applicable (administrator, trustee, c/o, etc.): \_\_\_\_\_

**B. Complete this Section ONLY if the Beneficial Owner is an individual or joint account. Then, proceed to C.**

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

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

Custodian Name (if different from beneficial owner listed above): \_\_\_\_\_

**C. Account/Mailing Information:**

Number and Street or P.O. Box: \_\_\_\_\_

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

Foreign Province and Postal Code: \_\_\_\_\_ Foreign Country: \_\_\_\_\_

Telephone Number (Day): \_\_\_\_\_ Telephone Number (Evening): \_\_\_\_\_

Email Address: \_\_\_\_\_ Account Number: \_\_\_\_\_

Enter the Taxpayer Identification Number below for the Beneficial Owner(s) **(You must also provide your Taxpayer Identification Number in Part III "Certification and Request for Taxpayer Identification Number"):**

Social Security Number (for individuals): \_\_\_\_\_ Taxpayer Identification Number: \_\_\_\_\_

**Proceed to Part II of this Proof of Claim Form.**





**PART II. PURCHASES AND/OR ACQUISITIONS OF ELIGIBLE CERTIFICATES IN HARMED TRUSTS**

For a complete list of the Harmed Trusts including Eligible Certificates (securities) for each Trust and Eligible Purchase Dates, please see Exhibit A to the Plan of Distribution for the Bulk Settlement Practice which is posted on the Bulk Settlement Practice Fair Fund website at [www.JPMorganRMBSFairFunds.com](http://www.JPMorganRMBSFairFunds.com).

List all purchases and/or acquisitions of Eligible Certificates in Harmed Trusts, as listed in Exhibit A, including the Eligible Purchase and/or Acquisition Date, CUSIP Number, the Original Face Value, Original Purchase Price of the Certificate and Total Cost of Purchase. Be sure to attach the required documentation.

<b>Eligible Purchase or Acquisition Date (list chronologically) Month/Day/Year</b>	<b>CUSIP (as provided in Exhibit A)</b>	<b>Original Face Value</b>	<b>Original Purchase Price of Certificate (excluding taxes, commissions and fees)</b>	<b>Total Cost of Purchase (excluding taxes, commissions and fees)</b>

**BE SURE TO ATTACH THE REQUIRED DOCUMENTATION.**

IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS PLEASE PHOTOCOPY THIS PAGE, WRITE YOUR NAME ON THE COPY AND CHECK THIS BOX:   
IF YOU DO NOT CHECK THIS BOX, ANY ADDITIONAL PAGES PROVIDED MAY NOT BE REVIEWED.



**PART III. SIGNATURE AND CERTIFICATIONS**

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

- 1. I (We) have read my (our) foregoing Proof of Claim Form, including any attachments and enclosures, and that this Proof of Claim Form including any attachments and enclosures is true and correct in every aspect;
- 2. 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) Eligible Certificates in the Harmed Trusts from any individual or litigation other than the present matter involving the United States, I (we) will immediately notify the JP Morgan RMBS Fair Funds Distribution Agent;
- 3. I (We) understand that this Proof of Claim Form will be governed by 28 C.F.R. Section 9.1 et seq., including definitions of terms such as "victim" and "related offense," set forth therein.;
- 4. I (We) understand the deadline for filing and returning this Proof of Claim Form is the 28th day of November, 2017 and that the completed documents and all required supporting documentation must be postmarked on or before that date and received at JP Morgan RMBS Fair Funds, c/o Rust Consulting, Inc., Distribution Agent - 4257, P.O. Box 2599, Faribault, MN 55021-9599. I (We) understand that if I (we) fail to comply with the deadline, it may result in the denial of my (our) Proof of Claim Form;
- 5. I (We) have not authorized nor am (are) aware of anyone else who has filed a Proof of Claim Form on my (our) behalf for the same Eligible Certificates covered in this Proof of Claim Form;
- 6. All notices regarding remission shall be sent to me (us) at the mailing address set forth above, unless I (we) provide to you in writing any change of address; and
- 7. That the statements made and answers given in this Proof of Claim are true and correct and that the documents submitted herewith are true and genuine.

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.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ in \_\_\_\_\_, \_\_\_\_\_  
(City) (State/Country)

\_\_\_\_\_  
Signature of Claimant (Type or print name of Claimant)

\_\_\_\_\_  
Signature of Joint Claimant, if any (Type or print name of Joint Claimant, if any)

\_\_\_\_\_  
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.)

**IF YOU HAVE ADDITIONAL QUESTIONS,**  
Call: 1-888-568-7650;  
Write to the Bulk Settlement Practice Fair Fund Distribution Agent at:  
JP Morgan RMBS Fair Funds  
c/o Rust Consulting, Inc.  
Distribution Agent - 4257  
P.O. Box 2599  
Faribault, MN 55021-9599  
Email: [info@JPMorganRMBSFairFunds.com](mailto:info@JPMorganRMBSFairFunds.com)



<b>Form 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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<b>Print or type</b>  <b>See Specific Instructions on page 2.</b>	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	JP Morgan RMBS Fair Funds - 4257 c/o Rust Consulting, Inc. - Distribution Agent P.O. Box 2599 Faribault, MN 55021-9599	
	7.	List account number(s) here (optional)		

<b>Part I Taxpayer Identification Number (TIN)</b>	
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 <i>How to get a TIN</i> on page 3.  <b>Note:</b> 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> <div style="border: 1px solid black; width: 100%; height: 20px; margin-bottom: 5px;"></div> or <b>Employer identification number</b> <div style="border: 1px solid black; width: 100%; height: 20px;"></div>

<b>Part II Certification</b>	
Under penalties of perjury, I certify that:	
<ol style="list-style-type: none"> <li>1. 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</li> <li>2. 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</li> <li>3. I am a U.S. citizen or other U.S. person (defined below); and</li> <li>4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.</li> </ol>	
<b>Certification instructions.</b> 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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<b>General Instructions</b> Section references are to the Internal Revenue Code unless otherwise noted. <b>Future developments.</b> Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at <a href="http://www.irs.gov/fw9">www.irs.gov/fw9</a> .  <b>Purpose of Form</b> 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: <ul style="list-style-type: none"> <li>• Form 1099-INT (interest earned or paid)</li> <li>• Form 1099-DIV (dividends, including those from stocks or mutual funds)</li> <li>• Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)</li> <li>• Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)</li> <li>• Form 1099-S (proceeds from real estate transactions)</li> </ul>	<ul style="list-style-type: none"> <li>• Form 1099-K (merchant card and third party network transactions)</li> <li>• Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)</li> <li>• Form 1099-C (canceled debt)</li> <li>• Form 1099-A (acquisition or abandonment of secured property)</li> </ul> Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN. <i>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.</i>  By signing the filled-out form, you: <ol style="list-style-type: none"> <li>1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),</li> <li>2. Certify that you are not subject to backup withholding, or</li> <li>3. 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</li> <li>4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See <i>What is FATCA reporting?</i> on page 2 for further information.</li> </ol>
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**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.