(a) in the case of a pension fund, at the beginning of the taxable year for which the claim to the benefit is made, at least 75 per cent of its beneficiaries, members or participants are individuals who are equivalent beneficiaries; or

(b) in all other cases, on at least half of the days of any twelve month period that includes the time when the benefit would otherwise be accorded, persons that are equivalent beneficiaries own, directly or indirectly, at least 75 per cent of the shares of the resident.

4. (a) A resident of a Contracting State shall be entitled to a benefit that would otherwise be accorded by the provisions of paragraph 3 of Article 10, paragraph 1 of Article 11 or paragraph 1 of Article 12 of this Convention with respect to an item of income described in the respective paragraph that is derived from the other Contracting State, regardless of whether the resident is a qualified person, if the resident is engaged in a business activity in the first-mentioned Contracting State, and the income derived from the other Contracting State emanates from, or is incidental to, that business activity. For purposes of this paragraph, the term "a business activity" shall not include the following activities or any combination thereof:

(i) operating as a holding company;

(ii) providing overall supervision or administration of a group of companies;

(iii) providing group financing (including cash pooling); or

(iv) making or managing investments, unless these activities are carried on by a bank, insurance company or registered securities dealer in the ordinary course of its business as such.

(b) If a resident of a Contracting State derives an item of income from a business activity conducted by that resident in the other Contracting State or derives an item of income arising in the other Contracting State from a connected person, the conditions described in subparagraph (a) of this paragraph shall be considered to be satisfied with respect to such item of income only if the business activity carried on by the resident in the first-mentioned Contracting State to which the item of income is related is substantial in relation to the same business activity or a complementary business activity carried on by the resident or such connected person in the other Contracting State. Whether a business activity is substantial for the purposes of this subparagraph shall be determined based on all the facts and circumstances.

(c) For purposes of applying this paragraph, business activities conducted by connected persons with respect to a resident of a Contracting State shall be deemed to be conducted by such resident.

5. If a resident of a Contracting State is neither a qualified person pursuant to the provisions of paragraph 2 of this Article, nor entitled to benefits under paragraph 3 or 4 of this Article, the competent authority of the other Contracting State may, nevertheless, grant the benefits accorded by the provisions of paragraph 3 of Article 10, paragraph 1 of Article 11 or paragraph 1 of Article 12 of this Convention with respect to an item of income described in the respective paragraph, taking into account the object and purpose of this Convention, but only if such resident demonstrates to the satisfaction of such competent authority that neither its establishment, acquisition or maintenance, nor the conduct of its operations, had as one of its principal purposes the obtaining of such benefits. Before either granting or denying a request made under this paragraph by a resident of a Contracting State, the competent authority of the other Contracting State to which the request has been made shall consult with the competent authority of the first-mentioned Contracting State.