5. (a) A resident of a Contracting State shall be entitled to a benefit granted by the provisions of paragraph 3 of Article 10 or subparagraph (b) of paragraph 3 of Article 11 with respect to an item of income described in that paragraph or subparagraph if:

(i) the resident is carrying on business in that Contracting State (other than the business of making or managing investments for the resident's own account, unless the business is banking, insurance or securities business carried on by a bank, insurance company or securities dealer); and

(ii) the item of income is derived in connection with, or is incidental to, that business.

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

(c) In determining whether a person is carrying on business in a Contracting State under subparagraph (a), the business conducted by a partnership in which that person is a partner or the business conducted by closely related persons to such person shall be deemed to be conducted by such person.

6. A resident of a Contracting State that is neither a qualified person nor entitled under paragraph 3 or 5 to a benefit granted by the provisions of paragraph 3 of Article 10 or subparagraph (b) of paragraph 3 of Article 11 shall nevertheless be entitled to such benefit if the competent authority of the Contracting State to which the benefit is claimed determines that the establishment, acquisition or maintenance of such resident and the conduct of its operations did not have as one of the principal purposes the obtaining of such benefit.

7. For the purposes of this Article:

(a) the term "principal class of shares" means the class or classes of shares of a company which represent a majority of the voting power of the company;

(b) the term "recognised stock exchange" means:

(i) any stock exchange established under the terms of the Financial Instruments and Exchange Law (Law No. 25 of 1948) of Japan;

(ii) any regulated market pursuant to the Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (as amended) or any successor Directive;

(iii) Hong Kong Exchanges and Clearing, the NASDAQ System, the New York Stock Exchange, Singapore Exchange, SIX Swiss Exchange and the Taiwan Stock Exchange; and

(iv) any other stock exchange which the competent authorities of the Contracting States agree to recognise for the purposes of this Article;

(c) the term "equivalent beneficiary" means any person who would be entitled to a benefit, with respect to the item of income in respect of which the benefit of this Convention is claimed to a Contracting State, granted by that Contracting State under the law of that Contracting State, the Convention or any other international instrument, provided that such benefit is equivalent to the benefit to be granted to that item of income under the Convention.

8. Notwithstanding the other provisions of this Convention, a benefit under the Convention shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of the Convention.