

Acquiring Fund is a series of Funds Trust¹, a State Y statutory trust, and will elect to be treated as a regulated investment company (a “RIC”) under §§ 851 through 855 of the Internal Revenue Code on its initial tax return due after the Reorganization (as defined below). Acquiring Fund is registered with the SEC under the Investment Company Act of 1940 (the “1940 Act”) as a diversified, open-end management investment company. As a series fund, under § 851(g), Acquiring Fund is treated as a separate corporation and separate taxpayer for federal income tax purposes.

Prior to Date 1, Target Fund was a series of Funds Trust², a State X corporation, and elected to be treated as a RIC under §§ 851 through 855 of the Internal Revenue Code. Target Fund is registered with the SEC under the 1940 Act as a diversified, open-end management investment company. As a series fund, under § 851(g), Target Fund was treated as a separate corporation and separate taxpayer for federal income tax purposes.

Pursuant to a plan of reorganization, which closed on Date 1, Acquiring Fund and Target Fund undertook the following transactions (the “Reorganization”):

- (i) Target Fund transferred substantially all of its assets and liabilities to Acquiring Fund in exchange for shares of Acquiring Fund having equivalent value to the net assets transferred;
- (ii) Target Fund distributed pro rata the shares of the same or a comparable class of Acquiring Fund received in step (i) to the shareholders of record of Target Fund in redemption of all shares of Target Fund; and
- (iii) Target Fund liquidated and dissolved in accordance with the laws of State X, and terminated its registration under the 1940 Act.

The following representations have been made in connection with the Reorganization:

- (a) The fair market value of the Acquiring Fund stock received by each Target Fund shareholder was approximately equal to the fair market value of the Target Fund stock surrendered in the exchange.
- (b) Acquiring Fund acquired at least 90% of the fair market value of the net assets and at least 70% of the fair market value of the gross assets held by Target Fund immediately prior to the transaction. For purposes of this representation, amounts paid by Target Fund to dissenters, amounts used by Target Fund to pay Target Fund’s Reorganization expenses, amounts paid by Target Fund to shareholders who received cash or other property, and all redemptions and distributions (except redemptions in the ordinary course of Target Fund’s business as an open-end investment company pursuant to § 22(e) of the 1940 Act and regular, normal dividends) made

by Target Fund immediately preceding the transfer are included as assets of Target Fund held immediately prior to the Reorganization.

- (c) Acquiring Fund has no plan or intention to reacquire any of its stock issued in the Reorganization, except in the ordinary course of its business as an open-end investment company pursuant to § 22(e) of the 1940 Act.
- (d) Target Fund distributed the stock, securities, and other property it received in the transaction, and its other properties, in pursuance of the plan of Reorganization.
- (e) The liabilities of Target Fund assumed (as determined under § 357(d)) by Acquiring Fund were incurred in the ordinary course of its business and were associated with the assets transferred.
- (f) Acquiring Fund, Target Fund, and the shareholders of Target Fund paid their respective expenses, if any, incurred in connection with the Reorganization.
- (g) There was no intercorporate indebtedness existing between Acquiring Fund and Target Fund that was issued, acquired, or settled at a discount.
- (h) The fair market value of the assets of Target Fund transferred to Acquiring Fund equaled or exceeded the sum of the liabilities assumed (as determined under § 357(d)) by Acquiring Fund.
- (i) Target Fund was not under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).
- (j) Acquiring Fund is in the same line of business as the Target Fund preceding the Reorganization for purposes of § 1.368-1(d)(2). Following the Reorganization, Acquiring Fund will continue such line of business and has no plan or intention to change such line of business. Neither Acquiring Fund nor Target Fund entered into such line of business as part of the plan of reorganization. On the date of the Reorganization, at least 33 1/3% of Target Fund's portfolio assets met the investment objectives, strategies, policies, risks and restrictions of Acquiring Fund. Target Fund did not alter its portfolio in connection with the Reorganization. On the date of the Reorganization, Acquiring Fund had no plan or intention to change any of its investment objectives, strategies, policies, risks and restrictions after the Reorganization.
- (k) To the best of the knowledge of Acquiring Fund's management, as of the record date for Target Fund shareholders entitled to vote on the Reorganization, there was no plan or intention by the Target Fund

shareholders to sell, exchange, or otherwise dispose of a number of Target Fund shares (or Acquiring Fund shares received in the Reorganization), in connection with the Reorganization, that would reduce the Target Fund shareholders' ownership of Target Fund shares (or equivalent Acquiring Fund shares) to a number of shares that was less than 50 percent of the number of Target Fund shares as of the record date.

- (l) Acquiring Fund, which was formed for the purpose of engaging in the Reorganization, will elect to be taxed as a RIC, within the meaning of § 851 on its initial tax return due after the Reorganization. Target Fund elected to be taxed as a RIC under § 851. Target Fund and Acquiring Fund for all their taxable periods (including the last short taxable period ending on the date of the Reorganization for Target Fund), qualified for the special tax treatment afforded to RICs under the Code. After the Reorganization, Acquiring Fund intends to continue to so qualify.
- (m) There is no plan or intention for Acquiring Fund or any person related (as defined in § 1.368-1(e)(3)) to Acquiring Fund, to acquire, during the five-year period beginning on the date of the Reorganization, with consideration other than Acquiring Fund stock, Acquiring Fund stock furnished in exchange for a proprietary interest in Target Fund in the Reorganization, either directly or through any transaction, agreement, or arrangement with any other person, other than redemptions by Acquiring Fund in the ordinary course of its business as an open-end investment company pursuant to § 22(e) of the 1940 Act.
- (n) During the five-year period ending at the effective date of the Reorganization: (a) neither Acquiring Fund nor any person related (as defined in § 1.368-1(e)(3)) to Acquiring Fund acquired Target Fund shares with consideration other than Acquiring Fund shares (other than Target Fund shares acquired by Acquiring Fund in the ordinary course of business); (b) neither Target Fund nor any person related (as defined in § 1.368-1(e)(3) without regard to § 1.368-1(e)(3)(i)(A)) to Target Fund acquired Target Fund shares with consideration other than Acquiring Fund shares or Target Fund shares; and (c) no distribution was made with respect to Target Fund stock (other than normal, regular, dividend distributions made pursuant to the historic dividend paying practice of Target Fund), either directly or through any transaction, agreement, or arrangement with any other person, except for (i) distributions described in §§ 852 and 4982 as required for Target Fund's tax treatment as a RIC, and (ii) redemptions by Target Fund of its stock in the ordinary course of its business as an open-end investment company pursuant to § 22(e) of the 1940 Act.

Based solely on the information submitted and the representations set forth above, we hold as follows:

- (1) The Reorganization will qualify as a reorganization within the meaning of § 368(a)(1)(C). Acquiring Fund and Target Fund are each “a party to a reorganization” within the meaning of § 368(b).
- (2) No gain or loss is recognized by Target Fund upon the transfer of all of its assets to Acquiring Fund in exchange for Acquiring Fund stock and the assumption by Acquiring Fund of Target Fund liabilities (§§ 361(a) and 357(a)).
- (3) No gain or loss is recognized by Target Fund on the distribution of Acquiring Fund stock to its shareholders (§ 361(c)).
- (4) No gain or loss is recognized by Acquiring Fund upon the receipt of the assets of Target Fund in exchange for Acquiring Fund stock (§ 1032(a)).
- (5) The basis of the assets of Target Fund in the hands of Acquiring Fund will be the same as the basis of those assets in the hands of Target Fund immediately prior to the transfer (§ 362(b)).
- (6) The holding period of the assets of Target Fund in the hands of Acquiring Fund includes the period during which those assets were held by Target Fund (§ 1223(2)).
- (7) The basis of the shares of Acquiring Fund received by the Target Fund shareholders will be the same as the basis of the Target Fund stock surrendered in exchange therefor (§ 358(a)(1)).
- (8) The holding period of Acquiring Fund stock received by the Target Fund shareholders includes the period during which the Target Fund shareholders held the Target Fund stock surrendered in exchange therefor, provided the Target Fund stock was held as a capital asset on the date of the transaction (§ 1223(1)).
- (9) No gain or loss is recognized by the Target Fund shareholders on the receipt of Acquiring Fund stock solely in exchange for their Target Fund stock (§ 354(a)).
- (10) Pursuant to § 381(a) and § 1.381(a)-1, Acquiring Fund will succeed to and take into account the items of Target Fund described in § 381(c), subject to the provisions and limitations specified in §§ 381, 382, 383, and 384, and the regulations thereunder. Pursuant to § 1.381(b)-1, the

tax year of Target Fund ended on the effective date of the Reorganization.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Ken Cohen
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel (Corporate)

cc: