

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Date:

September 19, 2005

Legend:

Fund =

Trust =

State =

Dear :

This responds to your request dated December 21, 2004, submitted by your authorized representatives on behalf of Fund, that the Internal Revenue Service rule that income and gains earned by Fund with respect to foreign currency forward contracts and other foreign currency related investments constitute qualifying income under section 851(b)(2) of the Internal Revenue Code of 1986, as amended (Code).

FACTS

Trust is registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., as amended, as an open-end management company. Trust is a statutory trust organized under the laws of State. Trust consists of segregated portfolios of assets, each of which has elected to be classified as a regulated investment company (RIC) under subchapter M, part I, of chapter 1, Subtitle A of the Code.

Trust intends to form Fund, a new segregated portfolio of assets. Fund will provide investors the ability to participate in global currency and related markets. Fund's assets will consist generally of (1) short-term money market instruments, such as bank depository instruments, repurchase agreements and government securities, denominated in U.S. dollars and foreign currencies, (2) positions in currency forward

contracts in the over-the-counter market, and (3) options and futures on currencies. Short-term Treasury securities and foreign government securities will constitute Fund's largest asset category, followed by foreign currency forward contracts.

Foreign currency forward contracts are expected to be Fund's principal source of foreign currency gains. Foreign currency forward contracts are contracts with standardized terms for which bid and ask prices are generally available in an over-the-counter market.

Fund will seek capital appreciation from changes in currency exchange rates, as well as a return on investments in short-term debt obligations. Fund is designed to provide individual investors with an alternative investment vehicle that has a low correlation to investments in equity or fixed income securities.

LAW AND ANALYSIS

Section 851(a) defines a RIC, in part, as a domestic corporation registered under the 1940 Act as a management company.

Section 851(b) limits the definition of a RIC to a corporation meeting certain election, gross income, and diversification requirements.

Section 851 (b)(2) (A) provides that, to qualify as a RIC, at least 90 percent of a corporation's gross income must be derived from dividends, interest, payments with respect to securities loans (as defined in section 512(a)(5)), and gains from the sale or other disposition of stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended) or foreign currencies, or other income (including but not limited to gains from options, futures, or forward contracts) derived with respect to its business of investing in such stock, securities, or currencies.

Section 851(b) further provides that, for purposes of section 851(b)(2), the Secretary may by regulation exclude from qualifying income foreign currency gains which are not directly related to the company's principal business of investing in stock or securities (or options and futures with respect to stock or securities).

The regulatory authority set forth in the preceding paragraph was enacted in 1986, accompanying the expansion of the definition of RIC qualifying income to expressly include foreign currency gains. No regulations have been adopted pursuant to this grant of regulatory authority as of the date of this letter.

CONCLUSION

In accordance with the facts as represented, we rule that income and gains derived by Fund from foreign currency forward contracts and other foreign currency

related investments enumerated in this letter constitute qualifying income under section 851(b)(2) of the Code.

No opinion is expressed or implied concerning the federal income tax consequences of any transaction described in this letter, except as expressly provided.

In particular, no opinion is expressed or implied concerning the treatment of income and gains derived by Fund from foreign currency forward contracts and other foreign currency related investments enumerated in this letter in the event of promulgation of regulations under section 851(b)(2), pursuant to the express grant of authority to the Secretary to exclude from qualifying income foreign currency gains which are not directly related to the company's principal business of investing in stock or securities (or options and futures with respect to stock or securities). Temporary or final regulations pertaining to this issue have not yet been adopted. Therefore, this ruling will be modified or revoked by the adoption of temporary or final regulations, to the extent the regulations are inconsistent with any conclusion in the letter ruling. See section 11.04 of Rev. Proc. 2005-1, 2005-1 I.R.B. 1, 47. When the criteria in section 11.06 of Rev. Proc. 2005-1 are satisfied, however, a ruling is not revoked or modified retroactively except in rare or unusual circumstances.

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

Sincerely yours,

WILLIAM E. COPPERSMITH
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Chief, Branch 2
Office of Associate Chief Counsel
(Financial Institutions & Products)