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IRS-2026-1255

Internal Revenue Service
CC:PA:01:PR (Notice 2026-62)

**Re: Notice 2026-62: Comments on section 2.03, "Transfers to partnerships in
connection with a § 351 conversion transaction"**

Ladies and Gentlemen:

Cache Advisors LLC ("Cache") is an investment adviser registered with the Securities and Exchange Commission ("SEC"). Cache sponsors and manages private investment funds, organized as partnerships, that accept contributions of appreciated securities from investors ("exchange funds"). We submit these comments on Notice 2026-62 (the "Notice") in response to two questions raised in the Notice: whether there are transactions that "appear to be similar to the subject transactions but have different facts or different economics," and what the appropriate scope of guidance should be "so that it does not adversely affect well-established market practice that is consistent with the intent of Congress."¹

This letter provides an account, drawn entirely from public filings with the SEC, of a long-established exchange fund practice that shares certain features with the transaction described in section 2.03 of the Notice. It also describes how Cache's exchange funds have contributed securities to exchange-traded funds ("ETFs") and demonstrates how those exchange funds and those contributions differ from what is described in section 2.03 of the Notice.

¹ Notice 2026-62, §§ 4.01(2), 4.01(3).

Summary

1. **The structure follows long-established industry practice.** For decades, exchange funds have accepted appreciated securities while holding at least 20 percent of their assets in property other than stocks or securities, typically real estate, and many have contributed those securities onward to a larger fund to achieve broader diversification. As disclosed in SEC filings, exchange funds sponsored by a leading provider accepted concentrated stock positions and, at each closing, contributed the received securities as a diversified basket to a larger registered fund.
2. **Treasury has addressed that onward contribution.** Since 1996, the regulations have provided that when each transferor contributes a diversified portfolio to a larger fund, whether a partnership or a corporation, the transfer does not result in diversification and is therefore not taxable under section 721(b) or section 351(e). The rule was adopted to make clear that "combinations of already diversified portfolios are not inconsistent with the purposes of section 351(e)."²
3. **Cache's ETF contributions are not made in pursuit of section 852(b)(6).** Cache's exchange funds have contributed a portion of their portfolios, as diversified baskets consistent with each ETF's investment thesis, to newly launched ETFs of an unaffiliated sponsor. At each launch, the funds were minority contributors alongside hundreds of unrelated investors, each contributing a diversified basket. The funds achieved broader diversification at the time of contribution by pooling with the other contributors. Section 852(b)(6) does not play a role in achieving this result. Cache does not manage the ETFs, and neither Cache nor its funds had any agreement, arrangement, or understanding with the sponsor or any authorized participant regarding the redemption of the contributed securities.
4. **Two assumptions distinguish the transaction described in section 2.03.** First, section 2.03 assumes that an exchange fund is formed for the purposes of creating a diversified portfolio in order to participate in a § 351 conversion transaction. Second, it assumes that the securities contributed to the ETF, as part of a plan, will be swapped out for a materially different portfolio through redemptions under section 852(b)(6). Neither assumption describes Cache's exchange funds.
5. **Requests.** We ask that any guidance (a) apply only where a partnership is created for purposes of participating in the kind of transaction Rev. Rul. 2026-20 treats as a taxable exchange, and (b) evaluate a partnership's contribution to an ETF under the same standard that applies to any other contributor.

² Transfers to Investment Companies, 60 Fed. Reg. 40794, 40795 (proposed Aug. 10, 1995) (CO-19-95). See Part II below.

I. The Transaction Described in Section 2.03

Section 2.03(2) of the Notice describes a “partnership variation” of a § 351 conversion transaction. The partnership variation appears to have two fundamental parts. First, the exchange fund is formed, and its investors contribute to it solely to assemble a diversified portfolio and participate in a § 351 conversion transaction, with no other purpose.

Second, in the § 351 conversion transaction, the investors effectively exchange their securities for a materially different portfolio of securities, through an ETF redemption intended to qualify under section 852(b)(6), without having any other reason to participate in a contribution to an ETF.

II. The Rules Under Which Exchange Funds Operate

Section 721(b) provides that nonrecognition under section 721(a) “shall not apply to gain realized on a transfer of property to a partnership which would be treated as an investment company (within the meaning of section 351) if the partnership were incorporated.”³ Two rules in the section 351 regulations determine how exchange funds operate within that limit.

- **The 80 percent test.** A transferee is an investment company if, among other things, more than 80 percent of the value of its assets is held for investment and consists of stocks or securities, a term that since 1997 has included money, debt instruments, derivatives and interests in real estate investment trusts and regulated investment companies.⁴ An exchange fund that holds at least 20 percent of its assets in other property, typically real estate, is therefore not an investment company, and investors may contribute appreciated securities to it under section 721(a).
- **The diversified-portfolio rule.** “[A] transfer of stocks and securities will not be treated as resulting in a diversification of the transferors’ interests if each transferor transfers a diversified portfolio of stocks and securities.”⁵ A portfolio is diversified for this purpose if it meets the 25 and 50 percent tests of section 368(a)(2)(F)(ii): not more than 25 percent of its value invested in any one issuer, and not more than 50 percent invested in five or fewer issuers. Treasury and the IRS adopted this rule in 1996.

³ I.R.C. § 721(b), added by the Tax Reform Act of 1976, Pub. L. No. 94-455, § 2131(b), 90 Stat. 1924 (applicable to transfers made after February 17, 1976). The K&L Gates letter discusses the legislative history.

⁴ Treas. Reg. § 1.351-1(c)(1)(ii); I.R.C. § 351(e)(1).

⁵ Treas. Reg. § 1.351-1(c)(6)(i), adopted by T.D. 8663, 61 Fed. Reg. 19544 (May 2, 1996) (applicable to transfers completed on or after May 2, 1996).

When they proposed it, they explained that they wished to clarify “that combinations of already diversified portfolios are not inconsistent with the purposes of section 351(e).”⁶ Under this rule, an exchange fund’s contribution of a diversified portfolio to a larger fund, whether a partnership or a corporation, is not treated as resulting in diversification, provided each transferor contributes a diversified portfolio.

Congress amended section 351(e)(1) in 1997 to broaden the assets treated as stocks and securities and did not alter the diversified-portfolio rule.⁷ The IRS has applied that rule in private letter rulings to contributions of diversified portfolios to funds taxed as partnerships, including a fund’s contribution of a diversified portfolio to a portfolio taxed as a partnership in a master-feeder structure.⁸

III. A Long-Established Practice: The “Traditional” Series of Exchange Funds

Exchange fund sponsors have long used multi-tiered structures to achieve broader diversification. In these structures, the securities accepted at each closing had to form a diversified basket, which was contributed onward to a larger fund shared with other investors or funds. We describe one such structure, sponsored by a leading provider, because it is the precedent Cache studied when it built its own structure. The provider’s funds filed periodic reports with the SEC, which makes it possible to document each step from public sources. We do not suggest that this sponsor’s practices are in question under the Notice; we cite them as evidence of what conventional, long-established practice has been.

A. The structure

The provider sponsored a series of exchange funds (the “Traditional” series) organized as limited liability companies, including the example exchange fund (“Example”) discussed below. The structure had three tiers, shown in Figure 1. We refer to the intermediate fund as the “Master Fund” and to the registered fund as the “Portfolio,” and use those names in place of the funds’ actual names when quoting the filings.

⁶ Transfers to Investment Companies, 60 Fed. Reg. 40794, 40795 (proposed Aug. 10, 1995) (CO-19-95), adopted as revised by T.D. 8663, 61 Fed. Reg. 19544 (May 2, 1996).

⁷ Taxpayer Relief Act of 1997, Pub. L. No. 105-34, § 1002(a), 111 Stat. 909 (amending I.R.C. § 351(e)(1)). Treas. Reg. § 1.351-1(c)(6) remains in effect.

⁸ PLR 200105015 (Oct. 25, 2000) (regulated investment company’s contribution of a portfolio diversified under Treas. Reg. § 1.351-1(c)(6) to a portfolio taxed as a partnership did not result in gain under sections 721(b) and 351(e)); PLR 199917051 (Feb. 1, 1999) (contribution of a diversified portfolio of partnership interests to two funds did not result in diversification, citing Treas. Reg. § 1.351-1(c)(6)(i)). Private letter rulings may not be used or cited as precedent, I.R.C. § 6110(k)(3); we cite them only as examples of the rule’s application.

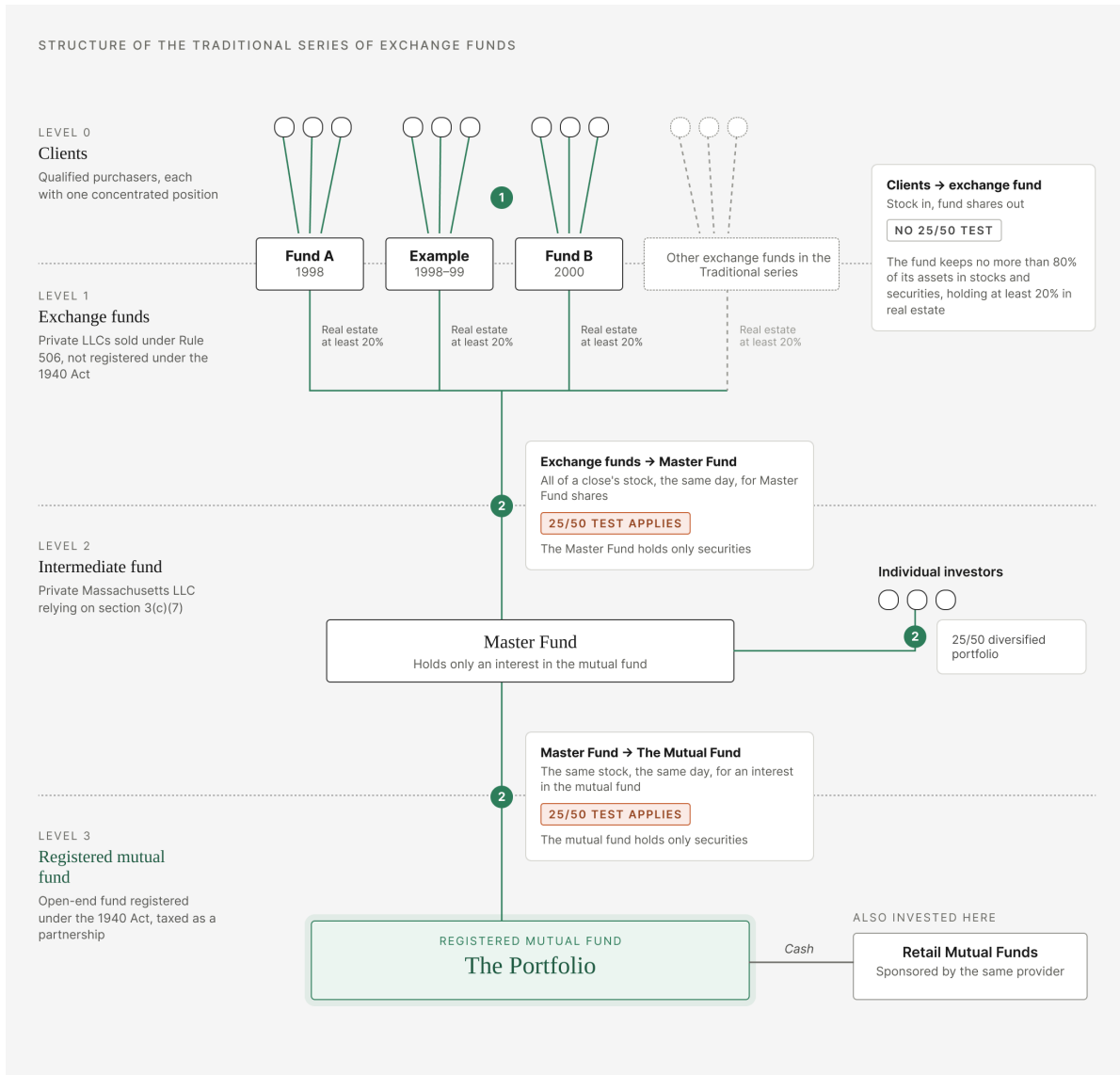


Figure 1. The Traditional-series structure as described in the funds' SEC filings (simplified).

1. **The exchange funds.** Example's annual report describes the 20 percent requirement: "In order for the contributions of appreciated stock to the Fund by Shareholders to be nontaxable, not more than 80% of the Fund's assets (calculated in the manner prescribed) may consist of 'stocks and securities' as defined in the Code. To meet this requirement, the Fund normally invests at least 20% of its assets as so determined in certain real estate investments."⁹

⁹ Annual Report (Form 10-K) for the fiscal year ended December 31, 2007, Item 1, "Structure of the Fund" (SEC accession no. 0001104659-08-014363) (cross-reference omitted).

2. **The intermediate fund.** Example's annual report describes what happened at each closing:¹⁰

At each Fund closing, all of the securities accepted for contribution to the Fund were contributed by the Fund to the Master Fund in exchange for shares of the Master Fund. The Master Fund, in turn, immediately thereafter contributed the securities received from the Fund to the Portfolio in exchange for an interest in the Portfolio.

The Master Fund was organized to "offer tax-free diversification and tax-sensitive investment management to certain qualified investors who contributed diversified portfolios of equity securities." It "provides a vehicle through which investment fund and non-investment fund investors contributing a 'diversified basket of securities' can acquire an indirect interest in the Portfolio," defined by the 25 and 50 percent tests, and "[t]he securities contributed to the Master Fund at each Fund closing constituted a diversified basket of securities." As of December 31, 2007, the Master Fund's investors included Example, "twelve other investment funds" sponsored by the same organization, and qualified individual investors who contributed portfolios directly.¹¹

3. **The registered fund.** The Portfolio is an open-end management investment company registered under the Investment Company Act of 1940. Its procedures state that "[t]he Trust is treated as a partnership for federal income tax purposes."¹² Registered retail mutual funds sponsored by the same provider also invested cash in the Portfolio; at December 31, 2016, four such funds held 24.1 percent of it.¹³ That cash let the Portfolio also buy additional securities (see Table 1), a second source of diversification alongside the contributed baskets. The Portfolio's procedures provided that, if a redeeming holder so specified, it would satisfy the redemption by distributing securities that the holder had contributed, and the exchange funds in turn satisfied their own redemption requests "principally by distributing securities."¹⁴

¹⁰ 2007 Form 10-K, *supra*, Item 1, "The Fund's Investment in the Master Fund and the Portfolio."

¹¹ *Id.*

¹² Post-Effective Amendment to Registration Statement, filed February 27, 1998, Exhibit 8(b) (Revised Procedures for Allocations and Distributions, effective May 14, 1997), art. I (SEC accession no. 0000940394-98-000079).

¹³ Annual Report (Form N-CSR) for the year ended December 31, 2016, Note 1 (SEC accession no. 0001193125-17-059202).

¹⁴ Revised Procedures for Allocations and Distributions, *supra*, § 6.3 ("If specified by the redeeming Holder, the Trust shall satisfy a Redemption request by distributing securities held in the Trust at the time of the Redemption that were contributed to the Trust by such Holder."); *id.* ("Without the consent of the Master Fund, the Trust shall not distribute securities that were contributed to the Trust by the Master Fund to any other person."); 2007 Form 10-K, *supra*, Item 1 ("The Fund satisfies redemption requests principally by distributing securities, but may also distribute cash.").

B. Duration and scale

- The Master Fund held 30.5 percent of the Portfolio as of January 30, 1998.¹⁵ The Portfolio's later reports describe its largest investor as "an unregistered fund managed by the adviser to the Portfolio," which held 75.9 percent of the Portfolio at December 31, 2016 and 86.5 percent at December 31, 2022.¹⁶
- From 1996 through 2023, the Portfolio received more than \$34 billion of securities contributed in kind,¹⁷ in contributions that relied on the diversified-portfolio rule.
- The arrangement continued until January 2023. The Portfolio reported that, "[a]s of the close of business on January 13, 2023, the unregistered fund redeemed in-kind its entire interest in the Portfolio amounting to \$27,556,262,973," and that the redemption "did not result in the Portfolio's recognition of any gain or loss for federal income tax purposes." The Master Fund continues to offer interests to investors; it filed an amended notice of exempt offering with the SEC in April 2026.¹⁸

C. An illustration: the second half of 2016

The Portfolio's 2016 reports show how contributed securities entered its portfolio.¹⁹ The filings do not attribute contributed securities to particular contributors or closings, and we do not attempt to do so.

¹⁵ Post-Effective Amendment, *supra*, Item 15 (listing the Master Fund as holding 30.5%).

¹⁶ Form N-CSR for 2016, *supra*, Note 1; Annual Report (Form N-CSR) for the year ended December 31, 2022, Note 1 (SEC accession no. 0001193125-23-053789). The reports do not name the unregistered fund.

¹⁷ Compiled by Cache from Note 3 of the Portfolio's annual reports for fiscal years 1996 through 2023 (\$34,227,339,976 in total).

¹⁸ Form N-CSR for 2022, *supra*, Note 10, "Redemption of Unregistered Fund"; Notice of Exempt Offering of Securities (Form D/A) filed by the Master Fund on April 24, 2026 (SEC accession no. 0000945621-26-000600).

¹⁹ Form N-CSR for 2016, *supra*, Note 3 and Portfolio of Investments; Semiannual Report (Form N-CSRS) for the six months ended June 30, 2016, Note 3 and Portfolio of Investments (SEC accession no. 0001193125-16-691368). Figures for the six months ended December 31, 2016 are the annual figures less the semiannual figures.

Table 1. Securities contributed to the Portfolio and purchased for cash, 2016

Period	Securities contributed in kind	Securities purchased for cash
Six months ended June 30, 2016	\$323,656,622	\$82,314,966
Six months ended Dec. 31, 2016	\$736,420,947	\$67,071,872
Year ended Dec. 31, 2016	\$1,060,077,569	\$149,386,838

Source: Note 3 of the Portfolio's 2016 semiannual and annual reports ("purchases ... of investments, other than short-term obligations"). Second-half figures are the annual figures less the semiannual figures.

Table 2 shows the five largest increases in the Portfolio's holdings during the half-year. Table 3 shows the Portfolio's own five largest holdings at the start and end of the half-year.

Table 2. What was added in the second half of 2016

Five largest increases in holdings, H2 2016	Increase as % of securities contributed in kind	Issuer's weight in the Portfolio, Dec. 31, 2016
QUALCOMM	12.0%	1.5%
Marriott International	9.6%	1.2%
EOG Resources	8.8%	0.9%
Charles Schwab	5.6%	1.2%
Wells Fargo	5.6%	2.4%
Five largest	41.6%	7.1%

Source: The Portfolio's 2016 semiannual and annual reports; method in note 20. Increases are valued at December 31, 2016 prices and may include securities purchased for cash, so the percentages are approximate; totals may not sum due to rounding.

Table 3. The Portfolio's five largest holdings, June 30 and December 31, 2016

June 30, 2016	Weight	Dec. 31, 2016	Weight
Alphabet	3.7%	Alphabet	3.7%
Apple	2.9%	Apple	3.1%
Exxon Mobil	2.7%	Berkshire Hathaway	2.5%
Facebook	2.5%	Exxon Mobil	2.4%
Berkshire Hathaway	2.3%	Wells Fargo	2.4%
Five largest	14.0%	Five largest	14.2%
Issuers held	426	Issuers held	458

Source: *The Portfolio's Portfolios of Investments at June 30 and December 31, 2016*; method in note 20. Weights are percentages of net assets; totals may not sum due to rounding.

The securities added were more concentrated than the Portfolio they joined. The five largest increases equaled 41.6 percent of the securities contributed in kind. The Portfolio's own five largest holdings were 14.2 percent of its net assets, and it held 458 issuers at year-end.²⁰ Combining a diversified but more concentrated basket with a broader portfolio in this way is what the diversified-portfolio rule addresses: a transfer of a diversified portfolio does not result in diversification, and so is not taxable under section 721(b), a rule adopted to make clear that "combinations of already diversified portfolios are not inconsistent with the purposes of section 351(e)" (see Part II).

The contributors' built-in gain was preserved. Under section 704(c), built-in gain on contributed securities remained allocable to the partners who contributed them.

D. What the precedent establishes

For more than two decades, investors contributed concentrated, appreciated securities to partnerships that held at least 20 percent of their assets in real estate. In the structure the filings describe, those partnerships contributed all of the securities received at each closing, as a diversified basket, to the Master Fund, which immediately contributed them to a larger registered fund that held them in a broadly diversified portfolio while preserving the investors' built-in gain. The steps were clearly disclosed in public filings.

²⁰ Computed by Cache from the Portfolios of Investments at June 30 and December 31, 2016. Percentages are of net assets (\$11,303,092,748 at June 30, 2016 and \$12,577,024,123 at December 31, 2016). Increases in holdings are measured in shares, including new positions, and valued at December 31, 2016 prices; they reflect contributions, purchases, sales and distributions in kind.

The structure rests on section 721(b), enacted in 1976, and on the regulations under section 351(e), including the diversified-portfolio rule adopted in 1996.

The precedent does not involve an ETF. The Portfolio was a registered open-end fund taxed as a partnership, so section 852(b)(6) did not apply to it. Its relevance is to show that using multi-tiered structures to achieve broader diversification is “conventional, long-established tax planning that is consistent with the intent of Congress.”²¹

IV. Cache’s Exchange Funds and Their ETF Contributions

The following facts describe Cache’s exchange funds and their contributions to ETFs.

- **The funds.** Cache’s exchange funds are partnerships that hold at least 20 percent of their assets in real estate interests. Each fund has an objective of providing diversification and an investment experience toward a stated benchmark. The funds accept contributions of appreciated securities from investors approximately every two weeks, hold securities directly, and decline offered securities that do not fit a fund’s benchmark or would adversely affect its tracking error.
- **Purpose of the ETF contributions.** As selling contributed securities would realize the gain investors seek to defer, a single exchange fund assembled from contributions can have gaps relative to its benchmark. Cache designed its exchange funds to address this by contributing a portion of their holdings to newly launched broad-market U.S. equity ETFs, a feature it describes to investors as Index Sync. Beginning in July 2025, the funds have made these contributions as minority contributors, alongside other unrelated contributors, in the launches of ETFs sponsored by an unrelated adviser, to bring the funds closer to their benchmarks.
- **The receiving ETFs.** Each ETF is a broad-market U.S. equity fund whose initial portfolio is assembled from the contributions of hundreds of investors that its sponsor accepts. The sponsor accepts only portfolios that are diversified under section 351 and consistent with the fund’s prospectus. Section 2.02(2) of the Notice does not describe seeding transactions with these features. Before each launch, the ETF sponsor models the combined portfolio of all proposed contributions, and the ETF’s portfolio managers confirm that the contributions meet the ETF’s investment objective. Each ETF therefore held, from its first day, a broad-market portfolio consistent with its prospectus, giving the contributing funds economic exposure to roughly 415 to 570 stocks (counting positions of at least 0.01 percent) and market exposure approximately equal to that of the S&P 500.²²

²¹ Notice 2026-62, § 1.

²² Measured by Cache from each ETF’s holdings on its first day of trading.

The funds obtained that diversification by pooling their baskets with those of the other contributors, not from any later redemption under section 852(b)(6).

- **The contributed baskets.** Each contribution to date has consisted of a basket of 50 to 75 issuers that satisfied Treas. Reg. § 1.351-1(c)(6), was consistent with the receiving ETF's investment thesis, and was approved by the ETF's portfolio managers. The portion of a fund contributed varies depending upon (i) where the fund is in its life cycle when an ETF launches, (ii) how the exchange fund's portfolio compares to its benchmark at the time, (iii) the ETF's investment profile, and (iv) the contributions the exchange fund expects to continue receiving. After each contribution, the exchange fund continues to hold securities directly and to accept contributions. Because Cache reduces its management fee to offset the ETF management fee on each fund's ETF shares, Cache has an economic incentive to contribute no more than is needed to bring tracking error within an acceptable range. A partnership used as a conduit would have the opposite incentive.
- **No reliance on section 852(b)(6).** The exchange funds contributed securities to gain an interest in the ETF's portfolio and achieve broader diversification, not to have the contributed securities exchanged out of the ETF through redemptions under section 852(b)(6). Section 852(b)(6) was not a reason for the funds' contributions: their tax treatment on contributing depends on section 351 and the diversified-portfolio rule, and guidance limiting section 852(b)(6) for securities received in a § 351 transaction would not change why the funds contribute or the diversification they obtain. The ETF sponsor is not affiliated with Cache, and Cache has no role in managing the ETFs. Neither Cache nor its funds have any agreement, arrangement, or understanding with an ETF, its adviser or any authorized participant ("AP") regarding the redemption of contributed securities.
- **Built-in gain preserved.** An exchange fund that contributes securities to an ETF in a qualifying transaction receives ETF shares with a substituted basis. Under Treas. Reg. § 1.704-3(a)(8)(i), those shares are treated as section 704(c) property with the same amount of built-in gain as the securities contributed, so investors' deferred gain remains allocated to them.²³ The seven-year rules of sections 704(c)(1)(B) and 737 continue to apply.
- **Review and current status.** Before its first ETF contribution, Cache obtained formal tax and regulatory opinions from K&L Gates LLP. Cache's funds have paused further ETF contributions while waiting for the further guidance contemplated by the Notice.

²³ Treas. Reg. § 1.704-3(a)(8)(i).

V. Where the Line Should Be Drawn

A. The conversion transaction is the operative step

The steps that precede the conversion transaction in section 2.03 are a contribution of appreciated securities to a partnership that is not an investment company, a diversified portfolio at the partnership level, and a contribution of that portfolio to a larger fund. These are the steps exchange funds have used for decades, and each is governed by rules that Congress and Treasury adopted to determine when such transfers are taxable. Section 2.03, read with Rev. Rul. 2026-20, addresses something different: a plan under which an exchange fund merely assembles assets for the purpose of making a contribution to an ETF, and the ETF uses the contributed securities to redeem its shares from an AP, so that the contributor, in substance, exchanges its securities with the AP for a materially different portfolio. Guidance under section 2.03 should attach to that conversion transaction.

B. A partnership contributor should be evaluated under the same standard as any other contributor

Rev. Rul. 2026-20 recharacterizes an investor's transfer "to reflect the substance of the transactions carried out pursuant to the plan."²⁴ A partnership that contributes securities to an ETF should be evaluated the same way: by whether it participates in a plan, agreement, arrangement, or understanding under which the contributed securities are used to redeem ETF shares from an AP and exchange one portfolio for a materially different portfolio. The ruling's facts involve a single investor, and it states that the result "would be the same if there were multiple investors engaging in the transaction," that is, if several investors were parties to the plan. It does not address an investor that contributes to the same ETF launch without being a party to any such plan. Guidance should make clear that each contributor is evaluated by its own participation. This matters for a minority contributor that has no control over how the ETF is managed.

For a contributor that is not affiliated with the ETF's sponsor or adviser, the intent and expectations described in section 2.02(2) should be established by objective facts within the contributor's knowledge and control: that the contributed assets are consistent with the ETF's investment thesis; that the contributor has no agreement, arrangement, or understanding regarding their redemption; that the contributor is not affiliated with the ETF's sponsor or adviser; that the contributor is not formed or used as a conduit for the contribution; and that the contribution is made for bona fide investment purposes, such as benchmark tracking and diversification. Portfolio decisions that an unaffiliated adviser later makes for all of the ETF's shareholders, in managing the ETF under its stated strategy, should not by themselves recharacterize an unaffiliated contributor's transfer.

²⁴ Rev. Rul. 2026-20 (holding).

In the Traditional series, diversified baskets were pooled within one sponsor's fund family, which accumulated contributions over decades. A newer sponsor can achieve the same pooling only by contributing alongside unrelated investors to a fund it does not control, as Cache's funds have done. Treas. Reg. § 1.351-1(c)(6) applies the same way to both. Guidance that permitted the first but not the second would favor the largest, longest-established sponsors over new entrants, with no difference in the transfers themselves.

VI. Requests

We respectfully request that any guidance issued in response to the Notice:

1. Apply only where a partnership participates in a § 351 conversion transaction described in section 2.02(2) of the Notice, the transaction Rev. Rul. 2026-20 treats as a taxable exchange, consistent with the Notice's statement that it "does not address other transactions involving exchange funds." Contributions of appreciated securities to a partnership that is not an investment company under the 80 percent test, and a partnership's contribution of a diversified portfolio within the meaning of Treas. Reg. § 1.351-1(c)(6) to a larger fund, are well-established market practice within the meaning of section 4.01(3).
2. Evaluate a partnership's contribution to an ETF under the same standard that applies to any other contributor: whether the contributor participates in a plan, agreement, arrangement, or understanding under which the contributed securities are used to redeem ETF shares from an authorized participant to obtain a materially different portfolio of securities. The facts described in Part V.B should establish that a contribution is not part of a § 351 conversion transaction.

We appreciate the opportunity to comment and would welcome the opportunity to discuss these comments with the Office of Tax Policy and the Office of Chief Counsel, or to provide any further information that would be helpful.

Respectfully submitted,

Srikanth Narayan
Founder and Chief Executive Officer
Cache Financials, Inc.

cc: Joel D. Almquist, K&L Gates LLP