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## Northern Trust

Legal Department

January 25, 2007

SUBMITTED VIA E-MAIL (to e-OED@dol.gov)

Office of Exemption Determinations  
Employee Benefits Security Administration  
Room N-5700  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, D.C. 20210  
Attention: IRA Investment Advice RFI

Dear Sir or Madam:

We respectfully submit this response to the request for information published by the Department of Labor in the December 4, 2006, Federal Register and Ivan Strasfeld's letter of December 12, 2006, to our Chairman and Chief Executive Officer, William A. Osborn.

- 1. Are there computer model investment advice programs for the current year and preceding year that are, or may be, utilized to provide investment advice to beneficiaries of IRA plans which:**
  - a. Apply generally accepted investment theories that take into account the historic returns of different asset classes over defined periods of time;**
  - b. Utilize relevant information about the beneficiary, which may include age, life expectancy, retirement age, risk tolerance, other assets or sources of income, and preferences as to certain types of investments;**
  - c. Operate in a manner that is not biased in favor of investments offered by the fiduciary adviser or a person with a material affiliation or contractual relationship with the fiduciary adviser;**
  - d. Take into account the full range of investments, including equities and bonds, in determining the options for the investment portfolios of the beneficiary; and**
  - e. Allow the beneficiary, in directing the investment, sufficient flexibility in obtaining advice to evaluate and select investment options.**

In general, we are aware of computer models that have been developed by software and/or investment firms that are designed to meet all of the criteria outlined above. These computer models are, in our experience, most typically utilized either directly by participants in company sponsored 401(k) plans, or by consultants who provide financial planning, analysis, and perhaps recommendations across an individual investor's entire portfolio. We are not aware of any computer models that have been developed specifically for providing guidance or advice on IRA investments – although an IRA may be one component of an individual's overall portfolio holdings.

- 2. If currently available computer models do not satisfy all of the criteria described above, which criteria are presently not considered by such computer models? Would it be possible to develop a model that satisfies all of the specified criteria? Which criteria would pose difficulties to developers and why?**

We see no reason that a computer model could not be developed to satisfy all of the above criteria. The output of any such model would be partly dependent upon the quality of information provided by the IRA beneficiaries about their own personal situation.

- 3. If there are any currently available computer models investment advice programs meeting the criteria described in Question 1 that may be utilized for providing investment advice to IRA beneficiaries, please provide a complete description of such programs and the extent to which they are available to IRA beneficiaries.**

While Northern Trust does not utilize a computer model to provide advice specifically within an IRA, it seems theoretically possible to do so in such a way that all the criteria of Question 1 would be met. The extent to which such models would be available to IRA holders would likely be driven by the cost of such models versus the likely income to the IRA provider.

- 4. With respect to any programs described in response to Question 3, do any such programs permit the IRA beneficiary to invest IRA assets in virtually any investment? If not, what are the difficulties, if any, in creating such a model?**

Theoretically, while possible to include virtually any investment in a computer model, it is most likely that a cost effective modeling tool would be limited to some broad yet defined universe of investments or investment types. However,

the capabilities of a modeling tool do not need to translate to limitations on permitted investment choice (i.e., the IRA beneficiary could be allowed choice of any investment, even if the modeling tool could not provide advice on same).

- 5. If computer model investment advice programs are not currently available to IRA beneficiaries that permit the investment of IRA assets in virtually any investment, are there computer model investment advice programs currently available to IRA beneficiaries that, by design or operation, limit the investments modeled by the computer program to a subset of the investment universe? If so, who is responsible for the development of such investment limitations and how are the limitations developed? Is there any flexibility on the part of an IRA beneficiary to modify the computer model to take into account his or her preferences? Are such computer model investment advice programs available to the beneficiaries of IRAs that are not maintained by the persons offering such programs?**

Please refer to the answer to Question #4 regarding the universe of or limitations to available investments. It is likely that a model could be developed that allows the user to input specific CUSIP, asset characteristic, or other details about preferred investments that may not be available within the model's database. Many of the computer model investment advice programs available today have been developed by non-program providers and made available to the industry for purchase.

- 6. If you offer a computer model investment advice program based on nonproprietary investment products, do you make the program available to investment accounts maintained by you on behalf of IRA beneficiaries?**

Northern does not offer a computer model investment advice program that is specific to IRA beneficiaries.

- 7. What are the investment options considered by computer investment advice programs? What information on such options is needed? How is the information obtained and made part of the programs? Is the information publicly available or available to IRA beneficiaries?**

While Northern does not develop computer based investment advice models that are utilized directly by retirement plan (including IRA) beneficiaries, we do utilize computer models (some internally developed and some purchased externally), the output of which may be one component of financial consulting provided to clients (not specific to IRAs). Investment options may be included in a model at varying degrees of detail and specificity, depending upon the intended

use – from something as general as broad investment strategies (conservative to risky) or broad investment types (fixed, equity, etc.), to something as specific as investment vehicles listed on a public exchange. The information required would be driven by the level of specificity needed for the purpose at hand. Any exchange traded investment would be based on information available to the public, including IRA beneficiaries.

**8. How should the Department or a third party evaluate a computer model investment advice program to determine whether a program satisfies the criteria described in Question 1 or any other similar criteria established to evaluate such programs?**

It would seem likely that the Department could apply the same evaluation methodology that will be followed to evaluate computer model investment advice programs for 401(k) plans. It would be helpful to both those utilizing these models as well as those evaluating these models to have more definition and specificity in each of the criteria set forth in Question 1 (i.e., what are “generally accepted” investment theories; what is “relevant information about the beneficiary”; what is the measurement of “biased in favor”, etc.).

**9. How do computer model investment advice programs present advice to IRA beneficiaries? How do such programs allow beneficiaries to refine, amend or override provided advice?**

In our experience computer models can present advice in virtually any format – some guidance as to level of simplicity/complexity, information on assumptions, etc. would likely be helpful. Again, not specific to IRA models, but models we have seen for other investment decision purposes will typically allow a user to modify standard assumptions, include additional personal information and preferences, etc.

Sincerely,



Dale K. Nichols  
Assistant General Counsel

cc: William A. Osborn