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VIA EMAIL: [e.OED@dol.gov](mailto:e.OED@dol.gov)

Office of Exemption Determinations  
Employee Benefits Security Administration  
Room N-5700  
U.S. Department of Labor  
200 Constitution Ave. N.W.  
Washington, D.C. 20210

Attention: Ivan L. Strasfeld

**Re: Response to Request for Information Regarding Computer Models for the Provision of Investment Advice to Individual Retirement Accounts.**

Dear Mr. Strasfeld:

On behalf of Manufacturers and Traders Trust Company ("M&T Bank"), I am responding to the Department's Request for Information in connection with the feasibility of computer models in providing advice for individual retirement accounts. Your questions and our responses follow.

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 plans described in section 4975(e)(1)(B)-(F) (and so much of subparagraph (G) as relates to such subparagraphs) (hereinafter "IRA") of the Code 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.

**Response:** M&T Bank does not believe there is any entity currently using a computer model meeting these requirements.

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?

**Response:** M&T Bank does not believe that any computer models in existence today would be able to meet all of the criteria described in question 1. These criteria would be difficult to meet because (i) the cost of creating a model covering all potential investments is likely to be high; (ii) there is no public data currently in existence that would allow IRA beneficiaries to consider all investment options; and (iii) daily updating of a data base of this size is likely to be costly and inefficient.

3. If there are any currently available computer model 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.

**Response:** M&T Bank knows of no models that meet all of the criteria specified.

4. With respect to any programs described in response to Question 3, do any of 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?

**Response:** M&T Bank is not aware of any models meeting all of the criteria specified.

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?

**Response:** M&T Bank is aware of computer modeling applied to a subset of the universe of U.S. registered mutual funds. These computer models provide asset allocation recommendations, not advice. We have no particular information or knowledge on how these limitations are developed or with respect to the flexibility of the IRA beneficiary to modify the computer model to take into account individual preferences. Inputs available to 401(k) plan participants under existing asset allocation programs include expected retirement date and risk sensitivity.

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?

**Response:** M&T Bank does not currently offer such a computer model investment advice program.

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?

**Response:** M&T Bank is aware of computer model investment allocation programs in connection with mutual funds offered under employer sponsored 401(k) plans. Information used in connection with these programs is obtained from public sources.

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 9 or any other similar criteria established to evaluate such programs?

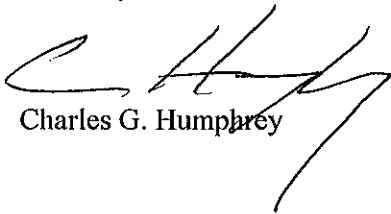
**Response:** The Department should consider whether the model contains sufficient information for the IRA beneficiary to evaluate the risk of each investment option.

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?

**Response:** We do not believe that any entity sponsors a model that is consistent with the criteria set forth by Congress in the Pension Protection Act.

Thank you for the opportunity to respond to the Request for Information.

Sincerely,



Charles G. Humphrey