

January 26, 2007

Mr. Ivan L. Strasfeld  
Director  
Office of Exemption Determinations  
U.S. Department of Labor  
Washington, D.C. 20210

Dear Mr. Strasfeld,

I am writing on behalf of Mr. Charles Schwab in response to your Request for Information (Vol. 71, No. 232) sent in December 2006 concerning the use of computer models to provide advice to beneficiaries of IRAs.

We appreciate the opportunity to participate in this process. Below, you will find responses to each of the questions posed. The original question is written and the subsequent response from Schwab is shown in *italics*.

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;

*Yes, Schwab believes that there are computer model investment advice programs that have been developed to take into account historic returns of different asset classes over defined times periods.*

(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;

*In general, most investment advice programs that include planning and establishing a goal or target for the future include the items indicated such as age, life expectancy, retirement age, risk tolerance, other assets or sources of income such as pension payments, Social Security payments and the like.*

*Because it is not practically feasible to “take into account the full range of investments” in terms of every possible available security or other investment vehicle (see response to (1)(d) below), identifying beneficiary preference for certain investments up front and making sure that preference can be served by the tool that uses the computer model would be both necessary and possible. Generally, most tools Schwab has information about assume a beneficiary will invest in mutual funds, and users of those tools can express a preference as to the type of investment style (e.g., equity mutual funds, fixed income mutual funds, money funds).*

(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;

*Investment advice tools based on a computer model can be built to make recommendations from a pool of investments selected based on rules created by the business that offers the tool. The business rules may provide a choice of proprietary and non proprietary security selections to investors. However, Schwab is not aware of a tool currently that would provide investment advice across the entire spectrum and market of investments. Tools that are offered by broker-dealers or investment advisers regulated by the SEC are subject to rules that require clear, prominent disclosure of any bias toward any investment. See, e.g., NASD Interpretive Material 2210-6; Investment Advisers Act of 1940 Section 206 and rules thereunder.*

(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

*Schwab is familiar with tools that provide advice across standard investment asset classes like equities (small cap, large cap, international), bonds, and cash but NOT that take into account “the full range of investments,” taken literally. For example, Schwab is not aware of tools that allow an investor to select from among every bond, mutual fund, individual equity, option, ETF, annuity, real estate investment, commodities and futures contracts, hedge fund etc. However, today’s tools based on a computer model likely could accommodate investments such as ETFs, collective trust funds, mutual fund wrap accounts, and separately managed accounts, in addition to mutual funds. Plus, objective business rules conceivably could include in the range of potential investments a selection of individual stocks and bonds, but not “the full range.” That simply is not feasible as explained in more detail below.*

(e) Allow the beneficiary, in directing the investment, sufficient flexibility in obtaining advice to evaluate and select investment options.

*Tools available today do provide beneficiaries with a certain level of flexibility in obtaining an appropriately allocated and diversified portfolio, such as different allocation models holding different percentages of equities (large cap, small cap, international), fixed income, and cash or cash equivalents. Information provided to a beneficiary before using the tool could make clear the range of investments available and not available, and could point to alternative sources of advice information for the investments that are not included in the program. But again, the full range of every investment option available is not presented in such tools today because it is too broad of a universe to be feasible. Moreover, many types of investments typically are not suitable for IRA beneficiaries.*

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?

*Schwab's experience with tools that rely on computer models indicates that it is the breadth of investment options – in terms of covering the entire spectrum of potential investments - that is missing. Given that there are literally ten's of thousands of potential investment options, it seems unlikely that a tool beneficiaries could easily use could be built. The key phrase here is 'easily usable'. With enough time, computer power and money a completely comprehensive tool could potentially be built but the upkeep, maintenance, and data compiling needs of a tool that would be robust enough to appropriately provide advice on ten's of thousands of potential investment options would be prohibitively expensive and very difficult for investors to use.*

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.

*Schwab does not currently offer through its distribution channels a single tool that provides everything outlined in question 1. We do use tools based on computer modeling to help clients including IRA beneficiaries to evaluate current and proposed asset allocations, in order to help them make choices of investments (stocks, bonds, mutual funds) using both proprietary and third party research.*

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?

*No, this type of computer model program that would allow IRA beneficiaries to invest in virtually any investment is not currently available at Schwab, and Schwab is not aware of an existing tool that enables this level of choice. The response to question #2 outlines the difficulties in creating such a tool.*

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?

*Schwab does not currently offer an integrated computer model investment advice program. Schwab does provide high level planning tools and extensive proprietary and third party investment research from which clients may select investments, which are available to IRA beneficiaries.*

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?

*Schwab does not currently offer the type of comprehensive computer model advice program as described in question 1. Schwab does provide asset allocation and retirement planning tools and a range of proprietary and third party investment solutions beneficiaries may select, which are based on extensive proprietary and third party investment research.*

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?

*Schwab is aware of integrated investment advice programs that may provide advice on mutual funds, ETFs and managed accounts. Generally, investment advice programs in the market place use publicly available information about the various investments being considered and then use proprietary modeling to produce the advice.*

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?

*There are 2 key elements that enable an investor to successfully achieve their retirement goals – savings and appropriate asset allocation including diversification. Any tool evaluation should first ensure that these most important elements are being appropriately addressed. From there, evaluation of investment selection should include an appropriate*

*review of real return (net of costs and risk) of the investments. Many investment vehicles likely are not suitable for IRA beneficiaries, so a requirement that a computer model literally take into account “the full range of investments” may be of questionable value.*

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?

*Schwab is aware of programs that could provide investment advice to beneficiaries among a limited set of investments. Our evaluation indicates that these tools could allow a beneficiary to accept the advice being given or to only accept part of the advice being given. Typically with such tools a beneficiary could provide authorization to the advice giver to buy and sell according to the recommendations made, or the beneficiary could choose to make the investment selections and trades on their own.*

*Tools available today do provide beneficiaries with a certain level of flexibility in obtaining an appropriately allocated and diversified portfolio, such as different allocation models holding different percentages of equities (large cap, small cap, international), fixed income, and cash or cash equivalents. Such tools, if they go further and provide investment recommendations, could provide information to a beneficiary at the outset to make clear the range of investment recommendations available and not available, and could point to alternative sources of advice information for the investments that are not included in the program.*

Thank you again for the opportunity to participate. I have sent the information via email attachment to [e-OE@dol.gov](mailto:e-OE@dol.gov) as instructed. Should you have any questions about the information provided, please feel free to contact me at [rene.kim@schwab.com](mailto:rene.kim@schwab.com) or via phone at 415-636-5075.

Sincerely,

René Kim  
Senior Vice President  
Charles Schwab & Co.