

# U.S. TRUST

**Erin R. Leske**  
Managing Director and Chief Risk Officer

January 30, 2007

Office of Exemption Determinations  
Employee Benefits Security Administration  
Room N-5700  
U.S. Department of Labor  
200 Constitution Avenue, NW.  
Washington, DC 20210

Attn: IRA Investment Advice RFI

Re: U.S. Department of Labor  
Employee Benefits Security Administration  
Request for Information

Dear Madam or Sir:

On behalf of the United States Trust Company, National Association ("U.S. Trust"), I'd like to acknowledge the receipt of the U.S. Department of Labor, Employee Benefits Security Administration's letter dated December 12, 2006 seeking information from the top 50 trustees of certain Individual Retirement Accounts and similar plans (collectively, "IRAs") regarding the experience of financial institutions that use a computer model to provide investment advice to participants and beneficiaries. Such letter refers to the Department of Labor, Employee Benefits Security Administration's Request for Information which was published in the Federal Register on December 4, 2006.

Currently, U.S. Trust acts as trustee on approximately 5,300 individual IRAs having an approximate market value of \$4.2 billion.

WealthPlanner, our state-of-the-art portfolio analytics tool, is made available to U.S. Trust investment professionals for the purposes of managing the entire investment planning experience for our clients. WealthPlanner provides an unbiased quantitative overlay for U.S. Trust's approach to the development of a strategic asset allocation recommendation through the use of multi-period optimization and Monte Carlo simulation. U.S. Trust blends this premier quantitative analytics with the experience of our investment professionals to validate the suitability of the strategic asset allocation recommendations made to clients.

We appreciate the opportunity to discuss U.S. Trust's experience in utilizing a computer model to provide investment advice to our clients. We hope the Secretary of Labor finds this information helpful in its analysis of the feasibility of the application of computer model investment advice programs for IRAs. The attached Appendix A addresses the specific questions asked in the

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Department of Labor, Employee Benefits Security Administration's Request for Information as published in the Federal Register on December 4, 2006. The responses to this Request for Information are limited to information relating to the investment advice computer model currently utilized by U.S. Trust for the benefit of our clients. We make no representations relating to investment advice computer models that may be in use by other financial institutions.

If you should have any further questions, I am available by mail or at (212)852-1611.

Regards,



Erin R. Leske  
Managing Director and Chief Risk Officer

cc: U.S. Trust Corporation and United States Trust Company, National Association:  
Peter Scaturro, Chief Executive Officer  
Frances Aldrich Sevilla-Sacasa, President  
Leo Grohowski, Chief Investment Officer  
Edward Handelman, Senior Vice President and Acting General Counsel  
Joan Hoffman, Managing Director and Chief Compliance Officer  
Lynn Davis, Managing Director  
Christopher Hyzy, Managing Director  
Kathleen Healy, Senior Vice President  
Olga Sanchez, Senior Vice President

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(a)(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 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.*

Since 2003 U.S. Trust has utilized a computer model investment advice program called WealthPlanner. This portfolio analytics tool is a key element in our investment planning process. WealthPlanner may be used with discretionary and non-discretionary investment management accounts to:

- Capture our client's personal and financial data, investable assets, risk tolerance and the client's profile necessary to build investment recommendations.
  - Organize our client's portfolio holdings into a common asset class arrangement and calculate the risk and return characteristics of the portfolio and each individual position. This analysis allows for modeling the impact of historical returns and events on the portfolio. WealthPlanner enables the client to see their broad portfolio and allows our investment professionals to pinpoint areas of concern.
  - Quantitatively provide an optimal strategic asset allocation. Using the personal information provided, WealthPlanner is able to propose an asset allocation across five primary asset classes (i.e. – cash, fixed income, equity, real estate, and alternative investments) that best helps a client meet the following three linked investment objectives, without exceeding their risk tolerance:
    1. Improve or maintain risk adjusted return.
    2. Increase or maintain the probability of meeting cash flow goals.
    3. Improve or maintain projected investment values.
  - Allow our investment professionals to implement the client's investment plan in an objective manner. WealthPlanner recommends strategic asset allocations and does not make specific investment product decisions. The recommended asset allocations are fulfilled by an array of internal and external investment products.
  - WealthPlanner may be used to revisit and/or update the strategic asset allocation recommendations if the client's personal situation and/or risk tolerance changes.
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?*

WealthPlanner, our currently available investment advice computer model, satisfies the criteria as outlined in Question 1. Our investment professionals use the asset allocation recommendations to partner with the client to determine the best internal and/or external investment solutions. We do not rely on the computer model to make specific investment recommendations.

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.*

WealthPlanner is our computer model investment advice program which meets the criteria described in Question 1 and is available for use by our investment professionals in creating an asset allocation for all U.S. Trust clients, including IRA beneficiaries. Implementation of the WealthPlanner application began in the first quarter of 2003 and has been serving our clients' needs since then.

WealthPlanner is a web-based application developed and purchased from the Risk Metrics Group (RMG) as an end-to-end investment planning tool for U.S. Trust clients providing portfolio analytics and investment projections based on different investment objective criteria (i.e. high risk, medium risk, or low risk tolerance levels). U.S. Trust, in conjunction with RMG, customized this application for U.S. Trust purposes, including the addition of asset allocation strategies recommended by U.S. Trust investment professionals.

WealthPlanner provides an unbiased quantitative overlay for our approach to the development of a strategic asset allocation recommendation through the use of multi-period optimization and Monte Carlo simulation. The U.S. Trust's approach blends quantitative analytics with the experienced qualitative judgment of our investment professionals to validate the strategic asset allocation recommendations made to clients.

WealthPlanner utilizes optimization inputs. In analyzing a portfolio that best helps meet our client's cash flow goals, we work with our client to gather information regarding risk tolerance, time horizon, tax rates, account types, special circumstances, capital market assumptions (i.e. expected returns, standard deviations, specific risk, and correlation), and optimization method.

Through the use of WealthPlanner's wealth simulator, we simulate the client's wealth using three thousand (3,000) scenarios over the duration of the entire investment planning horizon. We carefully randomize investment returns and inflation rates. Based on the simulation, we are able to select the optimal portfolio weights for each type of investment account that can help meet cash flow and end wealth goals.

A presentation of the client's modeled portfolio for client review and asset assessment prior to implementing the investment plan is made available by our investment professionals through the utilization of the WealthPlanner application.

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?*

WealthPlanner will recommend to an IRA beneficiary an appropriate asset allocation based on the client's investment objectives and risk tolerance. WealthPlanner has the capability to recommend a full array of asset classes. Specific client investment restrictions can be identified and used as an investment parameter in WealthPlanner.

5. *If computer model investment advice programs are not 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 or IRAs that are not maintained by the persons offering such programs?*

WealthPlanner is available to U.S. Trust investment professionals for their use with IRA beneficiaries for investment planning purposes. U.S. Trust investment professionals discuss and capture the client's investment preferences as part of the investment planning process. This data is used as input to the WealthPlanner analytics tool when determining the appropriate asset allocation for the client. The client's investment preferences are taken into consideration throughout the investment planning process.

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 the behalf of IRA beneficiaries?*

WealthPlanner is available to all U.S. Trust clients. The asset allocation recommended by WealthPlanner may be fulfilled using an array of both internal and external investment products. U.S. Trust strives to make available individual investment alternatives with the best interests of the client in mind at all times and to offer proprietary products only as permitted by applicable law and regulation.

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?*

The asset classes considered by WealthPlanner and made available to clients include, but are not limited to, a wide array of equities, fixed income, alternative investments, real estate, and cash. Individual securities, other investment instruments or a variety of registered or

unregistered funds are made available to clients in order to fulfill the asset classes recommended by WealthPlanner.

The financial and market data used in WealthPlanner is publicly available and is updated and maintained by Risk Metrics Group, our vendor. WealthPlanner calculates the risk and return characteristics of the total portfolio and of each individual position. This analysis allows for modeling the impact of historical returns and events on the portfolio and allows our investment professionals to pinpoint areas of concern.

**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?***

In order to determine whether a computer model investment advice program satisfies the criteria described in Question 1, an evaluation of the computer model investment advice program should include a detailed review of:

- processing and data integrity controls;
- validation of market data feeds;
- application security standards;
- system governance and staffing;
- system performance;
- problem management; and,
- application back-up and recovery procedures.

A computer model investment advice program's key functionality includes: portfolio analytics modeling (e.g. Monte Carlo simulation), the determination of asset allocation recommendations, and the calculation of portfolio investment financial projections (e.g. cash flows, investment returns, and tax considerations). Particular focus is warranted on the processing and data integrity controls relating to these functions.

Similar to any application used in the investment process, WealthPlanner is subject to routine audits by U.S. Trust's internal audit group and include such scope as described above.

**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?***

Investment plans developed as a result of the utilization of WealthPlanner are presented to the client for review prior to implementation. Plans may be revisited and/or updated with strategic asset allocation recommendations if the client's situation or risk tolerance changes. The client reserves control over the final strategic asset allocation implemented as well as the strategies/securities used to fulfill the investment plan.