Bank of America.

February 8, 2007

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

Dear Ivan:

RE: IRA Investment Advice RFI

Bank of America Corporation appreciates the opportunity to respond to your December 12, 2006, Request for Information (RFI) concerning computer advice investment programs for IRA accounts. The DOL has requested information from the Top 50 IRA providers concerning our experience with computer models to provide investment advice to participants and beneficiaries of IRAs. In addition, the RFI questioned whether we had or knew of a computer advice investment program that possessed all criteria covered by the questions in the RFI.

It is our understanding that this RFI is in response to the Pension Protection Act 2006 that directed the Secretary of Labor, in consultation with the Secretary of the Treasury, to solicit information as to the feasibility of the application of computer advice investment programs for IRAs. In the event the Secretary of Labor determines there is no computer advice investment program which is feasible for IRAs, the Pension Protection Act directs the Secretary of Labor to grant a class exemption from the prohibited transactions provisions under section 4975(c) of the Code for certain investment advice-related transactions.

We have responded to each question (see attached) with information on the current capabilities of our computer investment advice program. Our computer investment advice program, which we believe is quite sophisticated, does not utilize all the criteria listed in the RFI. We are not aware of any such computer investment advice program utilizing all of these criteria that currently exists in the industry.

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Should you have any questions regarding our attached response or need additional information, please contact me at (504) 837-4300.

Kindest regards,

James O. Wood

James O. Wood
GWIM Compliance Executive
Compliance Risk Management

JOW
Cc: Chris A Durbin
    Mackey Scott
    Leslie Moon

DOL Request for Information:

Question 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 Code which:

General Response. A computer model investment advice program has been utilized by our financial advisors in Bank of America for the past several years. This program is utilized only by advisors to help determine appropriate long-term asset allocation—not mutual fund or security selection—and is not made available directly to IRA beneficiaries.

(Question 1-a) Apply generally accepted investment theories that take into account the historic returns of different asset classes over defined periods of time;

(Response 1-a) Our strategic asset allocation under the computer model is constructed to include a diversified portfolio of various asset classes. Although we take into account historic asset class returns, the returns are forward looking and take into consideration our best thinking of how asset classes will behave over a period of years.

(Question 1-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;

(Response 1-b) Our computer model investment advice program assesses the investor's risk tolerance in formulating the investment advice. In short, the model provides a recommended portfolio that will theoretically provide the highest possible return given the investor's preferences for risk and return. However, our model does not utilize information regarding the investor's age, life expectancy, retirement age, other assets or sources of income.

(Question 1-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;

(Response 1-c) Our computer model investment advice program does not recommend specific products or investments, whether offered by affliates or third parties, but instead recommends an asset allocation utilizing various asset classes.

(Question 1-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

(Response 1-d) Our computer model investment advice program includes a full range of investments asset classes, including equities and fixed income. The model offers 55 different asset classes including bonds, large, mid and small cap domestic equities, international equities, etc. A list of all 55 asset classes is attached as Exhibit A.

(Question 1-e) Allow the beneficiary, in directing the investment, sufficient flexibility in obtaining advice to evaluate and select investment options.

(Response 1-e) Our computer model investment advice program gives recommendations based on specific asset classes not specific products, thus the IRA owner or beneficiary has complete flexibility in evaluating and selecting investment options.

Question 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 2. It might be possible to develop a model that would satisfy all of the DOL's specified criteria; however, it would take substantial research and development as well as significant funding and time to create such a model. Maintaining the flexibility to provide the custom advice targeted to each beneficiary's needs within such a robust tool would pose the greatest difficulty. We are not aware of such a computer model that currently exists in industry.

Question 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 3. We are not aware of such a computer model that currently exists in the IRA industry. Our computer model investment advice program described above is used by advisors to advise clients (IRA beneficiaries) on taxable, tax deferred and/or tax free accounts. Allocation parameters are constrained within the optimization process to control for liquidity, regulatory and other fiduciary risks. The capital markets assumptions are generated based on our best assessment of how asset classes will behave over a period of years. In particular, we focus on

4

projected return assumptions and the risk the asset classes may face as measured by standard deviation. Our program also addresses the correlation between and among the various asset classes.

Question 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 4. Our computer model investment advice program limits the investment recommendation to among 55 asset classes, a broad selection of investment alternatives. However, the beneficiaries may invest the assets in any investment they choose.

Question 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?

Response 5. The beneficiary may invest the assets in virtually any investment asset they choose. The beneficiary has the flexibility to modify the input used by the financial advisor but not the resulting output. At this time, we do not offer our computer model investment advice program to IRA beneficiaries who do not maintain an IRA account with Bank of America or its affiliates.

Question 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 6. As noted above, our computer model investment advice program offers model investment advice based on asset classes not specific investment products.

Question 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

5

made part of the programs? Is the information publicly available or available to IRA beneficiaries?

Response 7. Computer investment advice programs typically address asset classes instead of investment products. Information needed includes projected return, yield, and volatility as well as asset class correlations. The information obtained is prepared by statistical modeling of historical data and forward thinking assumptions. The information in our Computer Investment Advice Program is available upon request to the IRA beneficiary.

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

Response 8. A computer investment advice program is typically evaluated by looking at the simplicity of the user interface, reviewing underlying calculations and financial input assumptions, verifying consistency of output against similar tools and testing the flexibility of the tool in meeting the IRA beneficiaries' objectives.

Question 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 9. Computer model investment advice programs generally present advice to IRA beneficiaries via financial advisor presentations of analytical reports. Bank of America IRA beneficiaries have complete discretion to refine, amend or override the advice they receive.

6

Large-cap core
Large-cap growth
Large-cap value
Mid-cap core
Mid-cap growth
Mid-cap value
Small-cap core
Small-cap growth
Small-cap value
Developed international equities
Emerging market international equities
Investment-grade aggregate bonds
Long-term bonds
Intermediate-term bonds
Short-term bonds
Mortgage-backed securities
High yield bonds
Developed international bonds
Emerging market international bonds
Inflation-indexed bonds
Convertible securities
Cash equivalents
Short-term municipal bonds
Intermediate-term municipal bonds
Long-term municipal bonds
REIT equities
Real estate LPs
Alternative Investments-lower volatility
Alternative Investments-higher volatility
Hedge funds (HF)-lower volatility
Hedge funds (HF)-higher volatility
HF-Long/short directional equity
HF-Long/short market neutral equity
HF-Equity derivative arbitrage
HF-Fixed income relative value & arb
HF-Emerging market securities

HF-Event driven
HF-Technology sector
HF-Distressed securities
HF-Global macro
Private equity
Private equity-buyout
Private equity-venture
Private equity-special situations
Large-cap concentrated growth
Large-cap concentrated value
Mid-cap concentrated growth
Mid-cap concentrated value
Small-cap concentrated growth
Small-cap concentrated value
Closely held firm-income generating
Closely held firm-capital appreciating
Oil and Gas
Timberland/Lumber
Managed Futures