UBS

UBS Financial Services Inc.
1200 Harbor Boulevard
Weehawken, NJ 07086

Retirement Consulting Services

Edward O'Connor
Managing Director
Tel. 201 352 1941
Fax. 201 352 8508
ed.oconnor@ubs.com

www.ubs.com

February 8, 2007

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

Attn: IRA Investment Advice Request for Information

Ladies and Gentlemen:

On behalf of UBS Financial Services Inc., ("UBS") I am writing to respond to the Department of Labor's Request for Information on the Prohibited Transaction Exemption for Provision of Investment Advice to Individual Retirement and Similar Plans ("RFI"). UBS is one of the foremost asset management firms in the U.S., with over 7,500 financial advisors providing services to institutions and individuals, including over one million IRAs. UBS understands that the Department's request that UBS provide information was made in light of UBS' position as a prominent provider of services to individual retirement accounts ("IRAs") and pursuant to section 601(b)(3)(A)(i)(I) of the Pension Protection Act of 2006 ("PPA"). UBS appreciates the opportunity to provide the Department with information regarding the feasibility of using computer models for IRA investments.

Section 601(b)(3)(B) of the PPA requires the Department to determine whether any existing computer model that provides investment advice to IRA investors meets the requirements set forth in section 601 of the PPA. Although the Department must make that determination by the end of 2007, the PPA does not prevent the Department from doing so at an earlier date and UBS encourages the Department to make its determination as soon as possible so as to facilitate the availability of much needed advice to IRA investors.

UBS believes that no existing computer model for IRA investors meets or could meet all of section 601's requirements for such models. IRAs can and do invest in an exceptionally broad range of securities, property and financial instruments. Investments available to IRAs also change constantly, with each new offering of a security, mutual fund, real estate fund, or other financial instrument constituting a new investment option for IRAs. No computer model now in use takes into account this broad and changing range of permitted IRA investments. In addition, the availability of new investment vehicles to IRAs could be limited if they could not be categorized neatly within the computer models available to an investor. As a result, UBS believes that it is not feasible, cost-effective, or beneficial to IRA clients to create such a model.

In UBS' view, the Department should promptly make the required determination to that effect and proceed to prepare a class exemption. The class exemption should take into account the desire of IRA investors to be able to take advantage of the broad range of investments available to IRAs currently and in the future. Additionally, to avoid duplicative or unnecessary compliance burdens and increased costs to IRA investors, the Department should take into account existing federal and state requirements designed to protect investors, and specifically existing disclosure requirements. UBS would be happy to work with the Department as it prepares the class exemption.

UBS' responses to the questions set forth in the Department's RFI are set forth below. To avoid burdening the Department with repetitive answers and to make our views more clear, the questions in the Department's RFI have been reordered and rephrased in some respects, with the applicable RFI questions noted in italics below:

> *Are there existing computer models that meet all of the Pension Protection Act requirements?*
>
> > *If yes, describe the models and the extent to which they are available to IRA beneficiaries, particularly -*
> >
> > - *Does a model exist that takes into account the fact that an IRA may invest in virtually any investment?*
> > - *How should DOL evaluate a model to determine if it meets all of the PPA requirements?*
> >
> > *If no, which requirements are missing in current computer models, could a model meeting all the requirements be developed, which requirements make development difficult, and why?*
> > *(RFI Questions 1, 2, 3, 4, and 8)*

UBS is not aware of any existing computer model for IRA investments that meets all of the requirements set forth in section 408(g)(3)(B) of ERISA or the parallel provisions of section 4975 of the Code.

In particular, no computer model now in use satisfies the criteria that a model "takes into account the full range of investments, including equities and bonds, in determining the options for the investment portfolio" of the IRA investor. *See* ERISA § 408(g)(3)(B)(ii). The Internal Revenue Code permits IRAs to invest in virtually any investment, with only a few narrow exceptions (e.g., collectibles or the IRA investor's primary residence). The cost of creating a model that takes account that "full range" would be prohibitive and creating such a model does not otherwise appear feasible.

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 models for IRA assets that limit the investments modeled 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? (RFI Question 5)

UBS understands that some IRA providers may use computer models to facilitate IRA investments across a limited range of investment alternatives such as mutual funds. However, in UBS' experience, IRA investors want investment advice but do not necessarily want to be limited to mutual funds or other collective investment vehicles in order to receive investment advice.

Do you offer, and make available to IRAs, a computer model investment advice program based on nonproprietary investment products? What investment options are considered under existing computer models? What information on those options is needed? How is the information obtained and incorporated into the program? Is that information made publicly available to IRA beneficiaries?
(RFI Questions 6 and 7)

UBS provides computerized asset allocation assistance to its clients including IRAs in one or more of its fee-based investment advisory programs. Through a questionnaire, UBS asks investors about their investment objectives, investment timeframe, risk tolerance, short-term cash needs, investment preferences and similar information. Responses are used to develop a high-level, strategic asset allocation model that does not identify or recommend specific investments. IRA investors may use these asset allocation models as a guide in making investment decisions under the applicable program or disregard them in whole or in part.

UBS is not aware of any company that uses computer models to recommend specific investments across the full range of IRA investments.

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?
(RFI Question 9)

The computer modeling programs of which UBS is aware generally provide information or recommendations online or in a written summary of information generated by the computer model. IRA investors can refine the recommendations by adding personal information or changing earlier responses to questions regarding their financial goals and other matters. The IRA investor is free to accept or reject any recommendations the models may provide.

We appreciate the opportunity to respond to the Department's RFI. Please contact me with any questions you may have regarding this matter.

Very truly yours,

Edward O'Connor