**Law Department**
MAC N9305-172
Wells Fargo Center
Sixth and Marquette Avenue
Minneapolis, MN 55479
612 316-0805 Fax

January 31, 2007

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

**Re: Response to RFI**

Attn: IRA Investment Advice RFI

Enclosed are responses to your Request for Information regarding providing investment advice
to IRA beneficiaries, in response to your letter of December 12, 2006.

Very truly yours,

Bradley J. Schlichting
Senior Counsel

BJS:kld

Enc.

Request for Information

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.

   There are no computer models that we are aware of that provide specific investment advice for an IRA that meet all of the criteria outlined above. Wells Fargo Investments, LLC and Wells Fargo Bank, N.A. utilize a computer program created by a vendor that analyzes client financial data and models various investment scenarios (the "Program"). The Program provides an asset allocation suggestion, but does not provide specific investment recommendations. The Program is not provided directly to clients; rather, it is used by the financial advisors who work for Wells Fargo Investments and Wells Fargo Bank. Regarding the criteria above:

   (a) The Program provides a recommended asset allocation which does factor in the historic rates of return for various stock, bond and cash equivalent asset classes.
   (b) The Program takes into consideration the beneficiary's age, retirement age, life expectancy and risk tolerance and then applies generally accepted investment theories and historic rates of return to arrive at a suggested asset allocation. Other assets or sources of income can be taken into account as the Program is designed

as an overall financial planning tool, not just for IRAs. Preferences as to certain types of investments are not accounted for.

(c) Because the computer model does not make specific investment recommendations, there is no bias toward any particular investment product, proprietary or otherwise.

(d) The Program takes into account 31 asset classes (one of which is annuities and the rest of which are sub-categories of stock, bonds and cash equivalent investments). Afterwards, a financial advisor associated with the account can assist the IRA beneficiary in selecting investments. Self-directing customers have the ability to use mutual fund screening tools or research reports on individual securities to choose specific investments.

(e) In all cases, the beneficiary is free to choose any investments and deviate from the recommended asset allocation.

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?

    The Program does not consider specific investments available, individuals' preferences for certain types of investments and does not make specific investment recommendations.

    There are no computer models that we know of that meet the criteria.

    Developing a model that satisfies all the specified criteria would be difficult for the following reasons:

    - A computer model would have difficulty accounting for all the differences between investments. For example, equity investments could include individual stocks, mutual funds, ETFs, private placement securities, etc. The investments chosen are based on individual preferences. There are objectives and emotions that require thought and analysis that would be difficult for a computer to analyze.
    - IRA providers often limit the investment options offered within their sponsored IRAs to specific types of investments, such as mutual funds only or time deposit accounts. It would be difficult for regulatory and other reasons for all IRA providers to offer all available investments.
    - The universe of investments is vast, especially considering alternative investments such as real estate, and it would be difficult for the computer model to be kept up to date on all available investments.

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.

We are not aware of any computer models that meet the above criteria.

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?

We are not aware of any computer models that provide the investment advice as noted in question 3. It would be difficult for many IRA providers to offer virtually any investment due to regulatory and/or operating system constraints. Investments vary greatly so it would be difficult to fully compare them in a limitless array of investments.

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?

We are not aware of any currently available programs that provide advice with limited investment modeling.

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?

We do not offer a computer model investment advice program that is based on nonproprietary investment products.

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?

Investment advice computer programs that we are aware of provide only asset allocation recommendations. If a computer investment advice program were to offer investment advice for IRA beneficiaries that includes the universe of investment options available, it would need to contain information on every open

and closed end mutual fund, annuity, individual stock, bond, real estate investment trust, exchange traded fund, structured notes, certificates of deposit, money markets, savings accounts, etc. The information needed on each option would include historic rates of return, asset class, risk measurement, investment minimums, etc. This information is primarily public information.

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?

   The Department could publish guidance clarifying certain items in Question 1, for example, what constitutes a "full range of investments" and after such clarifications further delineate how an investment advice program can satisfy the criteria in item 1.

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?

   We are not aware of any that do provide investment advice to IRA beneficiaries. For those that provide Asset Allocations, it is typically presented as a written report or through an interactive on-line session. Beneficiaries can choose to utilize the asset allocation, modify it, or ignore it completely.