SIFMA

Securities Industry and
Financial Markets Association

January 31, 2007

The Honorable Bradford Campbell
Acting Assistant Secretary
Employee Benefits Security Administration
Suite S-2524
U.S Department of Labor
200 Constitution Ave. N.W.
Washington, D.C. 20210

Re: Response to Request for Information Regarding Computer Models for the Provision of Investment Advice to Individual Retirement Accounts.

Dear Acting Assistant Secretary Campbell:

On behalf of the Securities Industry and Financial Markets Association ("SIFMA")[1], I am writing to respond to the Department's Request for Information in connection with the feasibility of computer models in providing advice for Individual Retirement Accounts.

We believe that SIFMA is in a unique position to provide information to the Department because its member firms provide advice directly, or through their affiliated investment advisors, or in connection with their registered mutual funds, recordkeepers or banks and trust companies. Thus, the major providers of investment education and advice are either members of SIFMA or affiliated with members of SIFMA. That fact permits SIFMA to draw upon the broadest base of experience and knowledge relating to advice and investment education of any other single institution. We appreciate the opportunity to respond to this RFI and look forward to continuing to work with the Department as it completes its required review of computer models for investment advice under section 601 of the Pension Protection Act of 2006.

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;

---

[1] SIFMA is the product of a recent merger of the Securities Industry Association ("SIA") and the Bond Market Association. SIFMA brings together the shared interests of more than 650 securities firms, banks and asset managers. SIFMA's mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services and create efficiencies for member firms, while preserving and enhancing the public's trust and confidence in the markets and the industry. SIFMA works to represent its members' interests locally and globally. It has offices in New York, Washington D.C., and London and its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

(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.

SIFMA believes that at present, there is no institution, company or entity that is using a computer model that meets the requirements of (d). That requirement mandates that any model "[t]ake into account the full range of investments, including equities and bonds, in determining the options for the investment portfolios of the beneficiary". While there are models that cover a wide range of U.S. registered open-end mutual funds, or nearly all registered open-end mutual funds, these models are not able to provide advice on all of the available mutual fund options unless the participant inputs a data source. Even for the model's core investment options, there would likely be a time lag as mutual funds are added, closed, or the offerings are otherwise modified. Further, SIFMA notes that these mutual fund models do not provide advice that includes the full range of investments including stocks, bonds, foreign securities, currency instruments or currencies, futures, options, insurance investment products, hedge funds, limited partnerships, LLCs, and group or collective trusts, investments that are common to IRA account holder portfolios. In addition, any model that would select individual stocks might well violate well developed and respected investment principles involving idiosyncratic or unsystematic risk.

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?

As noted above, SIFMA and its members believe that current computer models would not be able to meet criteria (d) and (e) of the five criteria specified in question 1. There are several reasons why these criteria would be very difficult to meet. First, the cost of creating a model with the data span necessary to cover all potential investments is extremely high. Second, public data does not currently exist which would enable a model to provide the kind of information that individual beneficiaries would need to appropriately consider each investment option. Computer systems with sufficient capacity do not now exist in the retail market, and even if they could be developed, and could be economically operated, their capacity to deal with more than a few IRAs at any given time is in significant doubt. Adding to the cost and efficiency issues is the problem of daily updating a data base of this size. The model would certainly be out of date, raising significant liability issues for any firm that attempted to create such a model.

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.

As noted in response to question 1, SIFMA and its members know of no models that meet all of the criteria specified in that 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?

As noted in response to question 1, SIFMA and its members know of no models that meet all of the criteria specified in that question. As noted in response to Question 2, cost, flexibility, efficiencies, data availability and the constant need to update make creation of such a model daunting at best.

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?

Many SIFMA members or their affiliates provide IRA beneficiaries with computer modeling of a subset of the universe of U.S. registered mutual funds.

However, in many cases, these computer models are providing asset allocation recommendations, not advice as would be required under a computer model-based exemption.

If so, who is responsible for the development of such investment limitations and how are the limitations developed?

SIFMA members and their affiliates develop these models, or hire computer or investment professionals to do so. As developers of the models, these firms are responsible for limiting them to a subset of U.S. registered mutual funds. The limitations are developed based on the cost of creating and updating the models and the availability of public information regarding mutual funds. Also involved in the decisions to limit the models are the selling arrangements with a selected mutual funds and member experience with each company selected.

Is there any flexibility on the part of an IRA beneficiary to modify the computer model to take into account his or her preferences?

SIFMA and its members are not aware of any computer models that can be changed by the IRA beneficiary. However, most models are designed to receive data inputs from the user (either a professional adviser or an account holder). These inputs could include expected retirement date, risk assessment, or any number of potential inputs that assist the model in making appropriate recommendations. Changes in data inputs obviously changes the output of the model.

Are such computer model investment advice programs available to the beneficiaries of IRAs that are not maintained by the persons offering such programs?

SIFMA and its members are aware of advisory services that do take into account IRA investments that are not held by the firm sponsoring the service.

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?

SIFMA is aware of a number of models that may be limited to proprietary mutual funds. There are also firms that have no proprietary mutual funds who have developed models that provide recommendations on nonproprietary funds. In these types of models, there may be a number of limitations including to those mutual fund firms with which a firm has a selling agreement.

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 computer investment advice programs we are familiar with are based on mutual funds, and where used for employer sponsored 401(k) plans, employer stock. With respect to the mutual funds offered, information necessary for the IRA beneficiary to evaluate the choices is obtained from public sources, some of which are free and others which charge an access fee.

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 SIFMA's view, the Department would need to assure itself that a model be able to consider any type of investment product with current fee and performance data, and sufficient information regarding the investment for an IRA beneficiary to evaluate the risk of each option (do we want to say the IRA beneficiary to evaluate the risk?), the short term historic performance and the long term historic performance of the asset, and to consider the asset against its peers in the same asset class.

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?

Most computer models with which SIFMA is familiar provide investment education rather than advice, in that only a few examples of investments from an asset class of mutual funds are suggested and no single fund is recommended. Most models permit a user to change risk and reward characteristics, to change financial information or years until planned retirement. Some models permit entire asset classes to be excluded, or to seek more choices if the initial group of choices is rejected.

We urge the Department to complete the feasibility study required by Congress expeditiously and move to issue a class exemption for IRAs and other similarly - situated products. Based on our review of computer models, we do not believe that any entity sponsors a model that is consistent with the criteria set forth by Congress

We appreciate the opportunity to respond to the Request for Information and hope that the Department will feel free to call upon SIFMA to respond to any additional questions it may have, or to bring together knowledgeable individuals from the industry to provide additional information.

Sincerely,

Liz Varley

Liz Varley
Vice President and Director, Retirement Policy
Securities Industry and Financial Markets Association

cc: Robert J. Doyle, Director, Office of Regulations and Interpretations
Employee Benefits Security Administration

Ivan L. Strasfeld, Director, Office of Exemption Determinations
Employee Benefits Security Administration