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FILED ELECTRONICALLY

Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: 2010 Investment Advice Proposed Rule
U.S. Department of Labor
200 Constitution Avenue, NW, Room N-5655
Washington, DC 20210

Re: RIN 1210–AB35: 2010 Investment Advice Proposed Rule

Dear Sir or Madam:

We appreciate the opportunity to comment on the Department of Labor's proposed conditions applicable to investment advice arrangements. Ameriprise Financial, Inc. is a 115 year old company. We are a financial planning, broker-dealer, asset management and insurance company, specializing in meeting clients' retirement-related financial needs. With the close of our acquisition of the long-term assets of Columbia Management on May 1, 2010, Ameriprise and its affiliates manage more than $500 billion of assets and are the 8th largest U.S. long term mutual fund manager. We are the largest provider of financial planning services to customers and a product manufacturer and distributor of affiliated and non-affiliated products. Financial planning focused on retirement planning and advice is, and has always been, a core part of our business. In addition, we have extensive experience in developing and working with investment models and quantitative applications.

We support the Department's efforts to permit suitable advice and believe that it is in the best interests of investors to have access to advice as well as a range of investment options to enable them to maximize the potential growth of their retirement savings, with appropriate levels of risk.

Summary

We believe that models can be effective tools but are limited to quantifiable factors and constrained by the assumptions on which they are based. Moreover, we have seen no evidence of a single model that can take into account all relevant investment factors or instruments, nor do we believe such a model is feasible.

Due to these limitations, we believe there will always be an appropriate role for human beings whose expertise and experience can consider qualitative factors, can take into account individuals' total financial situation and can adjust to changing dynamics of markets and investor circumstances. As the statute requires computer models to be certified by an independent financial expert, it would be appropriate to permit the independent financial expert to determine which factors are appropriate to include in a model's algorithms. Such an approach could thus take account of accepted investment theory, rather than rely on a set of static guidelines that do not evolve over time.

To the extent that models can be used as effective tools, they should be permitted to consider a wide range of quantitative data, including past performance, market history, volatility, fees, risk adjusted returns, etc.

Lower cost, passively managed products have limitations and do not necessarily outperform actively managed products after fees. Limiting investment options to passive products could unnecessarily restrict investor options and create sub-optimal results.

The volume of assets subject to the Department guidelines is so massive and fast growing, that funneling them into a restricted set of models or specific products may cause significant distortions of capital flows, capital formation, and the pricing of financial instruments. Such an effect could potentially have adverse economic consequences as well as undermining the ability of the selected instruments to generate the expected returns over time.

DISCUSSION

Key Objectives and Considerations

The Department's proposed guidelines must be considered in light of four key factors:

Maximize Returns to Investors: The objective for retirement savings is to help investors to maximize absolute real return, subject to appropriate levels of risk.

Take Appropriate Risk Given Individual Circumstances: The Department's proposed criteria have to be flexible enough to provide alternatives consistent with individual circumstances, (such as age, assets, time to retirement), varying levels of risk (i.e., portfolio volatility) and uncertainty (i.e., inability to predict the timing or amount of an individual's retirement needs or market conditions when the portfolio assets are drawn

down). Any criteria would also need to take into account financial and other holdings intended for retirement held by the consumer outside of the consumer's particular IRA or defined contribution plan – since consumers need to achieve optimal financial results across all of their holdings.

Understand Embedded Investment Assumptions: The basis for directing long term retirement savings into financial instruments rests on the assumption that financial instruments, collectively over the long and shorter-term, reflect underlying economic growth and will remain a liquid and effective store of value. Strategies or instruments which do not meet these assumptions may put investors' ability to meet return objectives at risk.

Consider Systematic Impact of Retirement Savings Directives: The Department's criteria and regulations will direct a massive and fast growing volume of assets that make up a significant portion of the U.S. and international capital markets. Thus, it is vital that any proposed rules be evaluated in the light of the collective impact of such a large volume of investments on specific markets or financial instruments since potential distortions could have unintended longer term consequences that might interfere with achievement of investors' retirement savings objectives.

Furthermore, if the Department prohibits past performance from being included in the computer model portion of the exemption, such a prohibition could have the presumably unintended consequence of limiting investing of defined contribution assets to index products, thereby directing capital towards larger companies and limiting the ability of smaller companies and initial public offerings (IPOs) to raise capital in public markets. Small businesses are often seen as the "engine of job growth" so obstacles to their development should be avoided if at all possible.

Models

We believe that models can be effective tools in allocating assets and evaluating products but have significant limitations in their effectiveness as a sole determinant of investor advice or product selection.

No consensus or compelling evidence has emerged on a specific model or basis for determining asset allocation, although two principles have gained broad acceptance in the investment community: 1) asset allocation among various asset classes as the most important determinant of absolute return over time and 2) the importance of diversification (among asset classes and individual holdings) to maximize risk adjusted returns. However, translation of these principles into effective portfolio construction has proved challenging because implementation relies on assumptions about returns, volatility and correlation, which are themselves variable over time.

As noted, models represent a systematic means of applying quantitative criteria. They have limited ability to address qualitative criteria and can produce widely differing results depending on the assumptions used. They can be less effective in extreme circumstances or in adapting to changes in longer term trends, such as was experienced in the tech bubble of the late 1990's or the 2007-2009 market collapse. Also, a model geared toward longer-term norms may produce sub-optimal results over shorter periods or vice versa.

Despite their limitations, models can be useful tools in analyzing large volumes of information and the interplay of multiple factors. As such, we believe that to the extent computer models are used to propose asset allocation or select individual investment options, they should be permitted to consider a wide range of quantitative data including past performance, fees, risk adjusted return, etc. Placing emphasis on a single factor, to the exclusion of other relevant factors, will affect model results. For example, restricting the factors a model may consider to exclude history and include fees will tend to drive solutions to the lowest fee product, regardless of whether there are products that produce higher net returns or have a more suitable risk/return profile for the investor.

Past performance is an integral element in the design of most models: Model specifications generally directly or indirectly incorporate historical returns, volatility and correlation information. History can help to define reasonable expectations as to the potential range of returns and volatility, especially for asset allocation. At the individual investment level, past performance does not guarantee future results and cannot be used as the sole factor but it can be used, for example, to help assess the suitability of a given security or to frame expectations about risk and return potential relative to a market segment or to evaluate consistency with a fund's description or stated investment process or philosophy.

The reality is that there is no foolproof way to invest. We believe that it would be inappropriate to mandate particular models, the span of historical data or assumptions as such constrictive conditions may produce sub-optimal results. The more narrowly defined the model criteria, the greater the system-wide risk. A real danger in a mandate that would require all individuals to have the same or very similar investment strategies is that such a mandate could be a source of systemic risk. For example, in 2006, the Bank for International Settlements established the rule that banks could use "value at risk" in determining their leverage. As a result, all of the banks used basically the same historical data base, and in doing so, they all made the same error – they failed to recognize the model's inability to assess the risks of illiquidity and assets such as real estate that could fall significantly over a short period of time. The impact of this limitation of the model was exacerbated system-wide because so many used it in the same way and fell prey equally to its inadequacies.

We believe that requiring plan fiduciaries to use a rigorous review process by an independent financial expert is a more effective approach than mandating detailed

prescriptive standards for models or investments. By applying general principles instead of a static set of rules, such an approach could accommodate the proper evaluation of models but provide enough flexibility to take into account developments in accepted investment theory and modeling capabilities as well as dynamics of financial markets, investor circumstances and an ever changing array of products. General principles and considerations for the reviews, could include evaluating the basis for key assumptions, consideration of likely performance or impact under differing conditions (e.g., changes in market structure, persistent anomalies or extreme market conditions), the means of implementation, assumptions about ability to achieve expected returns, including failure to meet benchmarks or market returns, impact of liquidity and other risks, such as counterparty risk and political risk. It could also examine the level of fees and seek to evaluate whether a model contains biases toward the selection of higher fee products. Unlike static regulations, such a process, providing for a rigorous assessment, would help establish a reasonable means of understanding the risks and assumptions without unduly limiting the ability to provide appropriate options for investors.

While there is an inherent conflict in differing fees for differing products, there are legitimate differences in the costs of investing in different markets or using different investment processes. Higher fee products may be entirely appropriate in light of net return expectations or under certain market conditions so it would be sub-optimal to preclude their use. Disclosure of fees and the requirement to use an independent financial expert would address any conflicts.

Active Versus Passive Management

We believe that active management adds value but recognize the benefits of passive/index products. Studies of the relative merits of passive versus active products have not produced compelling conclusions and there are significant limitations associated with indexed products. More importantly, we do not believe that regulatory criteria should limit the use of one versus the other but should foster processes that support appropriate use of either.

Comparative analyses typically focus on average manager performance versus the benchmarks. Use of averages compared to benchmarks does not necessarily take account of the active components of "passive" products relative to benchmarks and can ignore the significant proportion of managers whose performance (net of fees) equals or exceeds benchmarks.[1] Also the analyses rely on available data sets, which may not include

[1] Note there is a significant difference between studies that evaluate whether active management exceeds passive or whether it equals or exceeds passive management. One study notes that the mathematical distribution of random results (e.g., a coin flip test indicating under/outperformance by 1024 managers over 10 years) will tend to produce a distribution that shows 38% outperforming but 62% equaling or outperforming. To the extent that managers produce a normal distribution around index results, the distinction may be meaningful.

comparable ("apples to apples") net of fee information or which may have not have statistical validity due to limited historical ranges.

There is some evidence that active management tends to outperform passive strategies more significantly in down markets. Active management outperformed indexing, on average, from 1999-2003, 2005 and in 2008-2009: most of the last decade. The value of that outperformance may be qualitatively greater in down markets as investors are typically more averse to loss than to opportunity foregone. Active management tends to add more value in markets with less liquidity and/or markets where the indices are less representative of the underlying economy or its capital structure. Reflecting these considerations, Burton Malkiel - one of the most prominent proponents of passive investing - advocates selective use of active products. In addition, according to an April 12, 2010 article in TheStreet.com, "Vanguard Outperforms Index Mutual Funds," more than two thirds (13 of 19) of Vanguard's actively managed funds with 10-year track records outperformed the equivalent Vanguard index fund. A review of Columbia's longer term funds' 5-year track records in the period to March 31, 2010 shows similar results.

Some of the fastest growing – and highest return generating – segments of the investment management industry include alternative investments, which are actively managed. Leaders in long-term investing, such as college endowment funds at Yale and Harvard, commit substantial portions of their portfolio to actively managed products, some with significant fees associated with outsized longer term return expectations. Some of these would not be eligible investments for individuals but the growth of such sectors reflects confidence in the value of active management.

Index Vehicles/Passive Strategies

The case for using passive strategies rests on the relatively lower expenses and low tracking error to the market. While the compounded effect of small incremental benefits from lower expenses can be considerable over time, there are other considerations that may not be consistent with long-term absolute return goals. The theoretical basis for using indexed investment products is that the index reflects the economic value of its components. It presumes efficient and liquid markets for the component securities and ignores the fact that most indices are weighted by market capitalization, by definition overweighting securities that have risen in value and underweighting those which have fallen in value. Thus, by buying into an index, the consumer is buying yesterday's winners, but may not be purchasing the best future performance.

Passive strategies always bet on the past winners: Passive investing would have allocated over 30% to Technology in 2000 and would have owned Lehman, AIG, Washington Mutual, and Fannie Mae (to mention a few) in 2008. Similarly, a passive international index fund would have placed over 55% weighting in Japan at the beginning of the 1990s

only to follow its relative decline to less than half of that currently. It would allocate nearly three times as much to the United Kingdom than Germany because of the relative size of the United Kingdom's equity market despite Germany's larger economy because the listed equity markets have a very different role and scope in the capital structures of the two countries.

The "driving in the rear view mirror" approach inherent in the use of indexed products also tends to exacerbate swings in the markets, increasing bubbles and extending slumps. This results in greater volatility for defined contribution participants who may react to these swings by changing investments to their detriment. As more capital is moved to passive investment vehicles, the diversity of a market declines and the impact of consensus irrational swings is increased - an outcome far from beneficial for plan participants.

Across the economy, direction of the huge volume of retirement assets into index products may, in fact, create a dislocation between the prices of the financial instruments and the value of the underlying businesses they represent. The result could undermine the ability of investors to realize the objective of their investments since passive products presume a tight and consistent connection between security prices and value.

As discussed briefly earlier, indices typically exclude IPOs as well as smaller companies which need access to capital in order to foster their new or fast growing businesses. Hindering these companies' access to capital could stifle job growth, given the important role that small and fast growing companies play in creating jobs.

Passive products are seldom truly passive: To the extent that an indexed vehicle involves the allocation of capital to and from the companies/securities underlying the market, it would be expected to underperform the index due to execution costs and some cash drag where investment is not truly simultaneous with capital commitment. In fact, many passive products sample the index rather than engage in full replication, in part due to the higher transaction costs. The fact that certain indexed products equal or outperform their indices is evidence of active investing, albeit on a limited scale. As one moves from the broadest, deepest markets (e.g., U.S. large cap stocks) tracking error tends to increase and the explicit and implicit costs in such products increase. Moreover, the wide variety of indexed products does not preclude active management based on selection of products within a given asset class. For example, managers using indexed products within an asset allocation model could make significant bets by using sector funds, different underlying indices, products oriented towards income/dividends, etc. without violating the asset class or notionally passive approach.

The Value of Advice

As noted in the request for comment, investors, who are seldom investment experts, are often left on their own to assess their particular needs and to determine the appropriate mix of investments. We agree that advice may be effective in helping participants achieve better results.

Recognizing both the value and limitations of models and passive products noted above, we believe that there is an appropriate role for financial advisers whose expertise and experience can consider qualitative data, help design solutions tailored to individual needs and provide value in adapting portfolios to changing circumstances. Therefore, we believe that Department regulations should recognize and permit an appropriate use of such advice, either in the design of models, or evaluation of investments, especially with respect to qualitative factors or the selection among the full range of appropriate instruments.

Financial advisers can play an important role in helping investors understand how their portfolios will help them achieve their savings goals, interpret their results in changing market conditions and evaluate their needs on an ongoing basis as their circumstances change. As such, advice that only selects products but does not subsequently explain and evaluate results meets only a portion of investors' needs[2]. In a 2006 survey, 84 % of clients and 84% of planners agreed or strongly agreed that considering all areas of life is important when creating a financial plan. Indeed, several 2007 studies[3] show that about two thirds of investors seek professional advisers regarding rollovers of retirement plans balances and, in a separate study, that such advice is considered helpful. An earlier study[4] found that clients with financial advisers save almost twice as much for retirement as those without such advice.

Models to date have been largely geared to address the accumulation phase of the investors' savings cycle and not the distribution or spend down phase. To effectively address this phase, models will need to take account of a wide range of factors specific to the individual client but these models are not well developed today. As the sophistication of computer modeling develops, we believe that the use of computer models in conjunction with a financial professional will grow significantly. The presence of a trained financial advisor is necessary to select the most appropriate investment advice resource (which may or may not be a computer model) for a particular IRA beneficiary in conjunction with this phase of his or her savings cycle. When a model is selected, a professional can elicit the relevant inputs that will optimize the quality of the model's output. In other words, computer models can be very useful tools for IRA beneficiaries and financial advisors, but in order to be used most effectively, should be implemented in

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[2] Source: 2006 Survey by the Financial Planning Association, the Life Planning Consortium and the University of Missouri.

[3] Sources: The IRA Rollover Market – 2007, Spectrem Group and Forrester's NACTAS Q3 2006 Survey.

[4] Source: 2004 Roper Research.

conjunction with the comprehensive and personalized advice capabilities of a knowledgeable financial advisor, with the results evaluated in the context of the IRA beneficiary's entire financial situation.

Broad Consequences

In addition to consideration of the impact of regulations on individual investors, the magnitude and growth rate of retirement assets must be considered in light of the potential impact on the markets and instruments into which these savings flows are directed. Collectively, the amounts are so large that they have the ability to change the characteristics and pricing of the markets on which they depend.

A broad-based shift to passive investing or narrow definition of acceptable models may have deleterious effects on the functioning of the markets and efficient allocation of capital to promote economic growth. As most of the widely used indices, such as the Standard & Poor's 500 Index, are weighted according to the market capitalization of their components, mandating the use of passive indices would force more capital into the largest stocks thus lowering the cost of capital for those select few (e.g., Exxon, JP Morgan). As more capital moves to the largest companies, it moves away from smaller companies in each asset class, increasing their cost of equity capital and impacting their ability to compete. Smaller companies tend to be faster growing than their larger counterparts. This dislocation will have a dramatic effect on the ability of smaller, more innovative companies to grow and challenge the status quo entrenched player.

Regulations that direct the massive and fast growing volume of retirement savings under a policy that benefits Exxon at the expense of a small company such as a "Local Renewable Energy Start-up" would be sub-optimal and could be viewed as inequitable or inappropriate. Increasing use of passive strategies will, over time, affect the efficiency of the capital markets. Markets are only efficient when there are many competing diverse perspectives around asset values and forecasts (i.e., many active participants). To the extent that smaller companies and IPO candidates cannot raise capital in the public markets, they will find alternative sources through forms such as private equity or direct financing in which retail investors cannot participate. Retail investors will gradually see diminishing opportunities to participate in the faster growing, more dynamic parts of the economy while large institutional investors will continue to have access.

To the extent that retirement assets are directed disproportionately to fewer, larger companies based on market capitalization and a passive process, the prices of those equities may be driven more by demand for the securities than the value of the underlying businesses. To the extent that there is a persistent or significant disconnect, the ability of investors to realize the expected investment returns could be jeopardized.

Conclusions

We believe that Department guidelines and criteria should not define what factors a computer model can take into account, but rather should leave such determination to the independent financial expert. Reliance on the expert would permit the greatest flexibility for financial institutions to create new and improved computer models and to make changes to those models to reflect significant changes in economic conditions and accepted investment theory.

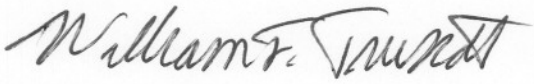
We believe that a full range of suitable investment options should be available to investors to allow for optimal outcomes. While we recognize inherent conflicts associated with differing fees for different fund options, we believe that such conflicts are effectively mitigated by requiring a computer model to be approved by an independent financial expert.

We believe that financial advisors can provide significant value in helping investors to assess their needs and understand their results on an ongoing basis and that many investors appreciate and actively seek such advice. In this respect, we are concerned that the proposed regulations do not permit any off-model advice to be given by financial advisors using the computer model exemption, notwithstanding the language in the statute permitting advice when requested by a participant.

Lastly, we believe that the magnitude of retirement savings assets is such that care must be taken to avoid rules or guidelines that could have unintended consequences of market or securities price distortions such that investors' collective ability to realize expected returns could be jeopardized.

Ameriprise Financial, Inc. appreciates the opportunity to comment on the Department's proposed regulations. Please do not hesitate to contact me if you have any questions or would like to discuss further.

Sincerely,



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