



Wealthy and Wise[®] and NASD Rule 2210

Issue:

Should InsMark's Wealthy and Wise be filed with the NASD for approval?

Analysis:

The material below references the NASD's Investment Analysis Tools Guidance letter dated November 2004 which was effective February 14, 2005.

"IM-2210-6 defines an investment analysis tool as 'an interactive technological tool that produces simulations and statistical analyses that present the likelihood of various investment outcomes if certain investments are made or certain investment strategies or styles are undertaken, thereby serving as an additional resource to investors in the evaluation of the potential risks and returns of investment choice.'"

Comment: Wealthy and Wise does not produce simulations and statistical analyses that present the likelihood of various investment outcomes if certain investments are made or certain investment strategies or styles are undertaken. This approach is common to Monte Carlo simulations, a feature not used with Wealthy and Wise.

Note: One of the main reasons that Wealthy and Wise does not use a Monte Carlo simulation is because the System reflects a variety of hypothetical assets (taxable, tax exempt, tax deferred, equity, real estate, commodities, art and other collectibles), and there is no historical data base that can accommodate Monte Carlo-type calculations for many of those asset classes. A Monte Carlo analysis based only on a portion of an investment portfolio has no practical value as there is no useful purpose in providing a client with a solution that states, for example, "Based on 35% of your asset base, you have an 85% chance of achieving your goal".

The NASD letter continues: *"The filing requirement does not apply to hypothetical illustrations of mathematical principles that do not predict or project the performance of an investment or investment strategy, such as Web site calculators that compute future returns based upon assumed variables, since Rule 2210(d)(1)(D) does not prohibit (and IM-2210-6 thus does not cover) such illustrations."*

Wealthy and Wise should be exempt under this section as it calculates returns based only upon user-entered assumptions.

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End Note 3 in the NASD letter states: *“The hypothetical illustration exception to the prohibition in Rule 2210(d)(1)(D) applies to tools that serve the function of a calculator that computes the mathematical outcome of certain assumed variables without predicting the likelihood of either the assumed variables or the outcome. For example, this exception would apply to a calculator that computes a net amount of savings that an investor would earn over an assumed period of time with assumed variables of rates of returns, frequency of compounding, and tax rates. On the other hand, this exception would not apply to a calculator that predicts the likelihood of achieving these assumed variables and outcomes.”*

Conclusion:

Based on this information, in InsMark’s opinion, Wealthy and Wise does not have to be filed with the NASD.

Important Notice:

The above material is for general use only and should not be considered legal advice. The final arbiter of the decision to submit or not submit Wealthy and Wise to the NASD for approval rests with your compliance department.

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