

MEMO# 29694

February 10, 2016

CFA Institute Issues Draft Guidance Statement on Broadly Distributed Pooled Funds; ICI Call Scheduled for February 17 at 3:00 pm (ET)

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TO: ACCOUNTING/TREASURERS COMMITTEE No. 1-16
ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 3-16
ICI GLOBAL REGULATED FUNDS COMMITTEE No. 12-16
INTERNATIONAL COMMITTEE No. 12-16
INVESTMENT ADVISERS COMMITTEE No. 3-16
SEC RULES COMMITTEE No. 6-16
SMALL FUNDS COMMITTEE No. 5-16 RE: CFA INSTITUTE ISSUES DRAFT GUIDANCE STATEMENT ON BROADLY DISTRIBUTED POOLED FUNDS; ICI CALL SCHEDULED FOR FEBRUARY 17 AT 3:00 PM (ET)

The CFA Institute [\[1\]](#) issued an Exposure Draft of the Guidance Statement on Broadly Distributed Pooled Funds (“draft guidance statement”) in late January. [\[2\]](#) The purpose of this draft guidance statement is to address the application of GIPS to pooled unitized investment vehicles with broad distribution, [\[3\]](#) where there is typically no or minimal contact between the firm managing the fund and prospective fund investors. Specifically, it would apply to situations in which a firm is marketing a fund to more than one investor. [\[4\]](#)

Comments to the draft guidance statement are due by April 29, 2016. ICI likely will file a comment letter. We will be discussing the draft guidance statement and soliciting member feedback during a call on February 17, 2016 at 3:00 pm (ET). The dial-in information for the call is: Dial-in: 1-800-369-1710, Passcode: 8302752.

Background

While U.S. registered funds (among others) have very detailed requirements for reporting investment performance data, [\[5\]](#) the SEC has not imposed specific requirements on how investment advisers should present investment performance data to prospective clients generally. GIPS represent CFA Institute’s attempt to establish a broadly accepted standard for calculating and presenting investment performance. GIPS are voluntary, and are binding

only on those firms that claim compliance with the standards.

Currently, GIPS require that GIPS-compliant firms make every reasonable effort to provide a compliant presentation [6] to all prospective clients. However, an existing point of ambiguity concerns whether prospective fund investors must receive a compliant presentation. [7]

Summary of Draft Guidance Statement

The draft guidance statement recognizes that local laws and regulations often govern what performance-related information may be included in funds' offering documents and marketing materials. Nevertheless, it proposes extending GIPS to funds in a manner consistent with funds' current legal obligations. The draft guidance statement suggests that the extension of GIPS in this way would be beneficial to investors, firms, and regulators.

The draft guidance statement would require that fund offering documents and marketing materials include: [8]

- The description of the fund's investment mandate, objective, or strategy;
- An indication of the fund's risk, as either a qualitative narrative or a quantitative metric, as mandated by the local regulators;
- Fund returns calculated according to the methodology and for the time periods required by local laws or regulations (if there is no mandated methodology, the statement provides one that must be used);
- Benchmark total returns and the benchmark description; and
- The currency used to express performance.

Additionally, the draft guidance statement would recommend, but not require, that these materials include information about sales charges and loads and a claim of compliance with GIPS.

The draft guidance statement would not require or recommend that a fund provide a compliant presentation in its offering document or marketing materials—including the required items outlined above would suffice. However, funds would be required to provide a compliant presentation to a prospective fund investor upon request.

Matthew Thornton
Assistant General Counsel

endnotes

[1] The CFA Institute (formerly known as the Association for Investment Management and Research) is a global not-for-profit association of investment professionals that maintains Global Investment Performance Standards ("GIPS") for calculating and presenting investment performance. See generally 2010 Edition of the GIPS Standards, available at www.cfapubs.org/doi/pdf/10.2469/ccb.v2010.n5.1.

[2] Available at www.gipsstandards.org/standards/Documents/Guidance/exposure_draft_public_comment_p

[ooled_funds_gs.pdf](#).

[3] Such vehicles would include mutual funds, open-ended investment companies (OEICs), investment companies with variable capital (ICVCs), unit trusts, and sociétés d'investissement à capital variable (SICAVs) ("funds").

[4] The draft guidance statement is not meant to apply to situations in which a firm is marketing a strategy with a composite (i.e., an aggregation of one or more portfolios managed according to a similar investment mandate, objective, or strategy) that includes a fund. Moreover, it would apply only to firms that manage one or more funds and are also responsible for the creation of the fund offering documents and fund-specific marketing material.

[5] See, e.g., Item 26 of Form N-1A.

[6] "A compliant presentation is a presentation for a composite that contains all the information required by the GIPS standards and may also include additional information or supplemental information."

[7] Some GIPS-compliant firms have interpreted this provision as not applying to the funds they manage, because they typically have little or no contact with prospective fund investors and/or they have determined that compliance with applicable law (which may conflict) supersedes.

[8] These requirements would apply only to materials that present investment performance, and the draft guidance statement makes clear that if local laws or regulations prohibit a required item from being included in a fund offering document or marketing material, then that item must be excluded.