

MEMO# 30922

October 23, 2017

ICI Submits Follow-up Letter to CFA Institute Regarding Its Broadly Distributed Pooled Fund Work

[30922]

October 23, 2017 TO: ICI Members
ICI Global Members SUBJECTS: Advertising
Compliance
Disclosure
Fund Accounting & Financial Reporting
International/Global

Investment Advisers RE: ICI Submits Follow-up Letter to CFA Institute Regarding Its Broadly Distributed Pooled Fund Work

Over the past two years, broadly distributed pooled funds (including regulated funds) and their disclosure and performance reporting practices have become a focal point for the CFA Institute.[\[1\]](#) ICI has submitted comment letters in response to these CFA Institute initiatives.[\[2\]](#) ICI submitted a follow-up letter to the CFA Institute today, attached below.

ICI's recent letter expresses deep concerns with the CFA Institute's recent work related to broadly distributed pooled funds. We strongly urge the CFA Institute to reconsider the need for, and its fundamental approach to, issuing pooled fund-specific guidance and standards. (We reiterate that investor protection broadly, and the contents of offering documents and marketing material in particular, fall within the competence and supervisory mandates of national securities regulators; that regulated funds and their retail investors have been well-served by regulators' emphasis on developing highly detailed and prescriptive sets of performance reporting and disclosure requirements; that overlaying GIPS in those instances is unnecessary and inappropriate; and that the CFA Institute should not substitute its judgment for that of these regulators worldwide.) Specifically, we state that it must analyze the current and varied legal and regulatory requirements that apply to pooled funds globally, and assess whether and to what extent those requirements are genuinely inadequate. To the extent that the CFA Institute were to identify genuine gaps in these requirements in certain jurisdictions (or for certain types of pooled funds), it then could evaluate and propose targeted ways in which it may play a constructive role in improving standards. If the CFA Institute is not willing to proceed in this prudent fashion, then it should abandon its pooled fund-specific work.

We state that if the CFA Institute insists on moving forward with its Guidance Statement initiative, then at the very least it should competently establish the required safe harbor.^[3]

Matthew Thornton
Assistant General Counsel

Attachment

endnotes

[1] See Institute [Memorandum No. 30755](#), dated June 22, 2017, for additional background and summaries of the CFA Institute’s (i) March 2017 Guidance Statement on Broadly Distributed Pooled Funds (“Guidance Statement”), *available at* www.gipsstandards.org/standards/Documents/Guidance/gs_pooled_funds.pdf, and (ii) May 2017 GIPS 20/20 Consultation Paper (“Consultation Paper”), *available at* www.gipsstandards.org/standards/Documents/Guidance/gips_2020_consultation_paper.pdf. Global Investment Performance Standards (“GIPS”) apply to all firms (“Firms”) that claim compliance with the standards, many of which are ICI members.

[2] See ICI Comment Letter on the CFA Institute’s Exposure Draft of the Guidance Statement on Broadly Distributed Pooled Funds dated April 29, 2016 , *available at* www.ici.org/pdf/29878.pdf; see also ICI Comment Letter on the CFA Institute’s Consultation Paper dated July 14, 2017, *available at* www.ici.org/pdf/30778a.pdf.

[3] The Guidance Statement requires the CFA Institute to review the legal and/or regulatory requirements applicable to pooled funds and identify those regimes that it determines to qualify for inclusion under the safe harbor. If so, Firms falling under those jurisdictions will be deemed to have met the requirements of Provision 0.A.9 (regarding the provision of a compliant presentation) and the Guidance Statement (leaving Firms with nothing more to do for those of their funds included within the safe harbor). To date, the CFA Institute has not formally identified any pooled fund types or regulatory regimes as being included within this safe harbor. We recommend that, at a minimum, a nine-month delay in the effective date from the time CFA Institute issues its final safe harbor guidance is warranted, to give Firms sufficient time to complete these reviews and make any necessary changes to their funds’ offering documents and/or marketing material.