

MEMO# 29844

April 19, 2016

ICI Draft Comment Letter on CFA Institute's Draft Guidance Statement on Broadly Distributed Pooled Funds; Comments Due by April 25

[29844]

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TO: ACCOUNTING/TREASURERS COMMITTEE No. 7-16
ADVERTISING COMPLIANCE ADVISORY COMMITTEE No. 4-16
ICI GLOBAL REGULATED FUNDS COMMITTEE No. 26-16
INTERNATIONAL COMMITTEE No. 24-16
INVESTMENT ADVISERS COMMITTEE No. 6-16
SEC RULES COMMITTEE No. 18-16
SMALL FUNDS COMMITTEE No. 12-16 RE: ICI DRAFT COMMENT LETTER ON CFA INSTITUTE'S DRAFT GUIDANCE STATEMENT ON BROADLY DISTRIBUTED POOLED FUNDS; COMMENTS DUE BY APRIL 25

The CFA Institute [\[1\]](#) issued an Exposure Draft of the Guidance Statement on Broadly Distributed Pooled Funds ("Draft Guidance") in late January. [\[2\]](#) ICI intends to submit a comment letter, and attached is the draft.

Summary of the Draft Guidance

GIPS are mandatory only for those firms that claim compliance with the standards ("Firms"). The purpose of the Draft Guidance is to address Firms' application of GIPS to broadly distributed pooled investment vehicles. [\[3\]](#) It would apply to any Firm that is marketing a fund to more than one investor, and only to Firms that manage one or more funds and also are responsible for the creation of the fund offering documents and fund-specific marketing material. The Draft Guidance suggests that extending GIPS in this way would be beneficial to investors, Firms, and regulators.

The Draft Guidance addresses Firms' obligations with respect to their fund offering documents, fund-specific marketing material, and compliant presentations. [\[4\]](#) Specifically, the Draft Guidance would:

- Require that fund offering documents and marketing material include a number of

items (the “Required Items”); [5]

- Recommend, but not require, that these materials include information about sales charges and a claim of compliance with GIPS; and
- Require Firms to provide a compliant presentation to a prospective fund investor upon request.

Summary of ICI’s Draft Comment Letter

The draft ICI comment letter begins by explaining that in many jurisdictions (including the U.S.), regulated funds are subject to a substantial, carefully-developed, and clear regulations that address performance reporting and the contents of fund offering documents and marketing material. The letter then expresses a number of concerns about the Draft Guidance, and objects to overlaying these proposed standards on existing fund performance reporting and disclosure requirements. Specifically, we explain that the Draft Guidance:

- Does not sufficiently account for existing legal requirements;
- Is ambiguous in certain key respects; and
- Could undermine comparability in offering documents and marketing material within some jurisdictions.

Finally, we recommend how the CFA Institute could offer Firms fund-related guidance in a more targeted and beneficial manner that does not raise these same concerns. Specifically, the CFA Institute could:

- Identify and address clear gaps in substantive areas and jurisdictions where regulators have not acted; and/or
- Limit new requirements on specific offering documents and marketing material that claim GIPS compliance.

If members have any comments on the draft letter, please contact me at matt.thornton@ici.org or (202) 371-5406 by no later than Monday, April 25 (close of business). The deadline for submitting the comment letter is Friday, April 29.

Matthew Thornton
Assistant General Counsel

[Attachment](#)

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 [Memorandum No. 29694](#), dated February 10, 2016, for a more detailed summary of the Draft Guidance.

[2] The Draft Guidance is available at

www.gipsstandards.org/standards/Documents/Guidance/exposure_draft_public_comment_pooled_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] 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."

[5] Specifically: (i) the description of the fund's investment mandate, objective, or strategy; (ii) an indication of the fund's risk, as either a qualitative narrative or a quantitative metric, as mandated by the local regulators; (iii) 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); (iv) benchmark total returns and the benchmark description; and (v) the currency used to express performance. These requirements would apply only to materials that present investment performance, and the Draft Guidance 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.

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