

MEMO# 30755

June 22, 2017

CFA Institute Issues Consultation Paper on GIPS

[30755] June 22, 2017 TO: Accounting/Treasurers Committee
Advertising Compliance Advisory Committee
ICI Global Regulated Funds Committee
Investment Advisers Committee
SEC Rules Committee
Small Funds Committee RE: CFA Institute Issues Consultation Paper on GIPS

The CFA Institute^[1] issued a consultation paper on GIPS® titled GIPS 20/20 (the “consultation paper”) in May.^[2] The CFA Institute frames this GIPS 20/20 project as “an opportunity for the industry to reflect and provide input on how the GIPS standards can support the industry for the benefit of investors.”

Comments on the consultation paper are due by July 16. ICI will file a comment letter, a draft of which we will circulate shortly for your review and comment.

Background

While US registered funds (among others) have very detailed requirements for reporting investment performance data, 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 (“firms”).

The CFA Institute has taken a renewed interest in funds and their disclosure recently, and it finalized its *Guidance Statement on Broadly Distributed Pooled Funds* (the “Guidance Statement”) in March.^[3] The Guidance Statement, which takes effect on January 1, 2018, will require that at least one document that is intended to reach prospective pooled fund investors prior to or concurrent with their purchase of the fund (*i.e.*, either the fund offering document or marketing materials) include four specified items.^[4] The Guidance Statement does not require or recommend that a firm provide a GIPS-compliant presentation in a fund’s offering document or marketing materials. However, firms will be required to provide a compliant presentation to a prospective fund investor upon request. Significantly, the Guidance Statement contains a safe harbor provision, whereby the CFA Institute upon request will review the requirements of particular legal and/or regulatory regimes and determine if they qualify for inclusion under the safe harbor (the determination will be based on whether the particular legal and/or regulatory regime requires firms to

provide prospective pooled fund investors with materials that include the Guidance Statement's four required items). If so, firms that fall under these jurisdictions will be considered to have met the requirements related to providing compliant presentations and the Guidance Statement.

Summary of the Consultation Paper

The consultation paper contemplates a restructuring of GIPS, with "the relationship between the party presenting performance (*i.e.*, the investment manager or asset owner) and the receiver of the information (*i.e.*, prospective client, prospective pooled fund investor, or oversight board) [being] the defining criterion regarding how performance should be presented." With respect to pooled funds generally, the paper emphasizes the importance of fund performance (rather than composite performance), and promises to expand on the concepts in the Guidance Statement. Further, "firms managing any type of pooled fund would be required to present to prospective investors in those funds a pooled fund report that would include only the pooled fund's information." The paper proposes that investment management firms be required to provide the pooled fund report to existing investors on an annual basis, or alternatively, make an offer to do so. In describing these proposed items, the consultation paper is not very specific, and it is unclear what the intended relationship would be between regulated funds' extensive existing legal and regulatory requirements and the fund performance reports that the paper contemplates.

The consultation paper also provides guidance and poses questions on other topics of general applicability, including asset-class-specific guidance, rates of return, valuation frequency, distribution of composite compliant presentations, total firm assets, non-fee-paying portfolios, references to claims of GIPS compliance, timeliness and frequency of compliant presentations, and estimated trading expenses.

After reviewing feedback on the consultation paper, the CFA Institute intends to publish the GIPS 20/20 Exposure Draft in early 2018.

Matthew Thornton
Assistant General Counsel

endnotes

[1] The CFA Institute 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/gips_2020_consultation_paper.pdf.

[3] Available at www.gipsstandards.org/standards/Documents/Guidance/gs_pooled_funds.pdf. See Institute Memorandum No. 29878, dated April 29, 2016, for a summary of and link to ICI's comment letter on the draft Guidance Statement.

[4] 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); and (iv) the currency used to express performance. The 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.

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