

CFA Institute  
Global Investment Performance Standards  
Re: Guidance Statement on Broadly Distributed Pooled Funds  
915 E. High Street  
Charlottesville, VA 22902  
USA

Basel, April 5<sup>th</sup> 2016  
A.170.4 MST/CLA

## **SBA Comments on Exposure Draft of GIPS Guidance Statement on Broadly Distributed Pooled Funds**

Dear Sir/Madam

We would like to thank you very much for the opportunity to provide comments on the Exposure Draft of the GIPS Guidance Statement on Broadly Distributed Pooled Funds (further "GS") on behalf of the Swiss Bankers Association as the GIPS country sponsor in Switzerland.

In general, we welcome the development of this Guidance Statement because it creates an appropriate basis for a pragmatic application of the GIPS standards in the area of regulated mutual funds. Our specific comments and suggestions are as follows.

### **Scope**

The GS states on page 3: *"This Guidance Statement is not meant to apply to situations in which a firm is marketing a strategy with a composite that includes a pooled fund."*

First of all, we think this important scope limitation should be explained in more detail, i.e., it should be clarified whether a composite that includes only one single fund would still be exempt from this GS if the firm markets the fund's strategy and not the fund as an investment vehicle.

In addition, an explanation should be added in section "Offer and Provision of a Compliant Presentation" that if a composite that includes a pooled fund (regardless whether it is a single fund composite or a composite that also includes further portfolios besides the pooled fund) is marketed to prospective clients that are not necessarily interested in investing in the pooled fund but are interested in the composite strategy, a full GIPS compliant composite presentation of this composite must be produced and made available to such prospective clients.

The GS further stipulates on page 3 that: *“...certain types of pooled funds, such as hedge funds, real estate funds, and private equity funds, are not covered by this Guidance Statement. They are explicitly covered in the Guidance Statements on Alternative Investment Strategies and Structures, Private Equity, and Real Estate.”*

We disagree with this limitation of scope. The above mentioned guidance statements do not explicitly handle specific aspects of broadly distributed funds, such as provision of performance information to end-investors, although many alternative funds are also broadly distributed and regulated. As long as alternative funds are broadly distributed (even if to institutional investors only) these types of funds should not be excluded from the scope of this GS.

## **Purpose**

On page 4 under item #2 the GS elaborates about the return calculation methodology for pooled funds. We believe that the GS should explicitly address and provide guidance on some return calculation methodology issues specific for mutual funds, such as:

- For exchange-traded funds (ETF) whether an internally calculated official NAV per share or the exchange share price should be used for performance calculation purposes. An appropriate reference to local regulations (if any) should be taken into account (e.g., the Swiss regulations prescribe that in the case of funds whose units are traded on a regulated market open to the public, the performance is to be calculated using the prices at which units are traded on this regulated market).
- For funds applying the “swing pricing” principle, whether the performance should be calculated on the basis of the “swung NAV” or “unswung NAV” (again, any local regulations should also be taken into account in this respect).

The GS states on page 5: *“The pooled fund issues previously outlined add complexity in following the GIPS standards that deal with the materials distributed to prospective pooled fund investors. However, these issues do not affect the firm’s ability to comply with other requirements of the GIPS standards, such as the need to have all discretionary portfolios in a composite, the ability to produce a compliant presentation for all composites, and so forth.”*

While the above statement is true, we believe that it would also be fair to state that the requirement to prepare a GIPS compliant presentation for composites that include regulated pooled funds did create a certain burden for firms in terms of excessive performance reporting (GIPS compliant presentations in addition to the regulatory reports and materials with performance and risk figures). On the other hand, that burden was outweighed by certain advantages, e.g. by the ability to present a gross-of-fees performance for fund composites as opposed to net-of-fees performance presentation required by many regulators for mutual funds.

## Defined Terms

***Question: Does your country or region require sales charges and loads to be included in the calculation of the pooled fund returns?***

No, in Switzerland it is not allowed to include commissions and charges in relation to issuance and redemption of fund units in the fund's performance.

***Question: Are the explanations of the defined terms sufficiently clear?***

Generally, yes. The term "Prospective Pooled Fund Investor" should be worded more precisely in order to make it clear that it also includes both retail and institutional fund investors.

Please also see our comments regarding desired additional clarifications on the fund return calculation methodology above in section "Purpose".

***Question: Are there other terms that should be defined?***

It may be helpful to introduce the term "Fund Management Firm" (a firm that both manages pooled funds and is also responsible for the creation of the official pooled fund documents mandated by regulators and the fund-specific marketing material, as elaborated on page 3 of the GS).

It would also be helpful to define the term "broadly distributed pooled fund" used throughout this GS. Besides, firms should be required to define in their GIPS policies and procedures which pooled funds that they manage are classified as "broadly distributed".

***Question: Do the terms themselves clearly indicate the concepts being presented?***

No specific comments.

## Required Items

We believe that if local regulations on pooled fund distribution already require to include substantially all or most of the required items in the official pooled fund documents or marketing materials, then the regulatory requirements should be followed instead of the proposed list of required items in the GS (page 7). For example, in Switzerland the local regulations (SFAMA Guidelines on the calculation and publication

of performance data of collective investment schemes<sup>1)</sup> require the following items to be presented:

*Historical performance data must be published for the following observation periods at least:*

- *for the last calendar year separately, and either:*
  - *for the last three calendar years, or*
  - *for the last five calendar years, or*
  - *since the launch of the collective investment scheme either*
    - *for each year separately, or*
    - *as a cumulative total figure for a number of calendar years, or*
    - *as an annual average for a number of calendar years.*

*In addition historical performance data for the current calendar year separately may be published. In addition to figures for the previous calendar years, performance for rolling time periods to the most recent cut-off date (e.g. September to September) may be published.*

The above list of the required items as per the Swiss regulations substantially includes most of the required performance items defined in the GS, however, does not exactly match the required items as per the GS list. While the Swiss regulations do not explicitly prohibit presenting additional information, we believe that for the sake of comparability of fund performance presentation in the local market, the funds should not be required to present additional items as per the GS in the official fund documents.

***Question: Do you agree that all the required items listed above should be required items? Are there any other items that should be required?***

We agree.

***Question: Do you agree that a pooled fund net/net return should not reflect the deduction of sales charges and loads? Why or why not?***

We agree. It is not common to deduct such charges from net returns since the official fund documents often only indicate maximum charges and the actual charges taken by various distributors are not necessarily known to the investment manager that manages the fund.

***Question: Should the required items be required in official pooled fund documents unless prohibited by local regulators? Why or why not?***

No, the required items, if not already required by regulations, should also be allowed to be presented in the fund-specific marketing material instead of the official pooled fund documents (e.g., in fund fact sheets).

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<sup>1</sup> [http://www.sfama.ch/en/self-regulation-model-documents/transparency/sfama-rl-fp\\_e\\_guidelines-performance-data\\_080516.pdf/@@download/file](http://www.sfama.ch/en/self-regulation-model-documents/transparency/sfama-rl-fp_e_guidelines-performance-data_080516.pdf/@@download/file)

**Question: Should the required items be required in fund-specific marketing material created for prospective pooled fund investors? Why or why not?**

The required items, if not already presented in the official pooled fund documents, must be presented in the fund-specific marketing material (e.g., in fund fact sheets).

### Recommended Items

**Question: If returns reflect the deduction of sales loads, should firms be required to disclose this deduction?**

Yes, a disclosure of the maximum sales load in the official fund documents is usually required by the local regulations, thus no objection to move this to the required items in this GS.

**Question: Do you agree that including this GIPS pooled fund claim of compliance in the official pooled fund document and in the fund-specific marketing material should be a recommendation? Why or why not?**

Yes, this should be a recommendation. Fund management firms should also mention that a GIPS compliant presentation is available upon request.

However, we believe that the following statement in the GS

*“If the official name of the firm that manages the pooled fund differs from the name of the firm that claims compliance with the GIPS standards or if the firm as defined for GIPS compliance differs from the legal entity that manages the pooled fund, the claim of compliance should also include the firm definition”*

might contradict the statement on page 3 that this GS

*“applies only to firms that manage one or more pooled funds and are also responsible for the creation of the official pooled fund documents mandated by regulators and the fund-specific marketing material”.*

This sentence implies that the firm that claims GIPS compliance should be identical to the firm that manages the pooled fund and, therefore, it should not have a different name. In this respect, we suggest to either delete the statement

*“If the official name ... should also include the firm definition”*

or to state clearly that in a normal situation the name of the fund management firm and the GIPS firm would be identical.

## Offer and Provision of a Compliant Presentation

**Question: Do you agree that the offer of a compliant presentation in the official pooled fund document and the fund-specific marketing material should be neither required nor recommended? Why or why not?**

We agree.

**Question: Do you agree that firms should not be required to provide a compliant presentation to prospective pooled fund investors unless requested to do so by a prospective pooled fund investor? Why or why not?**

We believe that firms should not be required to provide a GIPS compliant presentation to prospective pooled fund investors for composites with a single broadly distributed pooled fund, whose official documents or marketing materials already include the required items unless requested to do so by prospective investors.

Fund management firms should also disclose that a GIPS compliant presentation is available upon request.

**Question: In cases where there are direct interactions between a firm and a prospective pooled fund investor, should it be a requirement or a recommendation (or neither) that a compliant presentation be given to the prospective pooled fund investor?**

It should be neither a requirement nor a recommendation. For a broadly distributed fund it is sufficient to provide the official fund documents and marketing material to prospective investors. We also propose to define the term “direct interaction”.

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We would like to thank you in advance for taking our comments into consideration. Please do not hesitate to contact us if you need further information.

Yours sincerely,  
Swiss Banking Association



Rolf Brüggenmann



Markus Staub