

Tony Chan's response to GIPS Executive Committee's (EC) invitation to comment on proposed GIPS 2010 Exposure Draft:

0.A.7

I disagree to include a verification status when claiming compliance with GIPS. I feel the new languages may cause confusions. Below are some of my thoughts:

1. If a prospective client would receive client presentation in Jan 2010 and saw that the last verification is done in 2007, prospective clients could potentially think that the FIRM is in violation of the GIPS requirement.
2. If the RFP questionnaire only allows a yes or no respond to the firm verification respond. How can a firm use the proper GIPS disclose language?
3. How would a firm know if prospective clients understand the within 2-year period from last verification requirement?
4. If we included a date stating the last verification performed, should firms also include the verified years as well?
 - If so, how should firm state the proper language on the disclosure page?
 - How important are the historical verification letters to the prospective client?
 - If the firm does not inform the client about historical verifications, then is it the prospective clients' responsibility to inquire about this matter? If we expect the client to ask, then is the firm following the principle of fair valuation and presentation?

In my opinion, I think we should replace the current three ways of writing the language and apply the two ways of declaring the GIPS verification language. This is how I think the language should be written:

If firms can claim the within 2-year verification requirement, they should state the following: "[Insert name of FIRM] claims compliance with Global Investment Performance Standards (GIPS) and has prepared and presented this report in compliance with the GIPS standards. [Insert name of FIRM] has been independently verified and a copy of last VERIFICATION REPORT is available upon request."

For firms that cannot claim the within 2-year verification requirement, they should state the following:

"[Insert name of FIRM] claims compliance with Global Investment Performance Standards (GIPS) and has prepared and presented this report in compliance with the GIPS standards."

0.A.8

I think its best to leave the word "the" and remove the word "all"

The sentence that I'm referring to is: "If the FIRM does not meet all-the applicable REQUIREMENTS of the GIPS standards..."

I believe the evolution of GIPS will continue to change as new regulations and strategies are introduced to the market. To me, as the market evolves, its becoming more challenging to determine what is proper versus what is fair and reasonable (especially dealing with derivative and hedge fund products). To stay on top of these constant changes, I always went beyond the

normal rules (GIPS / GAAPS ...etc) to determine what is the fairness and proper resolution dealing with the situation. Very often, my search of a definite answer is fruitless and thus personal judgment became my solution. Any solution that is based on a person or group of people is always very subjective. There are many times my judgments differ from another person or verifier. This could be because of the GIPS interpretation, the understanding of the composite characteristics and finally the level of financial / math knowledge.

By stating "**all**" the rules are applicable, I feel firms would require to follow every rules listed in the GIPS handbook (even if the rules do not apply). Since a verifier is supposed to be an expert in this area, I also feel the word "all" would **only** allow the independent verifier the right to determine, judge and interpret how GIPS needs to be followed.

I do believe an independent verifier is needed to insure the accuracy and thus build a stronger assurance to the firm's data. The independent verifier should also help the company's team to find and determine not "**all**" the rules are applicable to the firm. It should be a joint partnership process to determine and select **the** most proper rules appropriate for the firm. I would recommend the wording "**all**" be change back to "**the**".

0.A.9

The sentence that I'm referring to is: "Statements referring to the calculation methodology used in a composite performance presentation"

When I started to learn about AIMR (and later GIPS) many moons ago, based on the reading materials I collected, I always believe that the standard governs composite. It was not until after studying and passing the CIPM exam that I realized firms could also take the AIMR / GIPS concepts and apply them to individual portfolios as well.

If a new performance analyst was to read the GIPS book and follow the rules, I have a feeling people might incorrectly think the rules apply **only** to composite. I believe the reason for the language change is because GIPS wants to insure the rules be applied to anything related to returns (regardless either portfolio, composite, models or index).

I recommend the following changes in the sentence: "Statements referring to the calculation methodology used in a composite and any performance related, other than one on one client's account, presentation"

0.A.17

FIRMS MUST NOT present performance, "composite" or performance related information that is false or misleading.

Same reason as 0.A.9, I recommend to include the word **composite** to prevent any confusion.

0.B.2

FIRMS SHOULD provide to each existing client, on an annual basis, a COMPLIANT PRESENTATION for the COMPOSITE(S) in which the client's PORTFOLIO is included.

I disagree with this statement and recommend this statement be removed under the recommendation list because of the following reasons:

1. What if the current client doesn't want additional information and is content with their current client reporting formats?
2. The additional cost associated to the adjustments and maintains of 2 presentation packages: 1 regular package and another GIPS compliance presentation.

Instead of providing a separate compliant presentation package of the composites, I like to recommend a standard that recommends firms to add composite returns information into firm's normal client presentation. By having composite returns in the normal client presentation, I believe this will allow client to see the differences between their returns relative to the composite. In addition, I would expect the incremental cost to include composite returns into the normal client package would be much smaller relative to following guidance 0.B.2.

0.B.3

FIRMS SHOULD "**STRIVE**" to comply with the RECOMMENDATIONS of the GIPS standards, including RECOMMENDATIONS included in any updated information, Guidance Statements, interpretations, Questions & Answers

I hope GIPS could add the word "strive" (or maybe another word such as "attempt") to comply with all GIPS standards, including RECOMMENDATIONS included in any updated information, Guidance Statements, interpretations, Questions & Answers. Simply speaking, I feel there are just too many rules outside of GIPS. There are times I find GIPS rules are silent in many situations and would have to go beyond the handbook and website for answers (see my comments to 0.A.8 guidance).

1.A.2

I don't have any opinion for this particular guidance. However, I do have several questions and hope GIPS can further clarify and provide additional information or examples to this standard.

- After reading the standards, does this mean performance team needs to participate in pricing issues / matters / meetings?
- With the recent events on mark to market and fair pricing issues, if performance team participates and gets involved in determining the prices of illiquid financial instruments, could this jeopardized and/or develop a negative image on the performance team's independence?

Appendix D

VALUATION REQUIREMENTS AND RECOMMENDATIONS

4. Firms must document their policies and procedures used in establishing and maintaining compliance with (Provision 0.A.6). Consequently, FIMRS MUST document their valuation policies, procedures, and methodologies. Any change in the valuation methodologies or assumptions MUST be documented in the FIMR'S valuation policies and procedures.

Question:

- How does large firm handle this issue if pricing team is separated from the performance team?
- Will performance team participation in the pricing team discussion and meeting develop an independence issues?
- Finally, how do firms disclose price differences (appropriate to comply with GIPS) between the Firm pricing sources versus Bloomberg, Reuters or other recognizable independent price vendors (this situation often occurs in the fixed income products)?

5. FIRMS MUST disclose that information regarding policies for valuing PORTFOLIOS, calculating and reporting returns, and preparing COMPLIANT PRESENTATIONS is available upon request (Provision 4.A.17)

Question:

Does this statement apply to non-marketable securities as well? If so, can GIPS provide examples on complying with this standard?

6. The valuation MUST represent the observable market price of investments or, in the absence of a readily observable appropriate market price, MUST represent management's best estimate of the market price prepared using market based inputs.

Question:

What does GIPS mean "management's best estimate"? If there is no market for the security(ies) and the instrument(s) is illiquid, does this mean we cannot use model to price security(ies)?

If firms are allowed to use model to price illiquid security (ies), regardless of materiality or frequency usage, does each firm need to document every equation(s) / calculation(s) use?

1.B.1

FAIR VALUES SHOULD be obtained from a qualified independent external third party.

In the equity world, there are different price vendors that can provide similar prices that are very close to Bloomberg, Reuters and others. However, in the fixed income world where prices are dependant not just from the source itself but the term structure of the instrument as well. A small difference in either of the two could potentially affect the performance return of a fixed income security.

That been written, I hope GIPS could further elaborate the meaning of "**qualified independent**" and provide examples of companies that might qualify under this rule.

Another issue: if firm A trades with firm B, and firm B also offer pricing service, can firm A use firm B price(s)? Would firm A satisfy the standard of "qualified independent"?

Assuming the firm B pricing team is a wholly owned subsidiary or maybe a separate division from the trading team, would that satisfy "external third party" requirement?

In addition, can GIPS provide more guidance toward illiquid securities?

1.B.4

FIRMS SHOULD value PORTFOLIOS on the date of all "**LARGE**" EXTERNAL CASH FLOWS.

I recommend GIPS include the word "**Large**" because if the external cash flow is immaterial or small, the total return impact **COULD** be very small or close to zero. Thus, if a firm properly defines the meaning of large external cash, this would reduce the firm resources in unnecessary stock valuations and performance computations.

2.A.2

TIME-WEIGHTED RATES OF RETURN that adjust for "**LARGE**" EXTERNAL CASH FLOWS MUST be used ... FIRMS MUST define LARGE CASH FLOW for each COMPOSITE "**or at firm level**" to determine when the PORTFOLIOS in that COMPOSITE are to be revalued for calculating performance.

For "**Large**" external cash flow, similar reasons stated above for 1.B.4 guidance.

I like to recommend we add "**or at firm level**" into the paragraph. After reading the statement, I feel the language could imply the external cash flow **only** applies at individual portfolio or composite level. If someone was to apply this guidance to a composite, then (strictly for the purpose of performance calculation) each composite would need a cash flow policy by itself. When calculating performance, I feel practitioners may **not** be aware external cash flow policy could also be apply at the firm level as well.

Question:

Within the calculation methodology guidance, I did not read any materials related alternative calculation for hedge funds. Should GIPS provide additional language related to hedge fund products and other recommended calculation methodology as well?

3.A.9

FRIMS "MUST NOT" present a COMPOSITE to a PROSPECTIVE CLIENT known to have a PORTFOLIO with assets less than the COMPOSITE'S minimum asset level.

I disagree with this statement. I feel 3.A.9 contradicts rule 0.A.11 (compliance presentation). In addition, what is the purpose of following rule 4.A.2 if certain composites (either all or hand full) could not be presented to clients?

Also, how does GIPS expect firm to keep track of the client's requests (if the team that is familiar with the GIPS language) do not contact or deal with the client directly (for example: client relationship or marketing teams that relies on compliance and performance team to review the materials)?

In my opinion, I think we should include the following language in the paragraph: remove "MUST NOT" and include "UNLESS INITIATED AND REQUESTED BY THE CLIENT, SHOULD NOT". By adding this statement, I feel this would allow firm to develop a positive image and further solidify the bonding between the client and the firm.

4.A Disclosure Requirements

Should firms be allowed to remove certain disclosures after a defined period of time? If so, which disclosures would be eligible for removal and after what period of time?

In my opinion, I think a disclosure page is like a web page that needs constant up to date information. Without fresh ideas and formatting, the disclosure page will lose its audiences. I also believe the disclosure page should not be shown similar to a legal document with tiny prints. Instead, I believe the disclosure page should summarize the recent and relevant information about the firm and composite.

As to what and when to remove certain items, the following are my recommendations on non-standard GIPS requirements:

- If any statement(s) is related to the composite, then the statement(s) could be removed on the disclosure page after 3 years.
- If any statement(s) is related to the firm, then the statement(s) could be removed on the disclosure page after 5 years.

4.A.5

FIRMS MUST disclose the presence, use, and extend of leverage derivatives and/or short positions, if material, including a description of the **frequency of use** and characteristics of the instruments sufficient to identify risks.

Question

I don't have any objection to the inclusion of the wording "short positions". My question is related to another issue that I been having difficult time interpreting. I feel rule 4.A.5 lacks clarity on the term "frequency of use".

To me, "frequency of use" term could further broken down into the following questions:

- 1) Does this term mean firms need to measure the past usage of a particular strategy composite? If so, do we need to state anything about future usage? If firms do need to estimate future usage, how do firms quantify it?
- 2) Does this term mean the allowable derivative instruments could be held in the strategy stated in the investment agreement? If so, how should firm quantify this matter?
- 3) Does this term mean to state the expected future portfolio manager's decision in derivate strategy implementation? If so, how should firms measure the expected future portfolio managers' execution?

Since I'm not sure of the meaning of "frequency of use", can GIPS provide a computational method or some examples that would satisfy this requirement?

4.A.7

..... FIRMS MUST also disclose if BENCHMARK returns are net of withholding or "**state gross without tax**".

I like to recommend GIPS to include "or state gross without tax" into the language. I believe many clients want to use a gross global/international benchmark return because clients (might) think the difference between the gross and net index returns is associated to **Management / adversary Fees**.

Client are probably not aware US accounting rule would require international portfolios to deduct appropriate taxes from certain foreign dividends. Because of different tax treatments, a portfolio gross international/global investment return is after tax and should not be consider a good comparison to a **gross** international/global **index return**.

By having the statement included in the presentation, I hope this could create an awareness of the accounting issue and provide a better comparison between the portfolio/composite relative to the benchmark.

4.A.20

FIRMS MUST disclose the COMPOSITE DESCRIPTION which must include sufficient information to allow a PROSPECTIVE CLIENT to understand the “**key characteristics**” of the COMPOSITE strategy, “**including risks.**”

I disagree for the need of this requirement. Instead of making this a requirement, I think it might be a best to place this rule as a disclosure recommendation and remove the work “Key”.

If we want to make this a standard requirement, I believe GIPS would need to further expand and define the meaning of the following ideas: key characteristics and risks. Below are my concerns and comments about characteristics and risks:

Characteristics: Is characteristics something **ALL** portfolio managers use when constructing their portfolio(s)? Could there be portfolio managers that do not use market data and portfolio characteristics when constructing their portfolios? For examples: the portfolio managers (technical traders) use candlesticks or bar chart graphs (RSI, MACD and other technical analysis) to aggregate a list of securities to form their portfolios, and portfolio managers that use qualitative data (such as surveys, articles, macro trends and others) to form their portfolios. In both of these cases, I don’t believe there are any specific **key characteristics** in the eyes of these portfolio managers. What if these portfolio managers are not comfortable presenting the information (either because they do not use them, know the proper calculation or familiar with the correct market data source to use), should firm still present the information to prospective clients?

Assume we do have portfolio managers that have their own fundamental characteristics. Within the matrix the company constructed, portfolio managers have several favorite “**key characteristics**” that they often use. What if the key characteristics in the presentation are not the characteristics the clients are looking for, should firms still present the information knowingly this product might not meet the client’s characteristics expectation? What if the clients request certain key characteristics either portfolio managers do not use or the firm does not have data for, should the firm provide something they’re not sure about?

Risk: What is the meaning of risk? Based on an article written by Glyn A. Holton (Perspectives – Defining Risk FAJ Nov/Dec 2004), he concluded: “Because operational definitions apply only to that which can be perceived, we can never operationally define risk. At best, we can operationally define only our perception of risk.” From this conclusion, I would hope GIPS would further examine the questions / comments that I have listed below:

- 1) If the firm and client have different perception of risk, how is having a number(s) on the disclosure page ultimately help the client?
- 2) Within last few years, several large institutions offered very low risk (mathematically proven) and high yield return products. In the end, the client lost either everything or almost everything. How has the market learned from these mistakes and made improvements or standardize certain requirements that would alleviate this problem for the future?
- 3) Like my accounting professor once said, show me the company accountant books and I’ll make my own risk assessment. If I was to ask for the most recent portfolio holdings,

accounting activities and pricing treatments (similar to how public company file their financial statements), besides mutual funds, what is the chance of getting these? Like many of my other ideas, this probably will never become a reality.

- 4) Finally, if the market interprets risk differently and a recognizable entity (GIPS) is requiring firm to present “risk” on the client presentation, I feel investors and portfolio managers could develop a false perception that GIPS foster standard acceptance to both portfolio performance and risk. Is this the direction GIPS planning to pursue?

By labeling the word “**KEY**” and no “**meeting of the minds**” (legal term), I’m not in favor of how the current statement is written and believe the could potentially lead to a principal agent problem.

4.A.29

FIRMS MUST disclose the 3 year annualized EX-POST STANDARD DEVIATION (using a minimum of monthly periods for the COMPOSITE and for the BENCHMARK as of the most recent annual period presented. The PERIODICITY of the COMPOSITE MUST be identical to the PERIODICITY of the BENCHMARK when calculating EX-POST STANDARD DEVIATION.

I disagree of having this as a requirement. Instead, I feel this should be consider as a recommendation. I’m aware GIPS provides the meaning of standard deviation in Appendix E – GIPS Glossary.

Below are my reasons:

1) I believe, many users **very** loosely describe standard deviation as the risk of either the portfolio or market risk (Does the client know what type of portfolio / market risk does standard deviation really mean?). For some investors, they could also interpret this as the overall danger to a portfolio or possible lost of value from their investments (Is this the correct way of thinking?). If GIPS is going to make a requirement, I think the 2010 document should further clarify and expand the meaning of the risk definition (in the eyes of GIPS versus the market) and standard deviation definition under Appendix E – GIPS Glossary.

2) Examining the same topic in a more granular GIPS level: how risk should be presented in client presentation? I had seen financial articles, client presentations, financial advertisements and others that use standard deviation as a way to express the product risk. Does this mean financial advisor and relationship managers have a fiduciary responsibility to clarify the confusion? I think the answer is YES. However, even if these people tried diligently to educate investor(s), could investor(s) still be confused? Again, I think the answer is still YES.

3) If standard deviation is a way to express a certain type of risk, is it enough to show just the standard deviation alone? If the firm decides to add more risk (ex ante or post), then we might encounter issues that I stated above for standard 4.A.20.

4) If the standard deviation is already presented in the client presentation, what additional benefits can reader expect if the number is move from one location of the presentation to the GIPS disclosure slide? I feel practitioners (mostly beginners) are already confused with the

internal weighted (asset weighted) standard deviation. Most statistic classes do not discuss much about internal weighted standard deviation calculation (I believe this method is also called the cross sectional dispersion. Honesty, I was confused when I first hear of this term). I feel adding another form of standard deviation on the disclose page could potentially confuse both practitioners and prospective investors. If we need to include it, GIPS needs to differentiate and disclose the differences between asset-weighted standard deviation versus composite return standard deviation.

4.B.2

FIRMS SHOULD disclose the **key** assumptions used to value investments.

Question

What does GIPS mean by key assumptions? Also, does this apply for non-marketable (illiquid) securities only? What if there are multiple illiquid securities that have different valuation methods? Do firms need to disclose all the valuation methods that are MATERIAL to the investments?

I'm not sure if I understand the meaning or the purpose of this requirement. It would be great if GIPS could provide further clarification to this requirement.

4.B.3

FIRMS SHOULD disclose the description of the BENCHMARK and FIRMS SHOULD disclose material differences between the BENCHMARK and COMPOSITE strategy.

In my opinion, I think GIPS should remove this standard. I don't see the need to disclose public information that a prospective investor could easily find on the internet, or financial magazines and books. I believe it is always a good idea to educate and provide more information about the product and the strategy clients have invested. However, by adding a brief description, I personally do not believe this could be sufficiently enough to help investors.

I also do not see the need to disclose any materials explaining the differences between the benchmark strategies versus the composite. The following are my reasons:

1. I don't believe we can always find a perfect benchmark that will match exactly to a specific portfolio (unless this is an index fund).
2. In order for the strategy to earn the extra alpha, strategy construction most likely would have some material differences to the benchmark. If client already knows about this, I don't see the need to provide additional information.
3. Finally, most likely, the presentation already has several slides indicating the differences and explains how the strategy should beat the benchmark.

By requiring firms to follow this guidance, I feel unnecessary information might be added on the disclosure page. If the investor likes to know the differences between the two strategies, I feel this falls under the client's advisor or relationship manager to provide the additional detail to educate the investor.

5.A.7 & 8

5.A.7 is related to non-fee paying portfolios

5.A.8 is related to composite containing proprietary assets

After reading these two standards, I feel the two standards could cause some confusion.

For examples:

1. Will having the additional disclosures better judge the product historical performance or is the purpose of these standards information only?
2. If a composite contains a proprietary asset that is non-fee paying and company own, what benefits could client gain by having both percentage of non-fee paying portfolios and percentage asset of proprietary assets in the client presentation? Will the prospective clients be more confused or better inform with the additional information?

I would recommend if GIPS remove standard 5.A.8 and append 5.A.7 with the following wordings that I have underline below.

1. If the proprietary asset is **non-fee paying** and the company owns the asset, then for each year-end firms **ONLY** needs to disclose the percentage of non-fee paying assets.
2. If the proprietary asset is **fee paying** and the company owns the asset, then firm only needs to disclose percentage of company own.
3. Firms may choose to show both, percentage of non-fee paying and percentage of firm proprietary assets, for each calendar year end.

5.B.2

b) Equal-weighted mean and median returns for each COMPOSITE.

I think the reason of showing equal-weighted mean and median on composite returns is to help prospective clients see the skewness of the composite assets.

If I am correct, this is another way to express the composite dispersion. I don't see the need for this recommendation when GIPS already require Firms to follow rule 4.A.26 in a presentation. I do not see much benefit to this requirement and believe 5.B.2 will only increase workload on Firms that do not have flexible composite application or maintain their composites manually.

If one possible reason of this guidance is to determine the concentration of the composite (cause by one portfolio or handful of portfolios), then I like to recommend the following language:

b) Median market value for each composite (I do not think we need to present weighted mean or median return).

5.B.3

FIRMS SHOULD present additional relevant COMPOSITE level risk measures.

Disagree, I think GIPS need to further define the meaning of risk and determine the various types of risk measures need in a presentation (see my comments for 4.A.20 and 4.A.29 guidance).

5.B.6

FIRMS SHOULD update COMPLIANT PRESENTATIONS ~~quarterly~~ annually.

I think annual is sufficient and requiring quarterly update will only increase the burden on some firms' resources.

I also think GIPS is focusing too much emphasis on putting Firms and outside verifiers to help insure proper GIPS presentation. It would also be helpful if GIPS begin offering information and resources to investors directly as well.

Let's use Madoff investment as an example. Had Madoff investors requested or Madoff prepared the information in accordance to GIPS guidance under the disclosure or advisement rule, I believe a prospective investor might still invest into the fund without knowing that the fund is a fraud. Based on articles I read, majority of Madoff victims never examined or question the returns. The reason might be because investors consider themselves as "sophisticated / high net worth investors" and don't need to examine the information, simply didn't care much about the results as long they're assured their assets were protected or they didn't understand or know how to read the results? Whatever the reasons, I still think the cause of Madoff investment scandal could had been prevented if it was not because of this word, "TRUST!"

If trust is the cause of the problem, how would normal investors protect themselves or realized something is too good to be true? We already have government agencies continuously reminding consumers about banking / financial and other frauds. I believe a similar solution should be apply to GIPS, or some recognizable entity, to educate investors by providing simple reading materials that an investor could understand.

We should inform investors with facts as to certain important GIPS standard presentations that would help evaluate difference funds results, provide presentation examples, and offer some basic historical events and other important facts. The information should also include examples discussing the differences between facts versus sales literature. Finally, I think the most important part is to discuss ways to identify possible miss representation.

5.B.7

FIRMS SHOULD present the 3 year annualized EX-POST STANDARD DEVIATION (using a minimum of monthly periods) and the corresponding 3 year annualized TOTAL RETURN for each annual period presented for the COMPOSITE and for the BENCHMARK. The PERIODICITY of the COMPOSITE MUST be identical to the PERIODICITY of the BENCHMARK when calculating EX-POST STANDARD DEVIATION.

I disagree to this recommendation because I believe GIPS should **ONLY** focus on insuring calculation and presentation accuracy. I feel having correct and assuring data is the most important aspect of GIPS. Although analyze the data from returns information and interpret the result is exciting. Analyze data could also cause different interpretation, confusion and misguidance (please see my comments for 4.A.20 and 4.A.29).

In addition, how is standard 5.B.7 different to standard 4.A.29? 4.A.29 is for disclosure purpose and 5.B.7 is for presentation purpose. I'm not sure about the intention. If there was a reason, I'm not sure the benefit of presenting identical information in different location for the same presentation. I recommend removing standard 4.B.29 from the 2010 GIPS book.

7.PRIVATE EQUITY

Question

If a composite is made up of fund of fund private equity portfolios, does that fall under GIPS private equity rules? If the fund of fund private equities has monthly valuations, would composite then fall under the GIPS regular rules rather than private equity rules? It would be great if GIPS could provide some additional guidance and examples related to fund of fund private equity composites.

8.A.6

When FIRMS present COMPOSITE performance to an existing WRAP FEE/SMA sponsor, which includes only the sponsor's WRAP FEE/SMA PORTFOLIOS (resulting in a "sponsor-specific COMPOSITE"):

- I. Firms must DISCLOSE THE NAME OF THE wrap fee/ sma SPONSOR represented by the sponsor-specific composite; and
- II. If the sponsor – specific COMPOSITE COMPLIANT PRESENTATION is intended for the purpose of generating WRAP FEE / SMA business and does not include performance net of the entire WRAP FEE, the COMPLIANT PRESENTATION MUST disclose that the named sponsor – specific COMPLIANT PRESENTATION is only for the use of the named WRAP FEE / SMA sponsor.

I agree to the first part where firms are allow to present sponsor specific composite. Except the following:

1. I recommend to include 8.A.5 languages into 8.A.6 I. This would remind practitioners that this guidance is a subset of 8.A.5.
2. I also feel the sponsor specific composite presentation to include at least one slide showing the entire original composite returns information.
3. I think the composite name should include the name of the sponsor. This would remind firms to market this composite **ONLY** to this particular sponsor.
4. If the firm does not wish to include the name of the sponsor onto the composite name, then the composite description should indicate the sponsor name and the composite purpose is to be marketed specifically for a particular sponsor.

I disagree with 8.A.6.II because sponsor specific wrap composite could have different monthly returns. By only showing a piece and not the entire whole, I feel we will not be following the principle of fair valuations and full disclosure. If truly the entire composite returns are different to the sponsor composite, then investors could potentially feel that they have been misled.

I also **disagree** that a "sponsor-specific composite" should be classified as "style-specific composite". This could allow someone (unfamiliar with the principle and spirit of GIPS) to create unintended composite and not meeting the principles of full disclosure and fair representation. For example, if in fact sponsor specific composites have different returns from each other or the whole composite, GIPS would be allowing firms to cherry pick the best style specific composite to represent the strategy.

VERIFICATION

1.a

Should specific verification procedures be included for GIPS provisions 0.A.16 and 0.A.17?

I don't think GIPS should increase the amount of language already written in either of the standards: 0.A.16 and 0.A.17 guidance. I feel the more specific the language is written, the more the team (that is responsible for firm's composite and return) will have to be involve within the firm and thus have more responsibilities to bear.

Initially, this might be a great idea the team (that is responsible for firm's composite and return) is becoming the center of the firm's attention. However, I also feel the same team could expand

into other functions within the firm that may or may not be appropriate. If that happens, this could also influence the team's GIPS responsibilities and create unnecessary influence or be influenced by other departments within the firm (See my comments to 0.B.3 and 1.A.2 Appendix D guidance).

2.E.iii

Treatment of taxes, tax reclaims, and tax accruals (**only if material**)

The tax treatment on securities going ex is already governed by GAAP. There is no need to focus on this matter in a GIPS presentation. Also, such tax issues only relate to international composite / portfolios that hold securities that offer dividends and in countries that charge tax to foreign investors. If the composite/portfolio does not hold a substantial amount of securities then the total tax adjustment to dividend or interest accruals will have no or very small impact on the overall performance.

I think this should only be tested in verification if treatment of taxes is a material factor in most of the firm's composites. If the tax treatment is not, I don't see the need to test this.

2.F.i

Recalculating rates of return for a sample of accounts in the FIRM, determine that an acceptable return formula as prescribed by the GIPS standards is utilized and determine that the FIRM'S treatment is in accordance with the FIRM'S policies and procedures.

Question

Does this mean, each FIRM needs to have a standard policy to calculate net of fee returns? What if the firm performance policy and procedure is silent in this area? Instead, firm net of fee return calculation relies on the data that is available at the time the composite/portfolio is constructed. Can GIPS clarify about the net of fee calculations in firm's policy and procedure manual?

Appendix C – GIPS Advertisement Guidelines:

B. Requirements of the GIPS Advertising Guidelines

3. The GIPS compliance statement for advertisements. The compliance statement MUST remain in a single paragraph

I disagree with GIPS recommendation on the three advertisement statements. I think people not familiar with GIPS, would find very confusing with multiple ways of presenting the language.

I believe the verification statement should be simple to prevent any form of miss understanding to investor.

Assuming the last verification is no longer than 2 years, I recommend the language should state the following:

[Insert name of FIRM] claims compliance with the Global Investment Performance Standards (GIPS®). **"The latest verification is available upon request"**

If the firm last verification performed was over 2 years ago, then the language should be written as:

[Insert name of FIRM] claims compliance with the Global Investment Performance Standards (GIPS®).

B.9.

The presence, use, and extend of leverage, derivatives, and / or short positions, if material including a description of the **frequency of use and characteristics of the instruments sufficient to identify risks.**

Question

Can someone elaborate the meaning to the underline statement listed above and provide more details concerning the following questions:

1. How to calculate the characteristics of derivative risks so an investor could understand?
2. How does firm quantify and show the future usage if PMs would need to decide the proper market, timing and the types of derivative securities to use? In other words, how should firms quantify something that has not been implemented in the portfolio (see comments to a similar topic, 4.A.5 guidance)?

Other Advertisement questions

Questions

Can GIPS provide more examples related to advertisement presentations?

Can we apply supplemental rules to non-one on one presentation (like on an advertisement)?

- If not, can GIPS provide more details explaining what can and cannot be shown in a GIPS compliance advertisement?
- If yes, would Supplemental languages be expanded to clarify how to present additional information on an advertisement?

Appendix E – GIPS Glossary

Question

EVERGREEN FUND (PRIVATE EQUITY)

Does fund of funds fall under this category? Can GIPS clarify this matter (private equity or regular standard rules)?

See my comments under “7.Private Equity”

PROSPECTIVE CLIENT

There are several underline words that I don't feel comfortable with the new definition.

Any person or entity that qualifies to invest in a COMPOSITE strategy (e.g., has assets above the COMPOSITE **minimum asset level**) and has expressed interest in one of the FIRM'S strategies.

Existing clients may also qualify as PROSPECTIVE CLIENTS for any strategy that is different from their current investment mandate. **Investment consultants and other third parties** are included as PROSPECTIVE CLINETS if they represent investors that qualify as PROSPECTIVE CLIENTS.

Here are the reasons why I disagree with the new prospective client definition:

1) I recommend defining a prospective client as someone that is **new client to the firm.** Unless an existence client requests GIPS compliance present, I truly don't see the need to categorize existence clients as prospective clients. By classify an existence client as prospective client, I personal feel GIPS could potentially break the relationship between the firm and the clients.

Concerning new products, firms are constantly developing new products cater to existence and new clients. Most existence clients, I believe, already been inform about the firm upcoming new product(s) before any marketing materials may have been prepare. Should GIPS prevent firm from distribution non-GIPS compliance presentation to **existence clients** when the marketing material is not prepare yet? Another example, what if one of the portfolio within the composite is the company itself (seed capital), does the firm need prepare and present a GIPS presentation to the senior managers within the firm?

I personal feel as long as the presentations are truthful and proper disclosures are written related to the assumptions (and other matters), we should allow firms to create non-GIPS presentation to their **existence clients** that express **new or renew interest** on other firm's products.

2) I do not think a composite minimum should be included or is needed in the definition (see my comments for 3.A.9).

3) I believe a time range needs to be included in defining a PROSPECTIVE CLIENT because if we don't include a range of time in the definition, I feel a firm could incur unnecessary expenses by providing GIPS compliance presentation to a prospective client whom may already lost interest or long forgotten about the products/firms. By leaving a date range out of the language, firms could also unwillingly be responsible for prospective clients' interest for longer period than needed.

I believe a person/entity that expresses an interest within the last 6 months (or maybe no more than 1 year) could imply the person/entity is still reasonably interest with the product offer by the firm. However, if the initial request from the person/entity has been over 6 months (or maybe no more than 1 year), then a firm could imply the person/entity is no longer interested and should not be consider as a prospective client under the eyes of GIPS.

4) In my opinion, I think consultants and third parties **should not** be considered prospective client even if they are representing investors. Although consultants and third parties have fiduciary responsibilities, I always feel there is a gray area in between the parties. Depending on the speakers, this gray area could be defined in many ways. The conflict I see between the consultants/third parties and investors are: best interest and fee.

Concerning about best interest, I summarized a part of prudent person standard written by Robert J. Shiller report (Bubbles, Humana Judgment and Expert Opinion – May 2001 <http://cowles.econ.yale.edu/P/cd/d13a/d1303.pdf>).

Robert describes a fiduciary must act in accordance to the prudent person standard. The standard requires fiduciary to act in accordance with conventional wisdom, which means someone is be alive today and must take action similar to the best practices of current time. This rule states a “fiduciary must acts on conventional wisdom, not their own judgment.”

Using the above passage, here are some possible conflict-of-interest and confusion when including consultants and third party into the definition:

- 1) What is conventional wisdom to the client and how do consultants/third parties define the meaning of conventional wisdom to the client?
- 2) Does the client know what current wisdom is and means? Does current wisdom of today meet the expectation of the client?
- 3) When consultants/third parties represent the prospective client, how does the firm know if consultants/third parties truly acts in the interest of the prospective client? Could consultants/third parties place the interest of their firm first rather than the client?

If someone were to act in the best interest of the client without **any fee**, I would either have a **strong doubt** about the particular person’s integrity or advise the reader(s) to ignore the prudent person standards stated above. The fee issue always makes me wonder if the agent is acting in the interest of the client or rather the company.

However, if we look back in history, we could find many situations where decisions are made based on the best optimize outcome. By optimize outcome in the investment world I mean **profit!** If you are the employee to a firm, does this employee have a fiduciary responsible to select the best products with the lowest fee for the client or find products that generate the highest revenue for the firm? When a person is face in this dilemma, which side will this person take? We can always argue a prudent person will always make the best decision for the client. However, is this always true? Below is a recent example that surface in the news.

New York State Attorney General Andrew M.Cuomo recently reform "the use of placement agents and eliminating campaign contributions to those who make or influence pension fund investment decisions" ([New York State Attorney website - http://www.oag.state.ny.us/media_center/2009/may/may21a_09.html](http://www.oag.state.ny.us/media_center/2009/may/may21a_09.html)).

Below is part of an announced that I found on the New York State Attorney website.
(5/14/09 - CUOMO ANNOUNCES LANDMARK AGREEMENT WITH THE CARLYLE GROUP TO ELIMINATE PAY-TO-PLAY IN PUBLIC PENSION FUNDS NATIONWIDE)
.....Under the terms of today's agreement, Carlyle will adopt Cuomo's Public Pension Fund Code of Conduct. The code of conduct **bans investment firms from hiring, utilizing, or compensating placement agents, lobbyists, or other third-party intermediaries to communicate or interact with public pension funds to obtain investments. To avoid pay-to-play schemes, the Code prohibits investment firms** (and their principals, agents, employees and family members) from doing business with a public pension fund for two years after the firm makes a campaign contribution to an elected or appointed official who can influence the fund's investment decisions. This provision would also bar all firms currently doing business with the pension fund from making such campaign contributions. Investment firms must also disclose any conflicts of interest to public pension fund officials or law enforcement authorities, to increase transparency and avoid abuse of the fund for personal gain.

(New York State Attorney website - http://www.oag.state.ny.us/media_center/2009/may/may14a_09.html)

5) What does the consultant database tell investors? I have seen questionnaires from consultants/third parties automatically come back to the firm ever quarter or semi annual requesting for more updated information. Most of the information gets loaded into a database and the firm probably never hears back from the real interested client. In addition, from the questionnaires, there are times I would still read questions that make me feel unsatisfied with their knowledge of GIPS: such as "Is the firm GIPS audited?"

In my opinion, the current definition could create a burden to firms and at the same time cause confusion. I edited the GIPS wordings and came up with my version of the:

Prospective Client definition

Any new person or entity that qualifies to invest in a FIRM'S products and has expressed a direct interest in one of the FIRM'S strategies within the last 6 months (or should not be greater than 1 year) without the need of any third party intervention or communication to express the person/entity's interest.

TOTAL RETURN

A rate of return that includes the realized and unrealized gains and losses plus **(earned / accrual)** income (loss) for the measurement period.

I like to recommend the following changes to the total return calculation definition. Since GIPS requires that we use trade date accounting, the proper term should be **earned or accrual income**. Trade date accounting means that we need to recognize **all transaction** activates in the portfolio as trade date. Without these term added, practitioners may assume only actual **trades** should be affected and **not transactions**.

CIPM Exam - Additional comments:

When I transition from fund accounting to the performance function in one of the company where I used to work, I remembered how exciting it was for me. Since this was a new function

in our group, all training was done on the spot. Without any knowledge of performance and formal trainings, I relied heavily from the information I received from my supervisors. At home, with limited resources, I would try to find and read up on materials that were some what related to performance (there weren't much books or website that have information on performance at that time).

My first supervisor, whom I was told had many years of performance experiences, spent most of the time surfing the web. The only thing I learned from my first mentor was clicking the mouse to run reports. My second supervisor was no better. Again, I was told the person had tremendous amount of knowledge. However, after several months working with that person, I finally noticed the person had a short-term memory problem.

The reason why I mentioned my past is to hope future practitioners would not have to experience the struggles that I went through. Asking questions from supervisors are encouraging but this should not be look at the end of the road for knowledge and information.

I believe one way to help future practitioners is to have the 2010 guidance standard to include something like, "GIPS Practitioner / examiners are encouraged to take and pass the CIPM examination". By adding this to the standard book, I feel more practitioners would become aware of the exam and remind them that knowledge could be learn from work and from CIPM examination as well.

Another example might be to inform users about other performance websites besides the GIPS website. These are some of the websites I been using:

A disclaimer: I am not expressing or representing any interest on the websites listed below but merely using them as an example to convey my message. The list should not consider as the complete list of available resources on the internet.

<http://www.investment-performance.com/>

<http://www.andreassteiner.net/performanceanalysis/?Welcome>

<http://www.spauldinggrp.com/> **(I wish Mr. Spaulding would offer more free information on the website)**

MCE Program Requirements

I personally feel that GIPS should consider allowing CIPM holders to claim more credits when preparing for a qualified examination (such as CFA, FRM, PRIMA and others). The amount of time need to prepare and study for such exams requires a lot of personal effort.

Since CIPM is part of the CFA institute, I would like to recommend the following changes to one of the passage in the "CIPM Association Mandatory Continuing Education (MCE) Program"

2. Pass the CIPM Expert **or CFA (level I, II or III)** examination in the third year following the calendar year in which the right to use the CIPM designation was awarded or renewed.
 - a. Certificate holders may enroll to sit for the Expert **or CFA (level I, II or III)** examination at the then-effective discounted fee for returning candidates.

- b. In order to qualify for the full 45 hours of MCE credit, they must pass the examination.
- c. Certificate holders who sit for but do not pass the Expert exam **or CFA (level I, II or III)** may claim credit for preparation time up to a maximum of twenty (20) hours.