

July 23, 2004

CFA Institute  
Professional Standards & Advocacy Department  
Reference: "Gold" GIPS Standards  
P.O. Box 3668  
Charlottesville, Virginia 22903

Re: Proposed Revisions to the Global Investment Performance Standards

Ladies and Gentlemen:

As a holder of the Chartered Financial Analyst designation, I appreciate the opportunity to comment on the proposed revisions to the Global Investment Performance Standards ("GIPS<sup>®</sup>"), which are referred to as "Gold" GIPS. In general, I strongly support the principles underlying Gold GIPS and the framework for ethical performance presentations that they represent. I am concerned, however, that certain aspects of Gold GIPS require further consideration and/or revision in order to accommodate a broader range of business models, including the separately managed account ("SMA") business model as it exists in the U.S., in addition to the traditional, global institutional and high net worth individual account management business.

As proposed, the Gold GIPS requirements pose special and unduly burdensome challenges for SMA businesses due to the nature of the SMA business model. Moreover, these challenges are not related to ensuring ethical practices in the presentation of investment performance and/or the protection of existing and potential clients. I therefore urge the Investment Performance Council (the "IPC") of the CFA Institute (the "Institute") to revise certain aspects of the Gold GIPS requirements in order to enable them to apply properly to multiple business models, including SMAs, rather than to effectively legislate or prefer certain business models over others. In this regard, the Institute should consider the proposed Gold GIPS requirements in light of the unique characteristics of SMAs and SMA programs to enable them to have the flexibility to accommodate a wide variety of products and business models so that the Gold GIPS requirements can provide the maximum benefits for investors and be embraced broadly by all parts of the global investment management industry, including managers and sponsors involved with SMA programs.

The basic business model for SMAs and SMA programs is significantly different from that of virtually any other advisory service or product offered elsewhere in the world. The fundamental business model for SMAs typically revolves around the SMA program sponsor (the "Sponsor"), usually a U.S.-registered broker-dealer. The Sponsor creates and operates the SMA program, including having responsibility for due diligence on existing and potential new investment management firms (the "Managers") that have been or may be selected to participate in the program, SMA program marketing, executing most or all transactions in listed equity securities for SMAs in their programs, settling all securities transactions into the client's account, and client reporting on transactions and performance. In virtually all cases, the Sponsor – and not the Manager – enters into a contract directly with an SMA client; the Managers contract directly with the Sponsors, and not with the clients.

The Sponsor usually executes (directly or through an affiliated broker-dealer) all brokerage transactions and, in any event, needs to record all trades since it or its broker-dealer affiliate is "carrying" the accounts on its records and must provide monthly and quarterly reporting to the investor. Indeed, the Sponsor's records constitute the client's "official" records; they are analogous to those normally kept by a client's custodian in the case of an institutional account and, among other things, govern tax reporting for the clients. Accordingly, Managers often are obliged to use or rely on the Sponsors' technology platforms for or in connection with transactions being placed with and/or reported to the Sponsors.

I submit that the SMA business model should be able to be accommodated within the Gold GIPS requirements, and such an accommodation would be consistent with the principles underlying Gold GIPS. While the IPC's efforts at creating a broad, global ethical framework for the presentation of performance information is desirable and necessary for the health of the global investment management industry and the benefit of investors, it is fundamentally wrong for such a framework to legislate certain business models either out of existence or to create unduly burdensome obligations for a particular business model that defeats what surely is the IPC's ultimate goal: investor protection. Rather, unless Gold GIPS has adequate flexibility to permit Managers in SMA programs to comply with its requirements, either Managers will cease seeking to comply with Gold GIPS or cease offering their services to SMA programs. It is difficult to see how either of these alternatives will benefit investors.

In addition, the Gold GIPS proposal would eliminate certain currently available options in connection with establishing a definition of the "firm." I believe it is important to recognize that these changes may have significant – and unnecessary and inappropriate – ramifications for Managers in SMA programs. Most Managers manage SMAs with the same investment teams and strategies that they employ in managing non-SMA portfolios, including institutional accounts and mutual funds, among others. As a result, it likely would be difficult if not impossible for such Managers to define their firms as not including their SMA portfolios.

I believe that there are legitimate business reasons why Managers of SMA accounts may want to establish or keep their SMA businesses separate from their institutional account businesses. These reasons are not and should not be automatically treated as so-called "cherry-picking." I therefore recommend that firms should be able to define themselves as excluding part or all of their SMA business, so long as the firm discloses that the excluded business line is not GIPS-compliant and provides such other disclosures as to reasonably avoid misleading investors.

In this regard, it also is relevant to consider that many Managers do not maintain records sufficient to calculate SMA performance. Often, this is not a matter of choice, but a necessity dictated by the unavailability of technological means to communicate the necessary information from Sponsors to Managers in an efficient manner or one that would not constitute an undue burden for Managers to replicate by other, principally manual, means. Rather, the SMA Managers have acted practically and responsibly given the circumstances. However, until there is some means to ease the current recordkeeping difficulties, I strongly urge the Institute to permit a Manager to exclude one or more SMA programs with respect to which the Manager cannot reasonably have access to the underlying records from its definition of the "firm" for Gold GIPS compliance purposes. Any inherent drawbacks of this approach can be meaningfully and appropriately addressed through disclosure.

In light of these concerns, which are principally driven by the SMA business model and the current state of SMA industry technology, I also recommend that changes in the requirements related to the definition of a Gold GIPS-compliance firm be prospective from the effective date of such changes, and not retroactive. Moreover, owing to the immense changes to the SMA industry infrastructure that such changes will necessitate, the effective date for these changes should be set no earlier than 2010.

The business model difficulties for SMAs also pose problems with respect to monthly asset-weighting and month-end valuation requirements. The Managers, rather than the Sponsors, are the entities concerned about Gold GIPS compliance, but they often are dependent on the Sponsors and their systems for the information necessary to comply with these requirements. For example, many Sponsors can provide only quarterly reports, sometimes in hard copy only, and their calculations of performance are based on methodologies that may not be consistent with the specifications of current performance presentation standards. I therefore recommend that the effective date for these changes be extended to 2010 to enable Managers to have any opportunity to comply with these new provisions.

I also want to note that, with respect to the requirement that a Gold GIPS compliant presentation must be provided to all prospective clients, under the SMA business model, the Managers have only limited or no ability to ensure that a Gold GIPS compliant (or any other) presentation is provided to prospective clients. Accordingly, I urge the IPC to clarify that it is appropriate for Managers to regard themselves as in compliance with this new provision by providing information to the Sponsors that is consistent with Gold GIPS requirements.

I agree with the IPC's requirement regarding the use of trade date accounting. In the case of SMAs, however, the business model issues again present certain unique problems. In instances in which Managers are dependent on the Sponsors for their records, and most Sponsors continue to employ settlement date accounting, I believe that 2005 is simply too soon for Managers to be able to comply with the new requirement. Accordingly, I urge the IPC to recognize that this is effectively an instance of impossibility of compliance within the time period proposed, and to allow more time for Managers, or perhaps all investment managers, to comply. I suggest that an effective date of 2010 would be more appropriate in light of the technology-related issues that underlie Managers' inability to comply with this requirement.

In addition, I suggest that the IPC clarify the requirement regarding disclosure of the appropriate fee schedule in the context of SMA performance presentations by Managers. Given the nature of the SMA business model, the fee schedule appropriate to a presentation of SMA performance would be the fee schedule to the client. This is the Sponsor's schedule, and not the Manager's. Also, disclosure of the Managers' fee schedules would not make sense here as it would be immaterial to a prospective investor since it is encompassed in the Sponsors' fees. Therefore, I recommend that there be no requirement for fee schedule disclosure with respect to products that have fee structures like SMAs.

I support the intent underlying the proposal regarding valuation on the date of any cash flow. Again, however, for several reasons, I recommend that the IPC craft this requirement with sufficient flexibility to accommodate a business model as unique as the SMA model. First, the IPC again should recognize that in instances in which there often are thousands of smaller accounts in a composite, daily valuations for cash flows less than 10% of assets in an account are statistically insignificant. Second, while this requirement would add no value from a statistical standpoint, it


would create significant and undue burdens to facilitate compliance due to technology, storage and volume concerns that remain unresolved. Third, SMAs must contend with pricing issues that are unusual as they often invest in fixed income securities that are difficult or unreasonably expensive to price on a daily basis, such as certain municipal securities or other esoteric fixed income securities. Therefore, I believe that this provision should be a recommendation rather than a requirement of Gold GIPS.

In connection with the calculation methodology for performance presentations, the Gold GIPS proposal makes clear that there can be no performance shown that does not reflect deduction of actual trading expenses. In the context of a so-called Bundled Fee product, such as SMAs, the trading expense component is a relatively small portion of the total fee, which also cover various sales, marketing, custody, reporting and other overhead costs. The "non-gross" gross performance information that would result from such a calculation therefore would not be particularly useful for comparing performance among Managers. In addition, there are circumstances in which it is useful and appropriate to show "pure" gross-of-fees performance, such as when comparing a Manager's performance to that of an index, which bears no management, trading or custody fees and therefore is a relevant and equivalent comparison. I therefore submit that it would be appropriate and useful for the IPC to clarify that such "pure" gross-of-fees performance may be shown as supplemental performance to a Gold GIPS compliant presentation, together with appropriate disclosure regarding the nature of such information.

The IPC expressly requested comment on the Gold GIPS evolution process. In this regard, while I remain supportive of numerous of the Gold GIPS requirements and especially the principles underlying them, I am not in agreement with the evolution process. I am concerned that the process is straying from the important mandate of providing an ethical framework for an increasingly global investment management industry. Instead, certain of the proposed provisions appear to be legislating aspects in such detail that they cease to provide the flexibility to accommodate differences in business models or practices that otherwise continue to adhere to the highest ethical standards. This potentially threatens to negate many of the valuable contributions the IPC and the Institute have made to the investment management industry over the past years.

I appreciate having the opportunity to provide these comments on the Gold GIPS proposal. If you have any questions or want additional information regarding any aspect of this letter, please contact me at (914) 289-9038.

Sincerely,



Denise M. Burns, CFA  
Vice President  
Portfolio Manager