

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

August 12, 2004

Re: Proposed Revisions to the Global Investment Performance Standards ("Gold" GIPS")

Dear Sir or Madam:

Thank you for the opportunity to comment on the proposed "Gold" GIPS standards. Brandywine Asset Management provides investment management services to both retail and institutional clients, and we currently have approximately \$14 billion in assets under management. We are concerned that the Standards do not recognize the realities faced by U.S. investment management firms.

I understand and support the principles underlying the Gold GIPS framework, however, I am worried that the proposed standards, unless modified, would make compliance too burdensome for investment managers. This is especially true for investment managers who participate in wrap-fee/separately managed account ("SMA") programs. The reasons: (1) operations- less services performed/ offered than the services performed or offered to institutional client accounts, and (2) the contractual arrangement is usually with the SMA Sponsor and not the advisory client.

The investment manager provides the advisory client with full service account management, including implementing investment decisions in accordance with client guidelines & restrictions, performing quarterly client meetings/reviews, providing quarterly account statements & quarterly commentaries, executing account trades, calculating account performance returns, and maintaining all required books and records. In comparison, the investment manager provides the SMA client with account management (implementing investment decisions in accordance with client guidelines & restrictions), the investment manager does not execute account trades (SMA Sponsor duty), the investment manager does not calculate performance returns (SMA Sponsor's duty), and the investment manager is not the "official" record keeper, the SMA is the "official record keeper.

The facts, outlined above, place the investment manager in a very difficult situation, in that the investment manager wants to be GIPS/AIMR-PPS compliant, but has no choice in the SMA business but to rely on the SMA Sponsor's ability or willingness to provide the investment manager with performance returns for those client accounts, especially if the SMA Sponsor's trading & portfolio accounting system is not compatible or able to be linked to the investment manager's systems. In addition, all SMA Sponsors are required by the law (Investment Adviser Act of 1940) to maintain books & records for SMA client accounts, however, they are not obligated or required to calculate or report performance that is GIPS/AIMR-PPS compliant, and provide the supporting client account documentation to the investment manager, as such, the investment manager has no power to force the SMA Sponsor to provide the documentation.

It is my opinion, based on what the AIMR-PPS standards were created to achieve, a "level playing field", that you should revise the Gold GIPS standards to acknowledge the issues that investment managers are trying to deal with when involved in the growing SMA business.

My comments below highlight those provisions of the Gold GIPS standards that should be revised, so that all investment managers can compete for SMA business on a "level playing field".

New Provisions:

Calculating composite performance monthly and using calendar month-end valuations:

I support this provision. It is important that you recognize and acknowledge the issues/restraints faced by SMA investment managers, because they do not maintain the necessary records to calculate SMA performance returns, and are at the mercy of the SMA Sponsors and their portfolio accounting systems for such information. Furthermore, investment managers have little control over the type or frequency of the information received from the SMA Sponsors. On average, most SMA Sponsors only provide quarterly reports, some in paper only. Some SMA sponsors provide information that is not compliant with current AIMR-PPS requirements. Please consider extending the effective date of this requirement to 2010 to give investment managers the time to address the recordkeeping issues and figure out a way to obtain monthly performance returns from the SMA Sponsors.

Provide a list and description of composites to any prospect that requests it:

The offer to provide a list and description of the firm's composites upon request has always been a required AIMR-PPS disclosure under the current standards. I do not think this is burdensome and agree with this requirement, however it would be nice to extend the required time that you must provide the client with a full AIMR-PPS compliant presentation for one of the composites maintained but not marketed/advertised.

Disclose description of the investment objective/style/strategy of the composite:

I support this provision, but would like further clarification as to how much detail to include and or that is required in the disclosure. (Examples/guidelines)

Modified Provisions:

Use of Trade Date accounting as of 2005:

I support this provision and the firm currently utilizes trade date accounting. However, I would like the effective date to be extended to 2010, to give us the opportunity to see how SMA Sponsors are going to address this issue, resulting from the recordkeeping issues that SMA investment managers have to deal with because they have no choice but to depend on the information (performance & portfolio accounting) provided by SMA Sponsors. Based on past experiences, if SMA Sponsors are using settlement date accounting, it is highly unlikely that they will be willing to, or even able to convert their systems to comply by effective date of 2005.

Disclosure of the appropriate fee schedule:

I support this provision and think it should be revised so that the investment manager lists its advisory fees and the fees charged by the SMA Sponsor, so that the client knows the exact amount of the fees they are paying. However, having said that, I still think you should be able to use the highest fee if you are involved in many SMA Sponsor programs. (*Current practice*)

Other comments

Valuation on the date of any cash flow:

I think daily pricing would cause investment managers to calculate performance returns more accurately, but I do not think the cost benefit analysis justifies the change for all investment managers and this should be a recommendation not requirement.

“Pure” gross-of-fees performance:

I do not agree with the new provision that requires gross-of-fee returns to be calculated by deducting *actual* trading expenses. This will not work for investment managers in SMA Sponsor programs, because the transaction/trading costs are embedded in the all-inclusive SMA Sponsor’s total fee and the investment manager is not privy to the breakdown of such fees. Under the current proposed provision, SMA investment managers would have to calculate the gross return after deducting the maximum wrap-fee/bundled fee, but before the deduction of its investment advisory fee. This calculation will not be relevant because the investment advisory fee would be deducted twice, once in gross, as part of the SMA Sponsor fee, and then in net for the investment manager. It is my opinion that it would be more meaningful to show “pure” gross-of-fees performance, which would allow all investment managers to compete on a level playing field. The standards should be modified to state that firms may disclose “pure” gross-of-fees performance as supplemental information and be allowed to show it next to net of fees performance.

For Example:

For the year ended December 31,	<u>Supplemental Information</u> “Pure” Gross Return	Net return @ 3% Wrap-Fee	S & P 500 Index
2003	15%	12%	17%
2002	20%	17%	23%
2001	22%	19%	20%
2000	24%	21%	22%
1999	18%	15%	19%

In conclusion, I hope that my comments will help the IPC in developing a global set of standards for calculating and presenting performance returns, which will be beneficial for both investors and investment management professionals. I think it is important that the IPC also take into account that our business and products are always changing and evolving at a rapid pace and that the standards need to have a degree of flexibility built in to accommodate these changes. The flexibility in the standards will give the investment manager the ability to try and adhere to the standards or if no flexibility is built in, it may cause the investment manager to reconsider if it is really worthwhile trying to comply with GIPS, or it may cause the investment manager to cease to offer their services to SMA Sponsor programs, neither of which would be good for investors. Please reconsider revising certain aspects of the current Gold GIPS.

Sincerely,

Aaron D. De Angelis, CPA
Brandywine Asset Management, LLC