

AIMR-PPSTM Advertising Standards

Definition of Advertisement

For the purposes of these Standards, an advertisement includes any materials that are distributed or designed for use on the Internet, newspapers, magazines, firm brochures, letters, or any other written or electronic material addressed to more than one person. Any written material (*other than one-on-one presentations*) distributed to maintain existing clients or solicit new clients for an advisor is considered an advertisement. In one-on-one presentations, the complete and full AIMR-PPS standards are to be followed, not the Advertising Standards.

Relationship of AIMR-PPS Advertising Standards with Regulatory Requirements

Firms advertising performance results in compliance with these Standards must also adhere to all applicable regulatory rules and requirements governing advertising investment performance. In cases where applicable law or regulation conflicts with the AIMR-PPS Advertising Standards, the Standards require firms to comply with the law or regulation. However, for purposes of these Advertising Standards, the full disclosure of the conflict need not be made.

Options for Advertising Compliance with the AIMR-PPS Standards:

Firms may advertise compliance with the AIMR-PPS standards and present limited performance information so long as the firm adheres to the AIMR-PPS Advertising Standards listed below. The Advertising Standards basically require that firms present certain information that is a subset of the information required by the AIMR-PPS standards. Along with this required information, firms can use the AIMR-PPS Performance Advertising Claim of Compliance legend and/or logo.

AIMR-PPS Advertising Claim of Compliance Legend:

AIMR Performance Presentation StandardsTM Compliant. AIMR has not been involved with the preparation or review of this report.

AIMR-PPS Advertising Claim of Compliance Logo:



AIMR has not been involved with the preparation or review of this report.

Compliant firms can also use the AIMR-PPS Advertising Claim of Compliance logo or legend without presenting any performance information. However, firms cannot present any performance information that does not adhere to all the requirements of the AIMR-PPS Advertising Standards.

Any firm using the AIMR-PPS Advertising Claim of Compliance legend and/or logo must include the following statement in the advertisement:

“To receive a complete AIMR-PPS compliant presentation contact: (contact name, contact information and/or internet/e-mail address).”

AIMR-PPS Advertising Standards

If the firm chooses to present performance results in advertisements, it must adhere to the following guidelines for presenting those results in an advertisement that claims compliance with the AIMR-PPS standards.

1. Input Data

- 1.A.1. All performance information contained in the advertisement must come directly from an AIMR-PPS compliant presentation.
- 1.A.2. Supplemental information (including model or simulated performance) may not be used in advertisements of firms that claim compliance with the AIMR-PPS standards.

2. Presentation and Reporting

- 2.A.1. The following information, drawn from an AIMR-PPS compliant presentation, must be presented in the advertisement:
 - (a) at a *minimum*, firms must present the average total returns for one, five and ten year periods (or record since firm inception if inception is less than ten years), with the end-of-period date clearly identified for each period presented;
 - (b) returns must be current and display performance through at least the most recent calendar quarter end;
 - (c) an appropriate total return benchmark for the same time periods advertised must be presented. If no benchmark is presented, an explanation of why no benchmark is shown must be disclosed.
- 2.A.2. Net-of-fee performance results must be presented in the advertisement. The firm may choose to also present results gross-of-fees so long as both gross and net performance results are presented with equal prominence in a format designed to facilitate ease of comparison of the gross-of-fee and net-of-fee results.
- 2.A.3. Firms that came into compliance with the AIMR-PPS standards under the retroactive compliance guidelines must clearly state that the full performance record is not in compliance with the Standards and must identify the periods of non-compliance.
- 2.A.4. Firms can only disclose Level I (firmwide) verification in the advertisement provided it discloses the period(s) for which the verification has been performed. Firms with composites that have been Level II verified may not include a disclosure that the performance results have been verified at Level II.
- 2.A.5. A firm must provide the complete AIMR-PPS compliant presentation from which the advertisement is drawn within seven business days of any request from a client or a

potential client. Making the complete AIMR-PPS compliant presentation available on the firm's Web site and informing the client or potential client of its availability will satisfy this requirement.

3. Disclosures

3.A.1. Firms must disclose the following information in each advertisement:

- (a) the definition of the firm used for AIMR-PPS compliance,
- (b) a brief description of the composite/strategy,
- (c) if non-fee-paying portfolios are included in the composite and the percentage of non-fee-paying portfolios represented in the composite,
- (d) the use and extent of leverage,
- (e) the dollar amount of assets represented by the composite and the percentage of the firm's total assets that the composite represents for the most recent period displayed,

3.A.2. Firms must include the following statement in the advertisement:

"To receive a complete AIMR-PPS compliant presentation contact: (contact name, contact information and/or internet/e-mail address)."

Sample Advertisement Including Performance Returns:

XYZ Investment Firm

An independent registered investment advisory firm specializing in value investments and portfolio management services.

| Value Composite | <u>1-year</u> (ending 12/31/99) | <u>5-year</u> (ending 12/31/99) | <u>Since Inception</u> (12/31/89-12/31/99) |
|---|--|--|---|
| Average Yearly Returns (net-of-fees) | 24.8% | 13.5% | 9.2% |
| (gross-of-fees) | 25.1% | 15.3% | 9.8% |
| S&P Value Index | 25.4% | 14.9% | 10.2% |

XYZ Value Composite invests in a diversified portfolio of large and small cap securities, which demonstrate above-market yields. The XYZ Value Composite assets as of December 31, 1999 were \$50 million, which represented 60% of the firm's total assets. No portfolios using leverage are included in this composite. The XYZ Investment Firm has been Level I Verified for the periods January 1, 1995 through January 1, 1998.



AIMR Performance Presentation Standards™ Compliant.
AIMR has not been involved with the preparation or review of this report.

To receive a complete AIMR-PPS compliant presentation, visit our Web site at www.xyzinv.com, call John Doe at (800) 555-5555, or write **XYZ Investment Firm, One Main Street, Investmentville, USA 12345**, or jdoe@xyz.com.

Sample Advertisement without Performance Returns:

XYZ Investments is a registered investment advisory firm specializing in value investments and portfolio management services. XYZ Investments is AIMR Performance Presentation Standards™ (AIMR-PPS™) Compliant. We bring an objective, knowledgeable perspective to overseeing your financial assets and to helping you define and achieve your financial goals. To receive a complete AIMR-PPS compliant presentation, visit our Web site at www.xyzinv.com, call John Doe at (800) 555-5555, or write **XYZ Investment Firm, One Main Street, Investmentville, USA 12345**, or jdoe@xyz.com.



AIMR has not been involved with the preparation or review of this report.

AIMR ADOPTION OF THE AIMR-PPS™ ADVERTISING GUIDELINES

SUMMARY: In February 2000, the Association for Investment Management and Research (AIMR) released for public comment the proposed AIMR-PPS Advertising Standards. (Based on the comments received during the public comment period, the name has been changed to the AIMR-PPS Advertising Guidelines in an effort to reduce confusion with the AIMR-PPS standards.)

Under the AIMR-PPS Advertising Guidelines, firms may claim compliance with the AIMR-PPS standards and present limited or no performance information so long as the firm adheres to the AIMR-PPS Advertising Guidelines. The Advertising Guidelines require that firms present certain information that is a subset of the information required by the AIMR-PPS standards. Alternatively, the firm can claim compliance with the standards without presenting any performance information. Firms can use the AIMR-PPS Advertising Claim of Compliance legend and/or logo.

ADDITIONAL INFORMATION: For further information on the Advertising Guidelines, contact AIMR's Standard Setting department via facsimile at 804-951-5320, via e-mail at standardsetting@aimr.org, or at 560 Ray C. Hunt Drive, P.O. Box 3668, Charlottesville, VA 22903-3668.

I. PURPOSE OF THE AIMR-PPS ADVERTISING GUIDELINES

The AIMR Performance Presentation Standards™ (AIMR-PPS) provide the investment community with a set of ethical standards for investment management firms to follow when presenting their performance results to potential clients. The AIMR Performance Presentation Standards are recognized as the leading industry standard for ethical presentation of investment performance results. However, to date, the AIMR-PPS standards have not addressed the issue of advertising performance results in compliance.

The ability to advertise performance results is essential to every investment adviser. Firms claiming compliance with the AIMR-PPS standards frequently seek guidance from AIMR on the appropriate way to advertise performance results in compliance with the standards. For instance, AIMR receives numerous questions each month regarding how firms may advertise that their performance results are in compliance and what information must be included in such advertisements.

Previously, AIMR's position has been that firms may not present any information, other than the full AIMR-PPS compliant presentation, when making the claim that the firm is in compliance with the AIMR-PPS standards. AIMR proposed the Advertising Guidelines to allow firms to advertise that they comply with the Standards, without reproducing an entire AIMR-PPS compliant presentation, complete with necessary presentations and disclosures.

AIMR believes that reducing the amount of information required in an advertisement is reasonable since the amount of information required in a presentation to a client may not be needed for advertisements in newspapers and magazines. Limited advertisements alone, unlike marketing material produced and distributed by the firm, are unlikely to convince a potential client to make an investment decision. Instead, the advertisement will pique the interest of a potential client and lead to a request for more information. In response to this request, a firm will have to provide a fully compliant presentation.

II. SUMMARY OF COMMENTS

In general, most of the comments received during the public comment period were in support of the objectives of the AIMR-PPS Advertising Guidelines proposal to allow investment management firms to advertise their claim of compliance. Below is a summary of the comments received along with the changes generated by the comments. The firm or individual making each comment is indicated using the following abbreviations:

| | |
|------------|--|
| Bacon: | Carl R. Bacon, Chairman, Statpro |
| Bishop: | Deborah H. Bishop, Vice President, Atlanta Capital Management Co. |
| Eilefson: | Brent G. Eilefson, Compliance Officer, First American Asset Management |
| Hales: | Brad Hales, Head of Performance Research, Institutional Asset Management |
| Keefe: | Peter C. Keefe, CFA, Avenir Corporation |
| McAra: | Iain W. McAra, Vice President, J.P. Morgan Investment Management, Inc |
| Miller: | Holly H. Miller, Vice President, J.W. Seligman & Co. |
| Nimmick: | Christopher Nimmick, Manager – Performance Analysis, Baring Asset Management |
| Reece: | Page T. Reece, CFA, Lowe, Brockenbrough & Co, Inc. |
| Spaulding: | David Spaulding, President, The Spaulding Group, Inc. |
| Struk: | Katherine K. Struk, Trevor, Stewart, Burton & Jacobsen, Inc. |
| Vincent: | Karyn D. Vincent, CFA, PricewaterhouseCoopers, LLP |

SPECIFIC COMMENTS ON THE PROPOSED AIMR-PPS ADVERTISING GUIDELINES

A. Definition of Advertisement

The original proposal of the Advertising Guidelines states an advertisement includes any materials that are distributed or designed for use on the Internet, newspapers, magazines, firm brochures, letters, or any other written or electronic material addressed to more than one person. Any written material (other than one-on-one presentations) distributed to maintain existing clients or solicit new clients for an advisor is considered an advertisement. In one-on-one presentations, the complete and full AIMR-PPS standards are to be followed, not the Advertising Guidelines.

Comment: The definition of an advertisement for purposes of these standards should be clarified. Does information provided to industry consultants and on Requests for Proposal ("RFP's") qualify as advertisement? Is it the intention of the Advertising Standards to consider consultants/RFP's a one-on-one meeting, which would require a fully compliant presentation, or an "advertising" relationship? {Miller, Vincent}

In an effort to clarify the situations in which the AIMR-PPS Advertising Guidelines should and should not be used, the definition of an advertisement will be expanded to clearly indicate that the Guidelines do not apply to RFP's and consultant questionnaires. These shall be considered one-on-one presentations and firms are required to present a fully compliant AIMR-PPS presentation.

Revisions: *For the purposes of these Guidelines, an advertisement includes any materials that are distributed or designed for use on the Internet, newspapers, magazines, firm brochures, letters, or any other written or electronic material addressed to more than one person. Any written material (other than one-on-one presentations) distributed to maintain existing clients or solicit new clients for an advisor is considered an advertisement. Presentations of performance such as "Requests For Proposals" and consultant questionnaires are not considered advertisements for purposes of the AIMR-PPS Advertising Guidelines and should be treated as one-on-one presentations*

B. Supplemental Information (Provision I.A.2.)

The proposed AIMR-PPS Advertising Guidelines assert that supplemental information (including model or simulated performance) may not be used in advertisements that include a claim of compliance with the AIMR-PPS standards.

Comment: The full AIMR-PPS standards clearly recommend "supplemental information the firm deems valuable should be presented" (section II.C.1.c.). We propose the AIMR-PPS

Advertising Standards also allow firms to present supplemental information in advertisements provided it is clearly marked as such. (Miller, Nimmick)

Please clarify the statement “firms cannot present any performance information that does not adhere to all the requirements of the AIMR-PPS Advertising Standards.” Does this apply to non-advertisement performance presentations? (Bacon)

To clarify, the intent of the AIMR-PPS Advertising Guidelines is to serve as the minimum guidelines for firms wishing to advertise their claim compliance with the AIMR-PPS standards. Under these Guidelines, firms are permitted to present any additional information from a fully compliant presentation in an advertisement that claims compliance with the Standards. For example, firms can include a measure of dispersion from the compliant presentation in the advertisement that claims compliance. Further firms are not prohibited from presenting an entire fully compliant presentation in an advertisement that claims compliance.

However, in an effort to ensure that any advertisement using the AIMR-PPS Advertising Claim of Compliance legend or logo contains information that fairly and ethically represents performance results, the AIMR-PPS Advertising Guidelines prohibit the presentation of information that does not meet the requirements of the AIMR-PPS standards in advertisements that claim compliance. Allowing firms to present information that makes exceptions to the requirements of the AIMR-PPS standards in an advertisement with information from a compliant presentation would, in essence, be linking non-compliant information with compliant information, which is clearly prohibited by the Standards.

Firms are still encouraged to present supplemental information along with their fully compliant presentation in a one-on-one situation. This exclusion simply applies to advertisements that claim compliance.

This provision will be expanded to clarify that firms may present additional information from a fully compliant presentation in an advertisement that claims compliance.

Revisions: *Supplemental information that makes exceptions to the requirements of the AIMR-PPS standards (including model or simulated performance) may not be presented in advertisements that claim compliance with the AIMR-PPS standards. Firms may present any additional information taken directly from a fully compliant presentation in advertisements that claim compliance.*

C. Calculation (Provision I.A.2.)

Under the original proposal, firms are required to present the average total returns for one, five and ten year periods (or record since firm inception if inception is less than ten years).

*Comment: Please clarify what is meant by "average total returns." We suggest you change the provision to require firms to present annualized or average annual total returns.
{Bishop, Vincent}*

Provision 1.A.2. will be clarified to state that annualized returns must be presented. Following is a formula that demonstrates how a firm may calculate the required annualized returns:

$$\text{Annualized Return (\%)} = ((1 + R)^{1/n} - 1) * 100$$

Where: R is the cumulative return for the period, which is the geometrically linked annual returns during the period, and,

n is the number of years in the period

Revisions: ~~At a minimum, firms must present the annualized total returns for one, five and ten year periods (or record since firm inception if inception is less than ten years), with the end-of-period date clearly identified for each period presented.~~ Firms may choose to present other total returns in addition to the required one, five and ten year periods, including quarterly returns or other annualized returns. Performance for periods of less than one year must not be annualized.

D. Reporting Current Performance (Provision 2.A.1.b)

The AIMR-PPS Advertising Guidelines proposal states that performance returns must be current and firms must display performance through at least the most recent calendar quarter end.

Comment: Realistically firms cannot be expected to present updated performance information the day after the end of the quarter. Therefore, we suggest that this provision be modified to allow firms a reasonable amount of time after the close of a quarter to update performance information. {Miller}

The intention of this requirement is to ensure firms advertise their most current performance results. AIMR recognizes that firms may need some time after the end of a quarter to compile and calculate composite performance results. Therefore, the wording of this provision will be slightly modified.

Revisions: *Returns must be current and must be displayed through at least the most recent calendar quarter end (given a reasonable amount of time after the end of each quarter for the calculation of performance).*

E. Benchmark (Provision 2.A.1.c)

Under the original proposal, firms are required to present an appropriate total return benchmark for the same time periods advertised returns are presented. If no benchmark is presented, an explanation of why no benchmark is shown must be disclosed.

Comment: While it is likely in a small number of strategies that no benchmark can be logical, I think advertisements without benchmarks should be discouraged. Within a one-on-one presentation, there is sufficient opportunity to explain the strategy and why a benchmark is inappropriate. I think this flexibility is open to abuse within advertisements. {Bacon}

AIMR recognizes that certain circumstances arise where no benchmark is available that appropriately tests the effective implementation of an investment strategy. In these special situations, AIMR has allowed firms to not include a benchmark, provided the firm discloses why no benchmark is presented. The AIMR-PPS Advertising Guidelines were drafted to extract specific performance information from a compliant AIMR-PPS presentation. In an effort to remain consistent with the current requirements of the AIMR-PPS standards, in cases where a firm determines that no benchmark is appropriate, the firm is not required to present a benchmark but the firm must state why no benchmark is shown. However, if the firm includes a benchmark in the fully compliant composite presentation, the firm must also present a benchmark in the composite advertisement that claims compliance.

Revisions: *None. Retain original benchmark provision.*

F. Net-of-Fee Performance (Provision 2.A.2.)

The proposed AIMR-PPS Advertising Guidelines require that firms present net-of-fee performance results in the advertisement. The proposed Guidelines permit firms to also show gross-of-fee results so long as both gross and net performance results were presented with equal prominence in a format designed to facilitate ease of comparison.

Comments: While we are cognizant that this net-of-fee requirement is included to reflect current SEC requirements in the United States, we believe that net-of-fee performance data may not always be appropriate and could indeed be misleading in certain situations. Where there are substantial differences in the fee structures between pooled and separately managed funds, or between retail and institutional, the presentation of net-of-fees data would not provide a meaningful performance history. Consequently, we believe that its application to non-SEC regulated environments may need to be specifically considered. {Hales}

AIMR recognizes that it is more representative to show results before the deduction of management fees and provide a fee schedule that represents the fee that would actually be paid by the prospective client and recommends investment management firms to present performance results before the deduction of fees in one-on-one situations. However, the AIMR-PPS Advertising Guidelines incorporate the requirement for firms to show net-of-fee performance results as stipulated by the U.S. Securities and Exchange Commission (SEC). The AIMR-PPS Advertising Guidelines permit a firm to also advertise gross-of-fee performance results according

to the guidance given by the SEC in the No-Action Letter issued to AIMR (available December 18, 1996).

While the acceptance of the AIMR-PPS standards has reached far beyond North America, the AIMR-PPS standards are heavily used by North American firms, which are subject to the SEC's general laws and regulations on advertisements. In an effort to promote consistency of reporting requirements, AIMR has adopted the SEC's position with regards to advertising net-of-fee performance results, but has provided the opportunity for firms to also show gross-of-fee results.

Revisions: *None. Retain the provision to require net-of-fee performance results.*

G. Retroactive Compliance (Provision 2.A.3.)

The proposed AIMR-PPS Advertising Guidelines contain a requirement to ensure that full disclosure is provided in the advertisement with regard to the retroactive compliance guidelines of the AIMR-PPS standards. Specifically, provision 2.A.3. of the AIMR-PPS Advertising Guidelines states that firms that came into compliance with the AIMR-PPS standards under the retroactive compliance guidelines must clearly state that the full performance record is not in compliance with the Standards and must identify the periods of non-compliance.

Comment: Please clarify when to state that the full record is not in compliance. Under the current retroactive compliance guidelines, there are two alternatives where restated results would be considered in compliance. {Bishop}

Firms with performance for periods prior to the applicable effective date of the AIMR-PPS standards that are not in compliance with the Standards can still claim compliance with the Standards provided certain conditions are met. Under the retroactive compliance guidelines, to claim compliance, such a firm has three options:

1. Restate its entire performance history in accordance with the guidelines of the Standards.
2. Restate its historical performance prior to the effective date of the Standards in accordance with the Relaxed Retroactive standards (annual portfolio valuation and cash basis accounting are acceptable). All performance results presented after the applicable effective date of the Standards would have to be compiled and presented in accordance with the Standards.
3. Use its nonconforming historical performance prior to the applicable effective date of the Standards and disclosure specifically when and how the nonconforming performance is not in compliance.

For purposes of the AIMR-PPS Advertising Guidelines, provision 2.A.3. specifically refers to a firm that has chosen option three above (to use its nonconforming historical performance prior to the applicable effective date of the Standards). Firms with nonconforming history must state that

the full performance record is not in compliance with the Standards and must identify the periods of non-compliance. The Guidelines will be clarified to indicate that firms that choose to recalculate performance history prior to the applicable effective date of the Standards, either according to the full AIMR-PPS standards or the Relaxed Retroactive standards, are not subject to this disclosure.

Revisions: *Firms that came into compliance with the AIMR-PPS standards under the retroactive compliance guidelines by linking noncompliant performance prior to the applicable effective date of the standards to periods that are in compliance with the Standards must clearly state that the full performance record is not in compliance with the Standards and must identify the periods of non-compliance. This provision does not specifically apply to firms that came into compliance under the Relaxed Retroactive Standards as described in the Introduction of the AIMR Performance Presentation Standards Handbook (1997, second edition).*

H. Verification (Provision 2.A.4)

The original AIMR-PPS Advertising Guidelines state that firms can only disclose Level I verification in an advertisement and further prohibits firms from disclosing Level II verification in an advertisement.

Comments: I fully support Standard 2.A.4., which is major step forward. This clause should be retained. {Bacon}

Please explain why a firm may not advertise that it's composite performance results have been Level II verified. We suggest that a firm should be able to refer to the availability of a Level II verification report on a specific composite. Most U.S. firms are Level II verified because many verifiers in the U.S. will not issue a Level I verification. We understand that the goal of AIMR is to move towards one level of verification globally; however, currently, Level II verification is still the most common and should be acknowledged by the Advertising Standards. {Nimmick, Miller, Vincent}

The AIMR-PPS Implementation Committee recognizes that Level II is currently the most prominent form of verification among investment management firms and verifiers. However, AIMR plans to redraft the Level I verification procedures in an effort to provide more clear, workable procedures for verification firms.

The intent of the provision in the AIMR-PPS Advertising Guidelines is to move the industry towards one level of firmwide verification. At present, this provision does not eliminate the firm's ability to disclose that a Level II verification was completed in a one-on-one composite presentation. However, this provision puts the industry on notice that it is likely Level I verification will become the most prominent form of verification in the near future.

Firms may advertise that their composite performance has been examined or audited by a third party, however, no mention of the term “Level II” may be included in an advertisement that claims compliance.

Revisions: *None. Retain the verification provision.*

I. Disclosures (Provision 3.)

The original AIMR-PPS Advertising Guidelines require that firms include several disclosures from an AIMR performance presentation including:

- the definition of the firm used for AIMR-PPS compliance,
- a brief description of the composite/strategy,
- if non-fee-paying portfolios are included in the composite and the percentage of non-fee-paying portfolios represented in the composite,
- the use and extent of leverage,
- and the dollar amount of assets represented by the composite and the percentage of the firm’s total assets that the composite represents for the most recent period displayed.

Comments: The proposal requires too much information that would only be necessary upon further scrutiny. I would adjust the proposed disclosures to exclude the definition of the firm, the percent of assets, the date of compliance, and the fee-paying percent. (Reece)

One of the primary objectives of the AIMR-PPS Advertising Guidelines is to allow firms flexibility to advertise compliance with the AIMR-PPS standards without requiring all the information mandated in a fully compliant presentation by the AIMR-PPS standards. However, in order for performance to be presented in a fair and representative manner, certain material disclosures must be included in an advertisement that presents performance and claims compliance with the AIMR-PPS standards.

Because the Standards provide a great deal of flexibility to firms when determining how they will define themselves for purposes of compliance, the provision to include the firm definition is essential. Without this definition, the entity responsible for the performance results being presented is not clearly identify for prospective and current clients.

The dollar amount of assets represented by the composite, the percentage of firm’s total assets that the composite represents and if non-fee-paying portfolios are included and the extent to which they are included in the composite will give potential and existing clients the proper context in which to understand the performance results presented. These disclosures provide a more accurate representation of composite assets as a percentage of total firm assets.

To clarify, while the AIMR-PPS standards require that firms disclose the firm’s effective date of compliance, the AIMR-PPS Advertising Guidelines do not require firms to include this disclosure.

The disclosure requirements included in the AIMR-PPS Advertising Guidelines represent only the most significant facts surrounding the performance results presented.

Revisions: *None. Retain all of the disclosure provisions.*

J. Use and Extent of Leverage (Provision 3.A.1.d)

The original proposal for the AIMR-PPS Advertising Guidelines includes a mandatory provision for firms to disclose the use and extent of leverage.

Comment: Standard 3.A.1.d. requires disclosure of the use and extent of leverage. We suggest this be changed to “the use and extent of leverage and derivatives” as the use of derivatives could have a significant impact on the performance results, and would provide meaningful information to the reader.

With consideration of this requirement, we suggest that the Sample Advertisement Including Performance Returns should not include the sentence, “No portfolios using leverage are included in this composite.” As the majority of firms do not use leverage, the use of leverage (and derivatives) should only be mentioned if leverage (or derivatives) is used. {Vincent}

Revisions: *Firms must disclose the use and extent of leverage and derivatives.*

The statement that “no portfolios using leverage are included in this composite” will be removed from the Sample Advertisement Including Performance Returns.

K. Advertisement Without Performance Returns

The original AIMR-PPS Advertising Guidelines proposal includes two options for a firm to advertise the claim of compliance with the AIMR-PPS standards. One option allows a firm to present performance results that adhere to the AIMR-PPS Advertising Guidelines. The other option is for the firm to advertise the claim of compliance without presenting any performance information.

Comments: It would be helpful if you spelled out the required disclosures for non-performance advertising. {Struk}

Revisions: *The AIMR-PPS Advertising Guidelines will be revised to clearly state the requirements for non-performance advertisements in a section entitled “No-Performance Advertising Provisions.”*

L. AIMR-PPS Advertising Claim of Compliance Legend and Logo

The original proposal includes the AIMR-PPS Advertising Claim of Compliance legend and logo that firms wishing to advertise their claim of compliance must use.

Comment: To eliminate confusion, add a provision to the AIMR-PPS Advertising Standards requiring firms to use the prescribed AIMR-PPS Advertising Legend or Logo. Further a statement should be included indicating that firms may make no other reference to the AIMR-PPS or Advertising Standards.

Also, please consider renaming the “Advertising Standards” the “Advertising Guidelines” to prevent any misunderstanding of the use of the word “Standards.”

Finally, The AIMR-PPS Advertising Claim of Compliance logo includes the Statement, “AIMR has not been involved with the preparation or review of this report.” As this logo may be used without presenting any performance information, we believe that the use of the word “report” may be confusing. We suggest changing the language to indicate that AIMR has not been involved with or reviewed the firm’s claim of compliance with the AIMR-PPS standards. {Vincent}

To avoid confusion between the AIMR-PPS Advertising Standards and the AIMR-PPS standards, the Advertising Standards will be renamed the AIMR-PPS Advertising Guidelines.

In an effort to clarify the use of the AIMR-PPS Advertising Claim of Compliance legend and logo, a specific requirement will be incorporated into the provisions to mandate the use of the logo or legend. AIMR will also modify the legend to state that AIMR has not been involved with the firm’s claim of compliance, instead of referring to the review of a report.

Revisions: *Change the name from the AIMR-PPS Advertising Standards to the AIMR-PPS Advertising Guidelines.*

Firms must use the specified AIMR-PPS Advertising Guidelines Claim of Compliance legend and/or logo as provided in the introduction of this document. Any use of the marks “AIMR” or “AIMR-PPS” except as specifically provided in the above legend and logo or the AIMR-PPS standards Compliance Statement legend is prohibited.

Modify AIMR-PPS Claim of Compliance legend and logo to state that AIMR has not been involved with or reviewed the firm’s claim of compliance.

M. Regulatory Considerations

The original draft of the AIMR-PPS Advertising Guidelines discusses the relationship between the proposed standards and regulatory requirements. Firms advertising performance results in

compliance with the AIMR-PPS Advertising Guidelines are also required to adhere to all applicable regulatory rules and requirements governing advertising investment performance.

Comment: The AIMR-PPS Advertising Standards as proposed do not comply with North American laws and regulations. They should be modified to comply with current federal securities laws and regulations in North America (i.e., gross-of-fee disclosures, disclose the ability to obtain an advisor's Part II of Form ADV, past performance is no guarantee of future results, etc.). {Bishop, Struk}

Compliance with the AIMR-PPS standards requires adherence to all applicable laws and regulations. However, the AIMR-PPS standards do not list all laws and regulations in the Standards for many reasons. Some reasons include the fact that securities laws and regulations are constantly evolving as well as the fact that different regulations apply to different types of investment management firms (e.g., mutual fund advertisements are held to different or additional laws than are investment advisor advertisements).

Therefore, the AIMR-PPS Advertising Guidelines require adherence to all laws and regulations applicable to the firm using the Claim of Compliance legend and/or logo.

Revisions: None. Retain introductory paragraph outlining the relationship between the AIMR-PPS Advertising Guidelines and regulatory requirements.

N. Additional Comments

Comment: AIMR should allow firms to present a subset of the required AIMR-PPS compliant data in one-on-one presentations provided the firm discloses the availability of a fully compliant presentation. The data eligible for exclusion should certainly include measures of dispersal. {Keefe}

Our firm does not advertise in magazines or newspapers. We do have selective mailings of performance information, which heretofore have included our full compliant presentation and disclosures. I do not see how these new rules would help us; we generally distribute different performance charts and to be required to include the table, in your sample, of 1-5-10 year numbers would confuse our presentation, so we will probably choose to include our full presentation and disclosures and not follow the advertising standards in these cases.

However, our firm feels there is a middle ground between your full compliant presentation and the limited advertising samples. We get calls from prospective clients, who have heard our name or seen us in a database, and would like some information on the firm. We do not feel the "advertising standards" address this group. This group only wants more information on our firm; do we send them our "advertising sample performance" or a fully compliant presentation? {Struk}

Currently if a firm claims compliance with the AIMR-PPS standards, the firm must present a fully compliant performance presentation to all prospective clients. The firm may provide any supplemental information in addition to the compliant presentation. This requirement applies regardless of whether a client requested a compliant presentation or not. The firm cannot present compliant information to one prospect and non-compliant information to another. If the firm claims compliance with one prospective client or consultant, the firm must claim compliance and present a compliant presentation to all prospective clients (including database and consultant questionnaires).

However, the AIMR-PPS Advertising Guidelines were developed in an effort to provide firms with the opportunity to advertise their claim of compliance without reproducing an entire compliant presentation in the advertisement. The Guidelines generally define an advertisement as any materials that are distributed or addressed to more than one person. Under the Guidelines, firms must state that a fully compliant presentation is available and must provide it to the prospective client within seven business days if requested.

If the firm chooses to claim compliance with the AIMR-PPS standards on any of the firm's presentation or marketing materials, the firm must follow either the full AIMR-PPS standards or the AIMR-PPS Advertising Guidelines.

III. AIMR-PPS ADVERTISING GUIDELINES (REVISED)

The AIMR-PPS Advertising Guidelines only apply to firms that already satisfy all of the requirements of the AIMR-PPS standards and claim compliance with the AIMR-PPS standards on a firmwide basis. Firms that claim compliance can choose to advertise that claim using the AIMR-PPS Advertising Guidelines.

Under the AIMR-PPS Advertising Guidelines, firms may claim compliance in an advertisement with the AIMR-PPS standards and present limited or no performance information so long as the firm adheres to the AIMR-PPS Advertising Guidelines. Firms that choose to present performance in their advertisements that claim compliance must follow the Performance Advertising Provisions. The Performance Advertising Provisions require that firms present certain information that is a subset of the information required by the AIMR-PPS standards. Alternatively, the firm can claim compliance with the standards in an ad without presenting any performance information. These firms must follow the No-Performance Advertising Provisions.

These Guidelines do not serve as a replacement for the AIMR-PPS standards. In one-on-one presentations of performance, the complete and full AIMR-PPS standards are still to be followed, not the AIMR-PPS Advertising Guidelines.

Definition of Advertisement

For the purposes of these Guidelines, an advertisement includes any materials that are distributed or designed for use on the Internet, newspapers, magazines, firm brochures, letters, or any other written or electronic material addressed to more than one person. Any written material (*other than one-on-one presentations*) distributed to maintain existing clients or solicit new clients for an advisor is considered an advertisement. Presentations of performance such as "Requests For Proposals" and consultant questionnaires are not considered advertisements for purposes of the AIMR-PPS Advertising Guidelines and should be treated as one-on-one presentations.

Relationship of AIMR-PPS Advertising Guidelines with Regulatory Requirements

Firms advertising performance results in compliance with these Guidelines must also adhere to all applicable regulatory rules and requirements governing advertising investment performance. In cases where applicable law or regulation conflicts with the AIMR-PPS Advertising Guidelines, the Guidelines require firms to comply with the law or regulation. However, for purposes of these Advertising Guidelines, the full disclosure of the conflict need not be made.

Options for Advertising Compliance with the AIMR-PPS Standards:

Firms may advertise their claim of compliance with the AIMR-PPS standards and present limited performance information so long as the firm adheres to the AIMR-PPS Advertising Guidelines listed below. The Advertising Guidelines basically require that firms present certain information that is a subset of the information required by the AIMR-PPS standards. Along with this required information, firms can use the AIMR-PPS Performance Advertising Claim of Compliance legend and/or logo.

AIMR-PPS Advertising Guidelines Claim of Compliance Legend:

AIMR Performance Presentation Standards™ Compliant. AIMR has not been involved with or reviewed [insert name of firm]'s claim of compliance.

AIMR-PPS Advertising Guidelines Claim of Compliance Logo:



AIMR has not been involved with or reviewed [insert name of firm]'s claim of compliance.

Compliant firms can also use the AIMR-PPS Advertising Claim of Compliance logo or legend without presenting any performance information, provided the firm follows the No-Performance Advertising Provisions. However, firms cannot present any performance information that does not adhere to all the requirements of the AIMR-PPS Advertising Guidelines.

Any firm using the AIMR-PPS Advertising Claim of Compliance legend and/or logo must include the following statement in the advertisement:

“To receive a complete AIMR-PPS compliant presentation contact: (contact name, contact information and/or internet/e-mail address).”

No-Performance Advertising Provisions

Firms that choose to advertise their claim of compliance with the AIMR-PPS standards and not present any performance in that advertisement must follow these provisions:

1. Input Data

1.A.1. Firms may not present any performance information in the advertisement that claims compliance. Firms that wish to present performance information in an advertisement that claims compliance must adhere to the Performance Advertising Provisions outlined in the next section of this document.

2. Disclosures

2.A.1. Firms must include the following statement in the advertisement:

“To receive a complete AIMR-PPS compliant presentation contact: (contact name, contact information and/or internet/e-mail address).”

2.A.2. Firms must use the specified AIMR-PPS Advertising Guidelines Claim of Compliance legend and/or logo as provided in the introduction of this document. Any use of the

marks “AIMR” or “AIMR-PPS” except as specifically provided in the above legend and logo or the AIMR-PPS Standards Compliance Statement legend is prohibited.

- 2.A.3. A firm must provide the complete AIMR-PPS compliant presentation from which the advertisement is drawn within seven business days of any request from a client or a potential client. Making the complete AIMR-PPS compliant presentation available on the firm's Web site and informing the client or potential client of its availability will satisfy this requirement.

Performance Advertising Provisions

If the firm chooses to present performance results in advertisements, it must adhere to the following provisions for presenting those results in an advertisement that claims compliance with the AIMR-PPS standards.

1. Input Data

- 1.A.1. All performance information contained in the advertisement must come directly from an AIMR-PPS compliant presentation.
- 1.A.2. Supplemental information that does not meet the requirements of the AIMR-PPS standards (including model or simulated performance) may not be presented in advertisements that claim compliance with the AIMR-PPS standards. ~~Firms may present any additional information taken directly from a fully compliant presentation in advertisements that claim compliance.~~ Firms are not limited to only include the required information in an advertisement that claims compliance, but could also include other required elements from the AIMR-PPS standards (e.g., a measure of dispersion).

2. Presentation and Reporting

- 2.A.1. The following information, drawn from an AIMR-PPS compliant presentation, must be presented in the advertisement:
 - (a) ~~at a minimum,~~ Firms must present the annualized total returns for one, five and ten year periods (or record since firm inception if inception is less than ten years), with the end-of-period date clearly identified for each period presented. Firms may choose to present other total returns in addition to the required one, five and ten year periods, including quarterly returns or other annualized returns. Performance for periods of less than one year must not be annualized;
 - (b) returns must be current and must be displayed through at least the most recent calendar quarter end (given a reasonable amount of time after the end of each quarter for the calculation of performance);

- (c) an appropriate total return benchmark for the same time periods advertised must be presented. If no benchmark is presented, an explanation of why no benchmark is shown must be disclosed.
- 2.A.2. Net-of-fee performance results must be presented in the advertisement. The firm may choose to also present results gross-of-fees so long as both gross and net performance results are presented with equal prominence in a format designed to facilitate ease of comparison of the gross-of-fee and net-of-fee results.
- 2.A.3. Firms that came into compliance with the AIMR-PPS standards under the retroactive compliance guidelines by linking noncompliant performance prior to the applicable effective date of the standards to periods that are in compliance with the Standards must clearly state that the full performance record is not in compliance with the Standards and must identify the periods of non-compliance. This provision does not specifically apply to firms that came into compliance under the Relaxed Retroactive Standards as described in the Introduction of the *AIMR Performance Presentation Standards Handbook* (1997, second edition).
- 2.A.4. Firms are encouraged to disclose Level I (firmwide) verification in the advertisement provided it discloses the period(s) for which the verification has been performed. Firms with composites that have been Level II verified may not in any way refer to the term 'Level II' in an advertisement that claims compliance. ~~include a disclosure that the performance results have been verified at Level II.~~
- 2.A.5. A firm must provide the complete AIMR-PPS compliant presentation from which the advertisement is drawn within seven business days of any request from a client or a potential client. Making the complete AIMR-PPS compliant presentation available on the firm's Web site and informing the client or potential client of its availability will satisfy this requirement.

3. Disclosures

- 3.A.1. Firms must disclose the following information in each advertisement:
- (a) the definition of the firm used for AIMR-PPS compliance,
 - (b) a brief description of the composite/strategy,
 - (c) if non-fee-paying portfolios are included in the composite and the percentage of non-fee-paying portfolios represented in the composite for the most recent period displayed,
 - (d) the use and extent of leverage and derivatives, if any,

- (e) the dollar amount of assets represented by the composite and the percentage of the firm's total assets that the composite represents for the most recent period displayed,

3.A.2. Firms must include the following statement in the advertisement:

“To receive a complete AIMR-PPS compliant presentation contact: (contact name, contact information and/or internet/e-mail address).”

3.A.3. Firms must use the specified AIMR-PPS Advertising Guidelines Claim of Compliance legend and/or logo as provided in the introduction of this document. Any use of the marks “AIMR” or “AIMR-PPS” except as specifically provided in the above legend and logo or the AIMR-PPS standards Compliance Statement legend is prohibited.

Sample Advertisement Including Performance Returns:

XYZ Investment Firm

An independent registered investment advisory firm specializing in value investments and portfolio management services.

| Value Composite | <u>1-year</u> (ending 12/31/99) | <u>5-year</u> (ending 12/31/99) | <u>Since Inception</u> (12/31/89- 12/31/99) |
|---|--|--|--|
| Average Yearly Returns (net-of-fees) | 24.8% | 13.5% | 9.2% |
| (gross-of-fees) | 25.1% | 15.3% | 9.8% |
| S&P Value Index | 25.4% | 14.9% | 10.2% |

XYZ Value Composite invests in a diversified portfolio of large and small cap securities, which demonstrate above-market yields. The XYZ Value Composite assets as of December 31, 1999 were \$50 million, which represented 60% of the firm's total assets. The XYZ Investment Firm has been Level I Verified for the periods January 1, 1995 through ~~January~~ December 31, 1999.



AIMR Performance Presentation Standards™ Compliant.

AIMR has not been involved with or reviewed XYZ Investment Firm's claim of compliance.

To receive a complete AIMR-PPS compliant presentation, visit our Web site at www.xyzinv.com, call John Doe at (800) 555-5555, or write XYZ Investment Firm, One Main Street, Investmentville, USA 12345, or jdoe@xyz.com.

Sample Advertisement without Performance Returns:

XYZ Investments is a registered investment advisory firm specializing in value investments and portfolio management services. We bring an objective, knowledgeable perspective to overseeing your financial assets and to helping you define and achieve your financial goals. To receive a complete AIMR-PPS compliant presentation, visit our Web site at www.xyzinv.com, call John Doe at (800) 555-5555, or write XYZ Investment Firm, One Main Street, Investmentville, USA 12345, or jdoe@xyz.com.



AIMR has not been involved with or reviewed XYZ Investment Firm's claim of compliance.

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