



CFA Institute[®] Global Investment Performance Standards

MEMORANDUM RE: FINRA'S REGULATORY NOTICE 20-21 AND REFERENCES TO THE GIPS STANDARDS



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MEMORANDUM

From: CFA Institute

Re: FINRA's Regulatory Notice 20-21 and References to the GIPS Standards

Date: 13 July 2021

Financial Industry Regulatory Authority's (FINRA's) Regulatory Notice 20-21, published in July 2020, references requirements prescribed by the Global Investment Performance Standards (GIPS®) related to calculating the internal rate of return (IRR) and related metrics. This memorandum addresses the statements that investment management firms and their agents can make if they would like to refer to the GIPS standards in retail communication concerning a private placement offering, as well as when they can use these statements.

The information in this memorandum is the opinion of CFA Institute and has not been adopted or endorsed by FINRA.

Background

In July 2020, FINRA issued Regulatory Notice 20-21 (Notice), which allows retail communications concerning private placement offerings to include IRRs for funds that are ongoing (i.e., have not fully liquidated) under certain conditions. The Notice states: "FINRA interprets Rule 2210 to permit the inclusion of IRR if it is calculated in a manner consistent with the Global Investment Performance Standards (GIPS) adopted by the CFA Institute and includes additional GIPS-required metrics such as paid-in capital, committed capital and distributions paid to investors."

The GIPS standards, administered by CFA Institute, are ethical standards for calculating and presenting investment performance based on the principles of fair representation and full disclosure. CFA Institute is a global not-for-profit association of investment professionals with the mission of leading the investment profession globally by setting the highest standards of ethics, education, and professional excellence.

Firms may claim compliance with the GIPS standards when they meet all of the applicable requirements of the GIPS standards on a firmwide basis. FINRA does not require a firm to claim compliance with the GIPS standards in order to present these IRRs and additional required metrics. FINRA also does not require a firm to make any statement about the GIPS standards in retail communications concerning a private placement offering. Firms will need to be able to prove that their IRR calculations meet the requirements of the GIPS standards and that they have also presented the additional metrics required by the GIPS standards.

Current Requirements for Referring to the GIPS Standards

Compliance with the GIPS standards involves more than just the use of a particular calculation methodology. To avoid any confusion, the GIPS standards have historically prohibited firms from making references to the GIPS standards when the firm is not in compliance with the GIPS

standards. Firms are not allowed to make statements indicating partial compliance with the GIPS standards (Provision 1.A.8) or refer to the calculation methodology as being “in accordance,” “in compliance,” or “consistent” with the Global Investment Performance Standards (Provision 1.A.9).

The purpose of these requirements is to avoid confusion for investors who would then have the burden of sorting out which firms are properly claiming compliance and which firms are not. Without boundaries on specific statements that can be made, an investor could be misled.

Exception to GIPS Standards Provisions 1.A.8 and 1.A.9 for the Purpose of Complying with FINRA’s Regulatory Notice 20-21

Firms that calculate IRRs and fund metrics according to the GIPS standards calculation requirements for the purpose of complying with FINRA’s Regulatory Notice 20-21 may disclose this fact using specific language when the required information is included in the retail communication. The GIPS standards require the following information:

- Since-inception internal rate of return (SI-IRR)
- Since-inception paid in capital
- Since-inception distributions
- Cumulative committed capital
- Total value to since-inception paid-in capital (investment multiple or TVPI)
- Since-inception distributions to since-inception paid-in capital (realization multiple or TVPI)
- Since-inception paid-in capital to cumulative committed capital (PIC multiple)
- Residual value to since-inception paid-in capital (unrealized multiple or RVPI)

If a subscription line of credit is used, the firm must calculate and present the SI-IRR both with and without the subscription line of credit. However, if the subscription line of credit was repaid within 120 days using committed capital drawn down through a capital call, and the subscription line of credit was not used to fund distributions, then presenting the SI-IRR without the subscription line of credit is not required.

The GIPS standards website (gipsstandards.org) includes a checklist for the data that firms must use for these calculations as well as the calculations themselves. You can download this checklist as an Excel file (XLSX) under Resources on the Tools page, in the Firms section: CFA Institute Checklist for FINRA Reg Notice 20-21 and the GIPS Standards.

Firms and their agents may use the following language in retail communications concerning private placement offerings that are prepared in accordance with FINRA Regulatory Notice 20-21, as long as the statements are true and all of the information required by the GIPS standards is included.

For firms that do not claim compliance with the GIPS standards:

[Insert firm name] has calculated the since-inception internal rate of return (SI-IRR) and fund metrics using a methodology that is consistent with the calculation requirements of the Global Investment Performance Standards (GIPS®). [Insert firm name] does not claim compliance with the GIPS standards. GIPS® is a registered trademark of CFA Institute.

CFA Institute does not endorse or promote [insert firm name], nor does it warrant the accuracy or quality of the content contained herein.

For firms that claim compliance with the GIPS standards:

[Insert firm name] has calculated the since-inception internal rate of return (SI-IRR) and fund metrics using a methodology that is consistent with the calculation requirements of the Global Investment Performance Standards (GIPS®). [Insert firm name] claims compliance with the GIPS standards. GIPS® is a registered trademark of CFA Institute. CFA Institute does not endorse or promote [insert firm name], nor does it warrant the accuracy or quality of the content contained herein.

This language is an exception to Provisions 1.A.8 and 1.A.9. These statements may be used only by firms and their agents in retail communications concerning private placement offerings that are prepared in accordance with FINRA Regulatory Notice 20-21 and may not be used in any other instances.

Please send any comments or questions to gips@cfainstitute.org.