

To: CFA Institute  
From: Cascade Investment Compliance & Verification  
Date: August 22, 2023  
Re: Comments on the Exposure Draft Guidance Statement on Firms Managing Only Broad Distribution Pooled Funds

Thank you for the opportunity to provide feedback on the exposure draft. We've detailed what we like about the Guidance Statement—a lot—and a few minor suggestions for additional improvements.

**Question 1: Is the proposed Guidance Statement on Firms Managing Only Broad Distribution Pooled Funds helpful?**

We agree that this Guidance Statement is helpful for firms managing only BDPFs, especially the applicable provisions section at the end. The “Applicable Provisions” section is more comprehensive than what could be addressed in a Q&A confirming that firms managing only BDPFs can comply with the Standards. Similarly, slight adjustments to other provisions referencing GIPS Reports, including the compliance statement, are better addressed in a single resource, rather than multiple Q&A.

Including guidance on fundamental sections that apply to all firms is less helpful and considered further after Question 7 below.

**Question 2: If a firm manages only BDPFs and does not prepare GIPS Reports or GIPS Advertisements, should it be allowed to claim compliance outside of the GIPS Report or GIPS Advertisement? Why or why not?**

Yes – All firms that claim compliance with the GIPS Standards are permitted to claim compliance outside of GIPS Reports, including in databases, RFPs, and firm marketing materials that don't show performance. The claim of compliance is about the firm and its commitment to document and implement comprehensive policies for its calculation and distribution of performance that includes prescribed methodologies to promote fair, accurate, and comparable performance over time and across firms. Clarifying a meaningful path forward for firms that only manage BDPFs and want to claim compliance is good for the industry.

This section currently states that firms that create GIPS Advertisements for BDPFs cannot use the Guidance Statement and its contents. However, we do not agree since GIPS Advertisements are not allowed to be provided in lieu of a GIPS Report and there is already specific GIPS Advertising Guidelines for BDPFs in the GIPS Standards for Firms. Firms that manage only BDPFs and use the GIPS Advertising Guidelines for Broad Distribution Pooled Funds should still be allowed to use this Guidance Statement. For example, if the firm creates a GIPS Advertisement for inclusion in pooled fund documentation, the firm should still be able to use this Guidance Statement for situations with consultant databases and RFPs. We agree with the restriction as it relates to GIPS Reports.

**Question 3: Do you agree with this approach to recordkeeping for when firms are responding to RFPs and consultant databases? Should firms instead be required to apply the same recordkeeping policies that would apply to a GIPS Report or GIPS Advertisement? Why or why not?**

We agree with the nuanced edits to the recordkeeping requirements for firms managing only BDPFs. The GIPS Standards require firms to be able to support all information included in a GIPS Report. While firms should also be able to support all information included in marketing materials and RFPs, databases and RFPs routinely ask about information beyond the scope of a GIPS Report, such as questions regarding personnel and client turnover. By limiting recordkeeping requirements in this guidance statement to performance information, the guidance appropriately establishes a scope that aligns with the firm’s written GIPS Policies and Procedures.

**Question 4: Do you agree with this approach to error correction for when firms are responding to RFPs and consultant databases? Should firms instead be required to apply their GIPS Standards Error Correction policy to the information provided to consultant databases and when responding to RFPs? Why or why not?**

We agree with the approach to error correction presented in this guidance statement, specifically applying the error correction to “performance or performance-related” information. While firms should correct any material error provided in a database or RFP, it would not be appropriate to include information beyond the scope of the GIPS Standards in the error correction policy. For clarity we recommend repeating “performance or performance-related” information in the last sentence to clarify the scope. We also recommend adding that verifiers should be notified, as well:

Error Correction

Firms must not present performance or performance-related information that is false or misleading. Therefore, if there is a material error when presenting performance or performance-related information to a consultant database and when responding to RFPs, firms managing only BDPFs must correct the material error and provide corrected information to the consultant database or the recipient of RFP responses, and to the firm’s verifier if they receive a verification. The firm should follow its GIPS Standards Error Correction policy for the performance or performance-related information provided to consultant databases and when responding to RFPs.

**Question 5: Do you agree that firms managing only BDPFs should be able to obtain a verification? Why or why not?**

Yes, we agree firms managing only BDPFs should be able to obtain a verification for the same reason they should be able to comply with the GIPS Standards noted above – The claim of compliance is about the firm and its commitment to document and implement comprehensive policies for its calculation and distribution of performance that includes prescribed methodologies to promote fair, accurate, and comparable performance over time and across firms.

**Question 6: Do you agree with the modified compliance statement language for firms managing only BDPFs? Why or why not?**

We agree with both compliance statements, for verified and unverified firms managing only BDPFs.

- We agree with the additional language to clarify a firm manages only BDPFs, only as an indicator to explain why no GIPS Reports are referenced in any of the other disclosures. We would not have a problem if the additional language about being a firm that manages only BDPFs were not added.
- We agree with the scope-appropriate adjustment to replace distribution of GIPS Reports with “provision of the performance of such funds is in accordance with the Guidance Statement for Firms Managing Only Broad Distribution Pooled Funds.”
- We agree that this guidance statement recommends the modified wording, and states firms “can” use it, but it might be more helpful to also require use of the compliance statement and the CFA Institute trademark disclosure in use cases outside of the GIPS Report, just as it is required for other firms claiming compliance, i.e., if GIPS compliance is mentioned on a firm’s website or other proprietary materials, with or without performance, and if a database or RFP provides space for a full compliance statement response. There’s no basis to keep this as only a recommendation for a firm managing only BDPFs, while a firm with even one composite would have to provide a compliance statement and trademark disclosure if GIPS compliance is mentioned.

**Question 7: Do you agree with the applicability of each of the provisions in Sections 1 and 2? Why or why not?**

Yes, we agree, and this section is a very helpful reference to make the GIPS Standards more accessible for firms managing only BDPFs.

**A couple of areas that could be improved:**

- Not redressing areas not unique to managers of BDPFs only, and
- Deleting two specific references to what *would* have been included in a GIPS Report.

The False or Misleading Information section seems redundant, as the current section is readily applicable to all firms, without the need for nuanced edits in this Guidance Statement. The Handbook already includes much of the specific wording permitting other performance or performance-related information, including performance for unique time periods, and it underscores this provision already applies beyond the GIPS Report. If this Guidance Statement is to be used in lieu of the GIPS Standards, then it should be its own Book, with its own unique section numbers, similar to guidance created for Asset Owners and Fiduciary Management Providers. Further, 2.A.18 already requires periodicity of benchmark and pooled fund to be the same. The additional context that firms managing only BDPFs should use “the same benchmark that *would* have been included in a GIPS Report” assumes facts not in evidence: firms that are not required to create a GIPS Report, especially firms new to claiming compliance with the GIPS Standards, will not have gone through a process to specify what benchmark they *would* include in a GIPS Report.

Similarly, it’s not readily apparent that the Firm Definition and Total Firm Assets sections add any important nuanced edits, unless the Guidance Statement is intended to be a substitute for the GIPS Standards for Firms Handbook. The Guidance Statement would be more effective if it didn’t include these sections that are applicable to all firms, but instead added a paragraph emphasizing firms managing only BDPFs are required to comply with Applicable Provisions, including Firm Definition and

Total Firm Assets, if they choose to claim compliance with the GIPS Standards. Similar to benchmarks, noting firms “may report total firm assets that **would** be included in a GIPS Report, if one were to be prepared” isn’t helpful.

While the section addressing the List of BDPF Descriptions adds no additional guidance, it is at least specific to BDPFs, so it’s not confusing. Valuing and Calculating Performance for BDPFs, Total Return, Trade Date and Accrual Accounting, Inclusion of Cash and Cash Equivalents, and Transaction Costs guidance add no important clarifications or nuanced edits to address the unique use case of firms managing only BDPFs. The condensed guidance would be as helpful to a firm managing BDPFs AND separately managed accounts, and its already guidance included in the Handbook, so it seems unnecessary.

Other topics addressed that are not uniquely challenging for firms managing only BDPFs, provide no new information, and could be reviewed for exclusion from this Guidance Statement include: Portability, Laws and Regulations , and GIPS Compliance Notification Form.