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CFA Institute
Global Investment Performance Standards
915 East High Street
Charlottesville, VA 22902

RE: Exposure Draft – Guidance Statement on Firms Managing Only Broad Distribution Pooled Funds

Dear Technical Committee Members,

Thank you for giving us the opportunity to comment on the Exposure Draft on the Guidance Statement on Firms Managing Only Broad Distribution Pooled Funds (the “Guidance Statement”). We have reviewed the Guidance Statement and responded to the questions outlined as well as included additional thoughts for your consideration.

Sincerely,

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Guardian Performance Solutions LLC

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

We are a bit mixed on this. This Guidance Statement could be helpful to some if prefaced properly, but it has equal if not greater potential to create additional confusion. To help avoid this, we believe it needs to be very clearly stated that this Guidance Statement does replace the GIPS Standards for Firms and it does not represent a separate version or chapter of the GIPS standards. This is complimentary guidance – not standalone guidance. It simply clarifies which requirements of the GIPS Standards for Firms would not be applicable if a firm only manages and offers its strategies through BDPFs. It also needs to be clear that if a firm starts to manage or even offer their strategies through vehicles other than BDPFs, then the firm would no longer be able to rely on this guidance.

It is also important to avoid implying that a firm may choose when it wants to claim compliance, as we believe this Guidance Statement does in some instances. Claiming compliance is a constant – either a firm claims compliance, or it does not. Suggesting that a firm can choose to claim compliance in certain circumstances but not others can be confusing. Instead, the guidance should clarify when and how a

firm can *refer* to their claim compliance. For example, on the top of page 3, the proposed guidance states: “A firm managing only BDPFs may wish to present performance to consultant databases or respond to RFPs and claim compliance, but not claim compliance within a GIPS Report.” This needs to be revised to read something to the effect of “A firm managing only BDPFs may wish to present performance to consultant databases or respond to RFPs and **reference their** claim compliance, but not ~~claim compliance within~~ **produce** a GIPS Report.”

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, the firm should be permitted to claim compliance regardless of whether they create GIPS Reports or GIPS Advertisements. Since a claim of compliance is constant, referencing that claim should not be limited to the type of materials being provided. The language used when referring to the claim of compliance should essentially be the same as that used in GIPS Advertisements without performance.

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?

The GIPS standards require firms to maintain records to support all items included in GIPS Composite Reports, GIPS Pooled Fund Reports, and GIPS Advertisements. Though GIPS compliance firms are also required to adhere to all laws and regulations regarding the presentation of performance (which, in many markets, would necessitate maintaining records to support any advertised performance), there is not an explicit requirement within the GIPS standards to maintain records to support performance information outside of these GIPS-compliant materials. As such, it would be an overreach to impose a new requirement on BDPF-only firms through this Guidance Statement that would not be required of other GIPS compliant firms in terms of maintaining records to support information included in RFPs or consultant databases. Therefore, these should not be requirements.

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?

Yes. When errors are corrected, providing updated information to consultant databases or previously submitted RFP responses would appear to be sufficient.

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

Yes, if a BDPF-only firm can claim compliance, it should be able to be verified as well.

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

No, we don't believe there should be a special compliance statement for BPDF-only firms. We see no reason why they can't use the standard compliance statement, as they would if they were claiming compliance today prior to adoption of this Guidance Statement. We believe having a different compliance statement is likely to create confusion and, again, could suggest that these firms are claiming compliance with an alternate version of the GIPS standards. Since BDPF-only firms would still be claiming compliance with the same version of the GIPS Standards for Firms as firms that manage other types of vehicles, they should use the same compliance statement.

Additionally, introducing another compliance statement would lead to situations where two firms submitting information to a consultant database related to their BDPFs would be using different compliance statements. This would be the case when one of those firms only manages BDPFs (and, therefore, can apply this Guidance Statement) while the other manages various types of portfolios, including BDPFs.

The solution to this would be to allow any firms that submit BDPF performance to a consultant database or use it when responding to RFPs to use the GIPS Advertising Guidelines compliance statement for advertisements that do not include performance. Simply: “[Insert name of firm] claims compliance with the Global Investment Performance Standards (GIPS®).”

Other Notes:

- 1) As a result of the SEC Marketing Rule and requests driven by the marketplace, it has become common practice for firms that manage only BDPFs to seed model portfolios with actual assets. These portfolios consist of internal money and have been funded for the sole purpose of having an actual performance track record that can be presented and allow the firm to demonstrate asset allocation combinations using their BDPFs. When this is the case, these firms typically create single account composites for each seeded model portfolio. There are no additional accounts added to these composites since the firm does not offer these strategies as segregated accounts, but instead the performance is presented to other advisers and intermediaries who are interested in investing in the firm’s BDPFs and applying the asset allocation represented within the model portfolios. Often intermediaries, including consultant databases, will require that the firm submitting the performance for these seeded model portfolios attest to whether they are calculated and presented in compliance with the GIPS standards.

It would be helpful to address whether firms that manage only BDPFs but construct seeded model portfolios and assign them to composites could apply this Guidance Statement when they are responding to an RFP or submitting performance to a consultant database *related to one of their BDPFs*, or if the creation of the seeded portfolio would prevent them from doing so. In other words, does a firm that only offers BDPFs but creates seeded model portfolios and corresponding composites (in an effort to promote those BDPFs) still qualify as a “firm managing only broad distribution pooled funds,” the target audience for this Guidance Statement?

- 2) Page 3: Firm Definition: “The firm must comply with all of the applicable requirements of the GIPS standards, as described within this Guidance Statement, on a firm-wide basis.”
 - This Guidance Statement does not replace the GIPS Standards for Firms and we should not imply that a firm could rely solely on this guidance to determine what requirements would be applicable to their firm. With that in mind, this section should be revised to read “The firm must comply with all of the applicable requirements of the GIPS standards, as described within **the GIPS Standards for Firms and clarified within** this Guidance Statement, on a firm-wide basis.”
- 3) Total Firm Assets: “When reporting to a consultant database or responding to an RFP questionnaire, a firm that claims compliance with the GIPS standards may report total firm assets that would be included in a GIPS Report, if one were to be prepared.”

- Clarify that RPFs and questionnaires are not the same thing by inserting “or” between these terms.

4) Applicable Provisions

- 1.A.11 – We believe it would be more appropriate to indicate that this provision is not applicable because the firm does not have any prospective clients. If the firm were to offer its strategies to prospective clients through segregated accounts, then it would need to create and provide a GIPS Report to those prospects. Therefore, it is the lack of prospective clients that makes this requirement not applicable, not the choice not to create GIPS Reports.

1.A.11	The FIRM MUST make every reasonable effort to provide a GIPS COMPOSITE REPORT to all PROSPECTIVE CLIENTS when they initially become PROSPECTIVE CLIENTS. The FIRM MUST NOT choose to which PROSPECTIVE CLIENTS it presents a GIPS COMPOSITE REPORT.	n/a	N/A because the firm does not prepare GIPS Reports have prospective clients.
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- 1.A.22.a – This requirement is not related to GIPS Reports or GIPS Advertisements directly. A GIPS-compliant firm would be required to maintain a list of composite descriptions if it creates any composites, even if those composites are not being used for marketing purposes or presented in GIPS Reports. Consider a firm that only manages BDPFs but came into compliance prior to 2020 and included each of those funds in composites. That firm could retire those composites under the 2020 GIPS standards. However, if they chose to retain their composites, even though they would not be required to create GIPS Reports for them, they should still have the obligation to maintain a list of composite descriptions. It is the existence of at least one composite that should trigger this requirement, not whether or not corresponding GIPS Reports are created – which is why the list of composite descriptions is not limited to marketed composites. Given that, this provision should still be not applicable for BDPF-only firms, but the reason for this is that the firm has not created any composites.

1.A.22.a	The FIRM MUST maintain a complete list of COMPOSITE DESCRIPTIONS. The FIRM MUST include terminated COMPOSITES on this list for at least five years after the COMPOSITE TERMINATION DATE.	n/a	N/A because the firm does not prepare and present composites in GIPS Composite Reports or GIPS Advertisements only manages BDPFs and has not created composites.
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- 1.A.23.a – Similar to 1.A.22.a, the reason why a list of composites descriptions would not need to be provided is because one is not being maintained due to the fact that the firm has no composites. Further, a BDPF-only firm would have no prospective clients to make such a request. Regardless, the lack preparation of GIPS Reports and GIPS Reports is not relevant to the applicability of this requirement.

1.A.23.a	The FIRM MUST provide the complete list of COMPOSITE DESCRIPTIONS to any PROSPECTIVE CLIENT that makes such a request.	n/a	N/A because the firm does not prepare and present composites in GIPS Composite Reports or GIPS Advertisements only manages BDPFs and has not created composites.
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- 1.A.24 – Similar to 1.A.11, this requirement is not applicable because the firm does not have prospective clients or limited distribution pooled fund investors, because it does not manage or offer segregated accounts or LDPFs.

1.A.24	The FIRM MUST provide: a. A GIPS COMPOSITE REPORT for any COMPOSITE listed on the FIRM'S list of COMPOSITE DESCRIPTIONS to any PROSPECTIVE CLIENT that makes such a request. b. A GIPS POOLED FUND REPORT or GIPS COMPOSITE REPORT, provided the LIMITED DISTRIBUTION POOLED FUND is included in the respective COMPOSITE, for any LIMITED DISTRIBUTION POOLED FUND on the FIRM'S list of POOLED FUND DESCRIPTIONS to any LIMITED DISTRIBUTION POOLED FUND PROSPECTIVE INVESTOR that makes such a request.	n/a	N/A because the firm does not prepare GIPS Reports manage or offer segregated accounts or LDPFs.
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- 2.A.23, 2.A.24, 2.A.30, 2.A.31, 2.A.35-2.A.42, and 2.A.47 – These provisions are all specific to the calculation of composite returns. The reason that they are not applicable is because this firm has elected to not create composites. If the firm created composites, regardless of whether they also chose to create GIPS Reports, the provisions would apply. Example noted below for 2.A.23 applies to 2.A.24, 2.A.30, 2.A.31, 2.A.35-2.A.42, and 2.A.47.

2.A.23	When calculating TIME-WEIGHTED RETURNS for PORTFOLIOS that are included in COMPOSITES, all PORTFOLIOS except PRIVATE MARKET INVESTMENT PORTFOLIOS (see 2.A.40) MUST be valued: a. At least monthly. b. As of the calendar month end or the last business day of the month. c. On the date of all LARGE CASH FLOWS. The FIRM MUST define LARGE CASH FLOW for each COMPOSITE to determine when PORTFOLIOS in that COMPOSITE MUST be valued.	n/a	N/A because the firm does not prepare and present composites in GIPS Composite Reports or GIPS Advertisements only manages BDPFs and has not created composites.
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