



August 22, 2023

GIPS Standards Technical Committee
CFA Institute
915 East High Street, Ste. 100
Charlottesville, VA 22902

Re: Exposure Draft Guidance Statement on Firms Managing Only Broad Distribution Pooled Funds

Members of the GIPS Standards Technical Committee:

Thank you for the opportunity to comment on this draft guidance statement. Our responses to the questions provided within the exposure draft are as follows.

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

The guidance is helpful, but it seems more appropriate that this guidance could be addressed using Q&As rather than a full guidance statement.

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?

All firms, those that manage only BDPFs as well those which manage other vehicle types, should be allowed to “claim compliance” with the GIPS standards outside of a GIPS Report or GIPS Advertisement. To achieve the mission and objectives of the GIPS standards (promoting ethics and integrity, instilling trust, and investor confidence, etc.), a firm should be permitted to claim compliance with the Standards across all the firm’s touch points with the investing public. Having the ability to claim compliance with the Standards more broadly would create a virtuous cycle in which asset managers are more likely to adopt the Standards, resulting in asset owners gaining confidence in firms that comply, thereby increasing demand for compliance.

In terms of consultant databases and RFPs, yes. If the firm wants to claim compliance in marketing materials, they should be required to follow the GIPS Advertising Guidelines if they want to mention GIPS compliance, just like all other firms are required to do.

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

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the same recordkeeping policies that would apply to a GIPS Report or GIPS Advertisement? Why or why not?

For firms that only manage BDPFs, one would assume all requirements across the GIPS Standards for Firms would be the same, including recordkeeping requirements, the firm just would not be required to create and provide GIPS reports for the BDPFs.

Additionally, per the GIPS Handbook, “A firm has two ways of advertising its claim of compliance with the GIPS standards: 1) by following the GIPS Advertising Guidelines¹ or 2) by including a GIPS Composite Report or a GIPS Pooled Fund Report in its advertisement.” The explanation of an advertisement² in the Guidelines is broad and covers many situations. We believe consultant databases fall under this explanation; therefore, the data necessary to support all items reported to them are already required by the provisions in the Guidelines. Additionally, for advertisements that do not include performance, Provision 8.B.3 requires firms to be ready to provide “GIPS-compliant performance information”; therefore, firms must maintain the data to support any record they have advertised. Whether an RFP is considered an advertisement depends on how the RFP is received and completed. Assuming it has been received outside of a form of one-on-one communication, it seems reasonable to apply the recordkeeping requirements of the GIPS Advertising Guidelines. If, however, it was received through one-on-one communication, we agree with the approach of recommending that the firm capture and maintain records to support such performance. Recordkeeping of information shared in an RFP appears to be a small gap with respect to BDPF’s required provisions, but the fact that information is most likely required to be captured through other provisions – e.g., advertisements, and the firm is required to maintain 5 years of compliant performance information initially, building to 10 should suffice at this time, rendering this oversight as not worthy of addressing at this time.

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?

The Standards currently do not require firms to apply their error correction policies to RFPs and consultant databases. We do not advocate for any additional or different requirements that are specific to firms managing only BDPFs that would not apply to other firms. The Standards should always be consistent across all firms, regardless of the types of portfolios they manage. Per the Standards, “No finite set of requirements can cover all potential situations or anticipate future developments in investment industry structure, technology, products, or practices.” Therefore, it would be inappropriate at this time to call out RFPs and consultant databases in such a distinct way when, most likely, there are other ways in which a GIPS compliant firm is reporting performance related information outside of a GIPS Report and not applying its GIPS Standards Error Correction policy. When the Standards do not speak to a specific question, firms must rely on fair representation and full disclosure. Any perceived specific disclosure weakness for firms managing only BDPFs must be addressed by these fundamental principles as well as under the false and misleading requirements.

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

Yes. Verification applies to the firm, not just GIPS reports and GIPS advertisements. As per the claim of compliance: Verification provides assurance on whether the firm's policies and procedures related to composite and pooled fund maintenance, as well as the calculation, presentation, and distribution of performance, have been designed in compliance with the GIPS standards and have been implemented on a firm-wide basis. Verification does not provide assurance on the accuracy of any specific performance report.

As a verification firm, we believe we can apply the same testing procedures as we would apply to any other firm, the verification procedures for reviewing GIPS reports and GIPS advertisements would just not apply if the firm does not create these materials.

Besides reviewing GIPS reports, a verification includes but is not limited to the following: review policies and procedures to determine they are complete, clear unambiguous, adequately documented, and consistent with the GIPS Standards, assess whether the list of BDPFs is complete, GIPS reporting requirements have been applied correctly in marketing materials, the firm has been defined appropriately, non-discretionary assets are properly excluded, return methods are in accordance with policies and procedures and calculated correctly, the firm is able to reconcile to total firm, etc. Also, there is at least one other situation in which we've encountered a GIPS compliant firm that did not have to prepare and distribute GIPS reports, but was verified, so we do not see a reason to call out only firms managing only BDPFs.

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

No. The same compliance statements in the GIPS Standards for Firms should suffice. There should be no additional or different guidance for firms that only manage BDPFs and firms that manage other types of portfolios.

If the firm has followed all the applicable requirements in the Standards, it should not have to use a modified compliance statement, which may bring into question whether it can and has met the fundamental principles of compliance.

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

Individual firms, as they always have, should evaluate what requirements apply, or are not applicable, to their firm. Regardless of whether the firm prepares a GIPS Report, firms must comply with all applicable provisions in Section 2 for a minimum of five years to initially claim compliance.

Again, thank you for the opportunity to comment. We hope you find these comments helpful.

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Sincerely,

The Spaulding Group, Inc.

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