November 22, 2017

Via Electronic Submission (standards@cfainstitute.org)

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

Re: Exposure Draft of GIPS Guidance Statement on Overlay Strategies

Dear CFA Institute:

The Investment Adviser Association ("**IAA**")[1] appreciates this opportunity to comment on the CFA Institute's ("**CFA Institute's**") *Exposure Draft of GIPS Guidance Statement on Overlay Strategies* ("**Exposure Draft**"), proposed by the Global Investment Performance Standards ("**GIPS**") Technical Committee on August 29, 2017.[2] The IAA recognizes the many benefits of GIPS and of compliance by advisers. Uniform disclosure standards for performance number presentations provide confidence in the integrity of presentations and undoubtedly help investors make informed decisions. Moreover, supporting strong ethical standards for advisers raises the bar for adviser conduct. GIPS is most valuable when it fills a gap where regulatory disclosure schemes around the world may be silent or confusing on performance presentations. However, as a policy matter, neither the goal nor the effect of GIPS should be to supplant or overlay additional prescriptive burdens on local regulation that provides a comprehensive framework for performance presentations.

Accordingly, we continue to have fundamental concerns about the CFA Institute's broad vision for GIPS. As the CFA Institute moves towards an ever-expanding application of GIPS, rather than achieving the stated goal of streamlining the standards to make them "as relevant and straightforward as possible,"[3] the CFA Institute appears to be making the standards more rigid and complex, requiring information that may not be beneficial to investors, and creating a framework that is more similar to that of a self-regulatory organization. We are concerned that this trend will result in layering another quasi-regulatory regime over firms that may already be subject to multiple regulatory standards globally.

[1] The IAA is a not-for-profit association that represents the interests of investment adviser firms registered with the U.S. Securities and Exchange Commission ("**SEC**"). The IAA's membership consists of more than 600 firms that collectively manage approximately $20 trillion for a wide variety of clients that are individual and institutional investors, including pension plans, trusts, investment companies, private funds, endowments, foundations, and corporations. For more information, please visit www.investmentadviser.org.

[2] The Exposure Draft is *available at* https://www.gipsstandards.org/standards/Documents/Guidance/exposure_draft_public_comment_overlay.pdf.

[3] The Consultation Paper at p. 2 is *available at* https://www.gipsstandards.org/standards/Documents/Guidance/gips_2020_consultation_paper.pdf .

In addition, application of each new layer of guidance will almost certainly lead to burdensome additional operational, technical, and compliance requirements for firms seeking to be GIPS compliant with little additional benefit to investors, and potentially place GIPS-compliant firms at a competitive disadvantage. This is the case with the proposed guidance on overlay strategies. We believe that increased understanding of overlay strategies could be appropriately achieved not through prescriptive performance calculation requirements but through principles-based narrative disclosure. We urge the CFA Institute to proceed with caution so as not to make this area more complex, more expensive to implement, and more likely to reduce the number of firms claiming GIPS compliance.

The Proposed Guidance is too Prescriptive. The proposed guidance is unnecessarily prescriptive in light of its goals. We understand that at least several of our members would need to make substantial technical and operational systems changes to comply with the detailed requirements in the Exposure Draft. Indeed, we understand that computer programming to accomplish the proposed changes would likely have to be custom-made since current off-the-shelf software will not accomplish the requirements as proposed. Our members describe the efforts and investment as “huge” and a “heavy lift.”

With more prescriptive, wide-ranging, and complicated GIPS guidance, firms are also concerned about a potential increase in enforcement actions by regulators as a result of inadvertent “foot-faults” in applying the GIPS guidance. These additional costs and the potential for increased enforcement actions based on technical violations of GIPS are not justified by corresponding benefits to investors. As discussed below, performance calculations of overlay strategies may not provide helpful information to investors about a broader investment strategy pursued by the investment adviser. Because of these costs and potential unintended consequences, it is critically important that any new standard or guidance be principles-based to allow for evolving strategies and circumstances, and also that it permit firms to elect whether or not to claim GIPS compliance for *individual* portions of their business, based on the firm’s determination of relative costs and benefits of claiming GIPS compliance for a particular asset type or investment structure rather than across the board.

Vague Definition. The Exposure Draft is also problematic because the proposed definition of “overlay strategy” is vague. In fact, the guidance recognizes that there is no uniform definition of the term, but states that an overlay strategy is generally one in which the “management of a certain aspect of an investment strategy is carried out separately from the underlying portfolio.” Many hedging actions, risk limitations, and diversification standards, as well as foreign currency exchange management could all be considered overlay strategies under this broad and vague definition, although many advisers conducting these activities do not believe that they have overlay strategies and thus would not claim them. Moreover, advisers may use an overlay strategy only as part of a broader portfolio management function, and not consider it a separate strategy. Thus, the usefulness of the guidance would be limited since firms would be unclear whether GIPS would require results to be reported separately.

In addition, these activities theoretically could be carried out either by the manager of the underlying portfolio or by a separate firm or a subadviser, and the Exposure Draft does not appear to distinguish between them. To the extent that an overlay strategy is a component of a broader investment strategy and is not marketed or offered as a separate strategy to clients, applying GIPS requirements to the strategy would add a layer of complexity that we do not believe is necessary. And even if carried out by a separate firm or subadviser, unless the overlay strategy is marketed to investors as a separate strategy, we do not believe separate reporting would add materially useful information for investors.

The Goals of the Exposure Draft Could be Better Accomplished Through Additional Narrative Disclosure. Requiring advisers to provide composite performance information on overlay strategies when the strategies are components of a broader investment strategy does not necessarily provide investors with clear information about the broader strategy. If the goal of the Exposure Draft is for investors to have a better understanding of auxiliary strategies at play in their investments, we believe this understanding can best be achieved through principles-based narrative disclosure. It may thus be appropriate for the CFA Institute to require that firms inform investors of the strategies underlying an investment and their results. Narrative disclosure about the use of overlay strategies accompanied by performance information that reflects the broader strategy would strike the right balance of providing appropriate context for investors to understand and assess the strategies deployed in their portfolios.

Certain Overarching Principles Should Guide Consideration of the Exposure Draft. As the CFA Institute considers the Exposure Draft in the coming months, in addition to the concerns discussed above, we urge the CFA Institute to be guided by the following principles we have articulated in response to other GIPS proposals:

Utility of Information to Investors. The CFA Institute should consider whether the proposed performance calculations provide investors with information that is useful in their evaluation of an investment adviser's overall management of a strategy.

Costs and Benefits. The CFA Institute should carefully weigh the costs (to firms and investors) against the potential benefits to investors.

Safe Harbors for Regulated Activity. The CFA Institute should consider providing safe harbors to investment advisers that are already subject to reasonably robust regulation as to calculation and disclosure of performance.

Voluntary vs. Required. Where GIPS do not fill gaps in regulation, additional requirements should be recommended and not required, *i.e.*, they should be truly voluntary.

Flexibility. Enhanced flexibility is not only consistent with the voluntary nature of firms' compliance with GIPS, but it allows for a broader and evolving range of strategies and may better facilitate greater adoption of GIPS.

Simplification. GIPS should also be simplified wherever possible, and we support the CFA Institute's expressed interest in eliminating unnecessary or duplicative requirements.

Transition Time. Finally, the CFA Institute should provide ample transition time—at least 18 months from adoption of any guidance—for implementation of policies and procedures needed to comply with any new requirements.

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We appreciate your consideration of our comments on this important Exposure Draft. Please do not hesitate to contact us if we may provide any additional information or assistance to you during this process.

Respectfully,

Gail Bernstein
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Investment Adviser Association

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Special Counsel
Investment Adviser Association