

17 August 2018

Project Manager
Investment Consultancy Market Investigation
Competition and Markets Authority
Victoria House
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London
WC1B 4AD

Dear Members of the CMA's Investment Consultants Market Investigation group,

CFA Institute and IC Select jointly thank you for the opportunity to submit this response to your provisional decision report, specifically Remedy 6:

Standardised methodology and template for reporting past performance of fiduciary management services to prospective clients.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion for ethical behaviour in investment markets and a respected source of knowledge in the global financial community. Our aim is to create an environment where investors' interests come first, markets function at their best, and economies grow.

There are more than 150,000 CFA charterholders worldwide in 165+ countries and regions. CFA Institute has eight offices worldwide and 151 local member societies. For further information please visit www.cfainstitute.org

CFA Institute has been associated with performance presentation standards for over thirty years, with the Financial Analysts Federation publishing Performance Presentation Standards in 1987, followed by Association of Investment Management and Research (AIMR) in 1992 publishing the US Performance Presentation Standards (AIMR-PPS), and the first edition of the Global Investment Performance Standards being published in 1999 with fifteen countries, including the UK through NAPF, combining their individual performance standards into the single standard, with a further ten countries contributing to, and adopting, GIPS at that time. As of 2018 there are over forty countries that accept GIPS as the global investment performance standard within their local asset management industry. Please refer to the following link for further information:

<https://www.gipsstandards.org/Pages/index.aspx>

The GIPS standards are supported by a team of ten full time equivalent staff operating in our Charlottesville headquarters and New York, London and Hong Kong offices, and is part of the Ethics, Standards and Professional Conduct division co-headed by Leilani Hall, CFA, CIPM, CAIA who has responsibility for GIPS.

In addition to the GIPS standards, CFA Institute maintains and supports the Asset Manager Code: <https://www.cfainstitute.org/en/ethics/codes/asset-manager-code>;

the Pension Trustee Code of Conduct: <https://www.cfainstitute.org/en/ethics/codes/pension-trustee-code>;

and the Endowments Code of Conduct: <https://www.cfainstitute.org/en/ethics/codes/endowments-code>;

as well as the CFA Institute Code of Ethics and Standards of Professional Conduct (Code and Standards) to which every CFA Institute member or CFA Program candidate must adhere:

<https://www.cfainstitute.org/en/ethics/codes/code-of-ethics-and-standards-of-professional-conduct>

Paragraphs 12.96 and 12.97

With reference to your paragraphs 12.96 and 12.97 regarding support for an industry standard and specifically the IC Select Fiduciary Management Performance Standard which will transfer to CFA Institute, below is a brief overview of the development of fiduciary management standards in the UK.

In February 2015 CFA Institute was approached by Ralph Frank, CFA who had drafted a methodology for Fiduciary Management Analytics which drew on the GIPS standards. Mr Frank wanted to make sure CFA Institute was aware of his work and that it was not in conflict with anything being developed by CFA Institute. Concurrently CFA Institute was made aware of similar work being developed by IC Select, also based on GIPS. In early 2016, because of a career change, Mr Frank asked if CFA Institute would like to take the fiduciary management analytics work that he had done. CFA Institute compared the two bodies of work and determined that they were largely equivalent. In early 2017, following a number of discussions with IC Select, a member of the GIPS staff joined the IC Select Fiduciary Management Standard Steering Group with the intention of working with IC Select to continue to develop the standard, incorporate further GIPS related concepts, and transition responsibility to CFA Institute by January 1st 2020 and maintain the Fiduciary Management (FM) Standard as an additional product in the GIPS product line and promote the FM standard globally.

Introducing the FM standard as a product in CFA Institute's GIPS product line allows specific fiduciary management requirements to be incorporated without disrupting the GIPS standards or being constrained by existing requirements of the GIPS standards.

CFA Institute is jointly writing a memorandum of understanding with IC Select regarding the transition of the FM standard and is including the support of the FM standard in the 2019 GIPS budget.

GIPS is developed through the publication of question & answers, guidance statements and, periodically, with the release of a new edition. The GIPS development draws on the expertise of volunteers from the industry to address specific topics and the conclusions of those working groups and sub-committees are discussed by the GIPS Technical committee and the GIPS Executive committee. It is anticipated that the FM standard will continue to be developed using several of the members of the IC Select Working Group in consultation with the Fiduciary Managers, as it has been developed to date by IC Select, a process that works well and is inclusive of industry expertise and opinion.

Paragraph 12.97 states that 'The CFA Institute has indicated that the [IC Select Fiduciary Management] standard will be integrated into its Global Investment Performance Standards by January 2020 and be adopted on a voluntary basis.'

Regarding the voluntary basis and paragraph 12.100, the GIPS standard is envisaged as a self-regulatory standard with the market participants determining and recognising the benefit of firms complying with GIPS and this drives the adoption of GIPS. However, that does not preclude the GIPS standard from being mandated by a regulator for those firms over whom they have jurisdiction.

The GIPS standard requires a company to define and disclose the entity that will be claiming compliance with GIPS, as shown here:

https://www.gipsstandards.org/standards/Documents/Guidance/gips_definition_of_the_firm_clean.pdf and therefore a definition for the Fiduciary Management entity that must comply with the FM standard can be supported.

Within the GIPS standard, partly because the firm is responsible for stating its claim of compliance, with no independent checking required for the firm to make the claim, a concept of independent third-party Verification exists and is recommended. Guidance is provided regarding Verifier independence:

<https://www.gipsstandards.org/standards/Documents/Guidance/GuidanceStatementVerifierIndependencefinal.pdf>

and Verification:

https://www.gipsstandards.org/standards/Documents/Guidance/gips_verification_clean.pdf

Verification is intended to provide a firm and its prospective clients with additional confidence in the firm's claim of compliance. The verification procedures attempt to strike a balance between ensuring the quality, accuracy, and relevance of performance presentations and the claim made by the firm, and the cost to the firm.

While Verification is recommended in the GIPS Standards, a regulator could mandate that firms claiming compliance with GIPS must be Verified. That requirement is accommodated in GIPS through the provision that requires firms to '...comply with all applicable laws and regulations regarding the calculation and presentation of performance.' There are firms in the UK that could provide Verification of Fiduciary Management firms claiming compliance with the FM standard; of the UK firms that claim compliance with GIPS, 93% are Verified, slightly higher than the 86% of all firms globally.

Verification of compliance with the current IC Select Fiduciary Management standard is mandatory, with Verification undertaken by IC Select.

Paragraphs 12.98 and 12.99

In relation to your paragraphs 12.98 and 12.99, the claim of compliance with the GIPS standards is a claim made by the firm. Once the firm that is going to claim compliance is defined, all actual, discretionary, fee-paying portfolios must be treated according to the GIPS requirements; this concept is identical within the IC Select FM Performance Standard¹ which states that '...the formation of composites will form the basis of the performance standard. Compliance with a composite approach requires every pension fund managed on a fiduciary management basis to be placed in a composite.'² As with GIPS, the minimum required historical performance information to be presented for a composite is five years building to ten years or, if the composite inception date is within the last five years, since inception to date.³ The GIPS standard and IC Select FM standard⁴ both require a full, fair and comparable presentation of performance and performance related information through a combination of data and disclosures. While the format of the presentation is not prescribed, all the required elements must be presented. Cherry-picking, survivor bias, elimination of poor performers, representative accounts, and non-comparable time periods are eliminated with correct implementation of the standards. Improved governance through the requirement to document and maintain policies

¹ IC Select – Fiduciary Management Performance Standard version 4.8 Guideline 2

² IC select – Fiduciary Management Performance Standard version 4.8

³ IC Select – Fiduciary Management Performance Standard version 4.8 Guideline 7

⁴ IC Select – Fiduciary Management Performance Standard version 4.8 Guideline 6

and procedures used in establishing and maintaining compliance with the standards is also a characteristic of both GIPS and IC Select FM Standard. It is the issue raised in 12.98 regarding the lack of comparability that has been the driving force behind the development of the GIPS standards. In the introduction to the GIPS standards it states that 'Having one global standard for performance measurement and evaluation benefits two major groups: investment management firms and their clients and prospective clients. Investment management firms that comply with the GIPS standards allow clients, prospective clients, and consultants the best opportunity to fairly evaluate their past performance. Compliance enables a firm to fairly compete against other firms throughout the world. The GIPS standards also provide a realistic, standardized framework and outline internal controls that are necessary to ensure performance figures are directly comparable.'

Paragraphs 12.101 to 12.104

Regarding the development of a performance standard, CFA Institute has supported and maintained the GIPS standards and other codes and standards for over thirty years as part of supporting the members and candidates of CFA Institute and the CFA Institute mission, which is 'to lead the investment profession globally by promoting the highest standards of ethics, education and professional excellence for the ultimate benefit of society.' Likewise, the GIPS standards mission is to 'promote ethics and integrity and instill trust through the use of the Global Investment Performance Standards by achieving universal demand for compliance by asset owners, adoption by asset managers, and support from regulators for the ultimate benefit of the global investment community.'

The current governance structure for GIPS:

<https://www.gipsstandards.org/governance/Pages/index.aspx> consists of a global Executive Committee, supported by standing committees which are supplemented by working groups that are formed to address specific concepts as required. The chairs of the standing committees are members of the Technical sub-committee which in turn reports to the GIPS Executive Committee (EC). The EC is the only committee that authorizes changes to the GIPS standards. The EC reports directly to CFA Institute Board of Governors. The FM standard will be subject to the same governance structure: https://www.gipsstandards.org/governance/Documents/gips_governance_structure.pdf

We would not seek to pre-judge the responses to your provisional remedies from the fiduciary managers. However, if the outcome of these responses is to express support for the IC Select Fiduciary Management Performance Standard and its transfer to the CFA Institute as the way forward for fiduciary management performance measurement, then we consider that the formation of an implementation group drawn from the industry would be of limited value and may, inadvertently, delay the development of a performance standard for fiduciary management. Much of the work expected of the implementation group in your provisional view would duplicate the work already being undertaken by the Steering Group, Fiduciary Manager Forums and the consultation papers that have been issued.

If there is support for the current fiduciary management standard expressed in the responses you receive, we do not believe that there is a need for the proposed implementation group.

We would welcome the attendance of the CMA, FCA, or TPR, as appropriate, at the Steering Group or Fiduciary Management Forum meetings. The Steering Group minutes are available on the IC Select website.

Paragraph 12.105

In relation to paragraph 12.105, CFA Institute supports the GIPS standards through an e-mail driven Helpdesk available to anyone with questions concerning GIPS, periodic newsletters that contain all the developments in GIPS, and a dedicated website with support provided in many formats. The FM standard when transitioned to CFA Institute will be supported by these tools. Much of the supporting content is developed with input from third parties as well as CFA Institute staff.

CFA Institute also maintains trustee specific content to which guidance on the FM Standard, already available through the IC Select website, will be added and further guidance developed:

<https://www.cfainstitute.org/en/research/foundation/2011/a-primer-for-investment-trustees>;

<https://www.cfainstitute.org/en/about/press-releases/2015/cfa-institute-report-addresses-investment-professionals>;

<https://www.cfainstitute.org/ethics/codes/pension-trustee-code>

Paragraph 12.106

In respect to your paragraph 12.106, the formal transition of the FM Standard to CFA Institute is currently proposed to occur January 1st 2020. With the publication of your final report being on or before March 13th 2019, you propose a standard to be in place at the latest by November 13th 2019. IC Select and CFA Institute are very comfortable that the final development of the FM standard and its transition to CFA Institute can be achieved by November 13th 2019.

Paragraph 12.107, 13.54(c)

We believe that the work that has been undertaken by IC Select in conjunction with the consultation it has had with the Fiduciary Management Industry participants, which will be transitioned and maintained by CFA Institute, constitutes an acceptable standard for Fiduciary Managers. As the Fiduciary Managers have been engaged with the IC Select FM standard for several years, development to accommodate the requirements of the FM standard have already occurred and additional costs should therefore be contained.

CFA Institute and IC Select would welcome the opportunity to discuss any points raised in this response or any other issues that may help with your proposal.

Sincerely,

Roger Brown, Founder Director IC Select

Iain McAra, Director, Global Investment Performance Standards, CFA Institute

cc: Leilani Hall, CFA, CIPM, CAIA
Paul Smith, CFA