



Key Takeaways from the GIPS Standards Conference

The 25th Annual GIPS Standards Conference was held virtually on October 26th and 27th, 2021. While quite a bit of time was dedicated to the GIPS standards, the hot topic of the conference was the new SEC marketing rule.

If you registered and missed one or more of the presentations, you can still replay the sessions. If you missed the conference, you can still register and gain access to some of the sessions, including the SEC marketing rule presentation and some key GIPS standards sessions at:

<https://www.cfainstitute.org/research/multimedia/2021/25th-annual-gips-standards-virtual-conference>

Here are some key takeaways from the sessions on the 2020 version of the GIPS standards and the SEC marketing rule.

2020 version of the GIPS standards

During the update process to the guidance during the creation of the 2020 edition of the GIPS standards, a considerable amount of the guidance in Q&As and various Guidance Statements was incorporated into the GIPS standards Handbook. Consequently, the following Guidance Statements have been archived:

Asset Owners	Firm Definition
Alternative Investment Strategies	Performance Examinations
Broadly Distributed Pooled Funds	Performance Record Portability
Calculation Methodology	Private Equity
Carve Outs	Real Estate
Composite Definition	Recordkeeping
Error Correction	Significant Cash Flow
Euro Conversion	Use of Supplemental Information
Fees	Verification

There are three Guidance Statements that have been updated for the 2020 edition of the GIPS standards:

- Benchmarks
- Verifier Independence
- Wrap Fees

Additionally, many Q&As have been archived, some have been updated for 2020, and there are several new Q&As that have been issued that address 2020 topics, e.g., the guidance related to the expanded use of money-weighted returns.

There are also several new tools and resources available on the GIPS standards website, such as:

- GIPS standards Handbook
- supporting calculations for the GIPS standards Handbook
- sample error correction policy
- GIPS Reports comparison table
- GIPS Advertising Guidelines comparison table
- a spreadsheet that includes examples for methods to allocate cash for carve outs
- guidance for FINRA regulatory notice 20-21
- model RFP template

The GIPS standards website tools can be found at: <https://www.gipsstandards.org/resources/tools/>

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SEC Marketing Rule

Probably the hottest topic these days is the SEC Marketing Rule and what GIPS-compliant firms will need to know about reconciling the new SEC Marketing Rule to the requirements under the GIPS standards.

Investment advisers must comply with the new SEC Marketing Rule by November 4, 2022, so you'll have about a year from now to prepare. We wouldn't advise waiting until the last minute as some of these changes may create projects for your firm that will probably take some time to deal with, such as adding net returns to your GIPS reports. We also recommend reading the [SEC Marketing Rule Adopting Release](#). Performance advertising can be found on pages 163-237.

A key takeaway is how the SEC Marketing Rule addresses what is and is not considered an advertisement. The Adopting Release states, "If an adviser maintains a database of performance information inserts or tables that it uses in otherwise customized investor communication, the adviser must treat the duplicated inserts as advertisements subject to the rule." Since GIPS reports are typically standardized, these will generally be viewed as advertisements under the new SEC Marketing Rule.

So what does this mean for your firm? There is a lot of material to cover and this list includes most of the key takeaways, but items your firm may need to consider are:

- the inclusion of net returns if the firm has historically only shown gross returns;
- ensuring that the firm has invested an amount in its seed capital accounts sufficient to demonstrate the strategy to investors;
- addressing non-fee-paying portfolios to ensure they reflect the deduction of a model fee;
- reconciling the model fees used under the GIPS standards vs. the SEC Marketing Rule;
- adding additional time periods – the SEC Marketing Rule requires the 1-, 5-, and 10-year returns;
- reconciling the track record required under the GIPS standards vs. the SEC Marketing Rule – the GIPS standards require a minimum of 5 years, building to 10 years while the SEC Marketing Rule requires a 10-year track record;
- reconciling the differences between the GIPS standards and the SEC Marketing Rule with respect to portability – under the SEC Marketing Rule, if the tests are no longer met, e.g., the person primarily responsible for achieving the prior performance results leaves the firm, the ported performance can no longer be used; and
- addressing any carve out composites as they fall under the requirements of hypothetical performance under the new SEC Marketing Rule.

The item in the new SEC Marketing Rule that is probably receiving the most attention right now from feedback we've received is the requirement to update advertisements through the most recent calendar year-end within one month. One month! As you are probably aware, the GIPS standards only require that GIPS reports be updated within 12 months of the annual period end. And, under the new SEC Marketing Rule, it could be misleading to exclude more recent performance, e.g. year-to-date performance. The GIPS standards only require annual updates. We think there may be some relief here if we interpret this to mean that SEC-required data and information is updated in accordance with the SEC's requirements, but that the data and disclosures required under the GIPS standards is updated on your firm's current time frame.

I know this all sounds daunting, but we're here to help and there will be more to follow. We will have an upcoming webinar to address these items in detail. And as we learn more about the new SEC Marketing Rule through released Q&As, we will pass along this information.

If you have any questions, please contact Chris Spaulding at espaulding@spauldinggrp.com