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S7-04-04

March 15, 2004

Securities and Exchange Commission
c/o Mr. Jonathan G. Katz, Secretary
450 Fifth Street, N.W.
Washington, D.C. 20549-0609

Re: File No. S7-04-04 – Investment Adviser Codes of Ethics

Dear Sir or Madam:

The Investment Management Consultants Association appreciates the opportunity to comment on the Securities and Exchange Commission's recent proposal regarding Investment Adviser Codes of Ethics. We commend the commission for considering mechanisms that will promote public confidence in the investment adviser industry through professional integrity.

Our organization's mission includes promoting the highest standards of ethical conduct in the investment management consulting profession. We believe that ethical conduct is critical to assuring investor confidence. As a general matter, we believe a Code of Ethics is a critical element in that effort and that in order to be effective such a code should be a simple document that sets forth general principles which an investor can read, understand, and rely on. In addition, we believe that advisers should be required to adopt "Standards of Practice" that set forth in greater detail a set of common ideals covering the professional conduct of advisory personnel. This structure emphasizes and reinforces fiduciary obligations while also informing, *without overwhelming*, investors of the integrity and service they have a right to expect from professional investment advisers.

Who We Are

The Investment Management Consultants Association (IMCA[®]) is an international, non-profit, education organization founded in 1985 to educate the investment adviser. The organization's purpose is to promote professional conduct in the delivery of financial services through continuing education.

Over sixty percent of IMCA's members have completed a rigorous educational program conducted through The Wharton School, University of Pennsylvania, leading to the prestigious Certified Investment Management Analyst (CIMA[®]) designation. It is graduate-level work in investment strategies and theories and also covers legal, regulatory, and ethical issues. Professionals who achieve the CIMA designation have an average of 8-10 years in the securities business, and are required to maintain their accreditation through a stringent continuing education program. Many investment advisers in the United States, Canada, and Australia hold this designation.

The services CIMA designees provide to endowments, foundations, public funds, defined benefit and defined contribution plans, families, and individuals include:

- Advanced investment planning
- Performance measurement and evaluation
- Manager/fund search and due diligence
- Fiduciary and employee education
- Asset allocation modeling
- Asset liability studies
- Investment policy and guideline construction

Among our members are persons employed by national and regional brokerage and accounting firms, and many independent investment advisers who are self-employed or employed by non-brokerage consulting firms.

Significantly, IMCA has had a Code of Ethics, our *Code of Professional Responsibility*, in place for nearly 20 years. This *Code*, which was last revised in July 2003, has been adopted to promote and maintain the highest standard of personal and professional conduct in the investment management consulting profession. A copy of our *Code* is attached. All members of IMCA are expected to subscribe to our *Code*, which serves to assure public confidence in the integrity and service offered by professional investment management consultants. Adherence to the IMCA *Code* is required of all CIMA designees.

Why This Proposal is Important to Us

IMCA's role is to broaden the public's understanding of investment management consulting and to promote and protect the interests of the profession and the clients our members serve. We understand that investment advisers are more effective when client confidence is maintained through adherence to high standards of professional conduct. Thus, we agree with the premise behind the proposed rule and share the Securities and Exchange Commission's desire to prevent fraud and protect investors by reinforcing the fiduciary principles that govern the conduct of advisory firms and their personnel.

In fact, because this issue is central to our mission, IMCA not only established a Code of Ethics (our *Code of Professional Responsibility*), but also created *IMCA Standards of Practice* (also attached) which incorporate and expand on our *Code*. Our one-page comprehensive *Code* already includes provisions requiring, *inter alia*, investment management consultants to abide by standards of business conduct that reflect the consultant's fiduciary duties to serve the interests of the client, compliance with all applicable laws and regulations including federal securities laws, maintenance of client confidentiality by abstaining from use of nonpublic information, disclosure of conflicts of interest, and disclosure of all compensation received by the consultant. Our *IMCA Standards of Practice* expand on the *Code of Professional Responsibility* by providing practical guidance in a more detailed manner to investment management consultants with regard to conducting their practices and providing consulting services to clients.

What We Recommend

- **Standards of Conduct and Compliance with Laws:** While we agree with the basic premise of the proposed rule, we believe the best approach would be a system that emphasizes fiduciary obligations to both the client and the profession by requiring firms to adopt a simple Code of Ethics that would be readily accessible to investors and requiring firms to adopt more detailed Standards of Practice relating to employee conduct. The Code of Ethics should specify the general fiduciary obligations consultants have to clients such as serving the interest of the client,
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compliance with all applicable laws and regulations including federal securities laws, compliance with the Code of Ethics of any professional organization to which the consultant belongs (*i. e.*, IMCA), safeguarding of nonpublic information about client transactions, disclosure of conflicts of interest, and disclosure of all compensation received by the consultant. The Standards of Practice should cover each of these obligations in a more detailed manner as well as provide additional requirements regarding personal securities trading, investment in initial public offerings or private placements, reporting of violations, and acknowledgment of receipt of the Code of Ethics and Standards of Practice. In addition, firms should be required to implement procedures to educate employees about their ethical obligations, as well as inform employees periodically of any changes made to the Code of Ethics or Standards of Practice. In that regard, we recommend that firms should also be required to document annually that each employee has received at least one hour of ethics education during the preceding year.

- **Protection of Material Nonpublic Information:** IMCA agrees that access to sensitive client information should be permitted only on a “need to know” basis. In that regard, we recommend that computer files containing nonpublic information be identified and segregated, and that firms be required to integrate procedures designed to determine whether information has become public. However, we reiterate that this is exactly the type of detailed requirement that belongs in a firm’s Standards of Practice, and not in their Code of Ethics. The Code of Ethics should be limited to setting forth for an investor’s review the consultant’s obligation to safeguard material nonpublic information.

- **Personal Securities Trading:**

Personal Trading Procedures. IMCA appreciates the effort to provide a comprehensive set of rules, but believes the proposals regarding personal trading procedures are over-inclusive. As a general proposition, IMCA agrees with the majority of the proposed requirements such as maintenance of restricted lists, establishing and enforcing “blackout periods,” offering investment opportunities to clients first, prohibiting short-swing trading, and avoidance of conflicts of interest. However, IMCA disagrees with the following requirements: implementation of pre-clearance procedures, restrictions on the number of brokers or accounts allowed, and documentation of factors considered in developing procedures. These requirements detract from the purpose of instilling a “best practices” atmosphere, and result in a system of bureaucratic reporting and documentation. In that regard, we also recommend that rule 17j-1 and proposed rule 204A-1 be as uniform as reasonably possible in order to avoid any unnecessary additional administrative burdens.

Holdings and Transactions Reporting. The proposed timing of the various reporting requirements appears to be sufficient, although we reiterate that rule 17j-1 and proposed rule 204A-1 should be as uniform as reasonably possible to ease the administrative burden of reporting. With regard to who should be subject to the reporting requirements, individuals not already included in the definition of “access persons” who obtain information about the existing securities holdings in the adviser’s investment companies should *not* be considered “access persons” for that reason alone -- knowledge of existing securities does not equal knowledge of transactions or recommendations. However, “access persons” *should* be defined to include employees of companies that control or are controlled by the adviser. Furthermore, in order to assure that all “access persons” are acting above reproach in all of their personal transactions, they should be required to report their holdings and transactions in *all* mutual fund shares; provided, however, that access persons should *not* be subject to the holdings and transactions reporting requirements for investments in index

funds or variable annuity contracts unless the adviser or a control affiliate acts as the investment adviser or principal underwriter for the fund.

Finally, we note again that IMCA recommends that these types of detailed personal securities trading requirements be included in a firm's Standards of Practice, and not in the firm's Code of Ethics.

Conclusion

Clients seeking and requiring investment advice should expect that their investment adviser adheres to the most exacting standards of professional conduct. Thus, IMCA encourages the Securities and Exchange Commission to consider the recommendations contained herein, and to continue to consult with professional associations such as IMCA regarding investment adviser issues. By this letter, IMCA offers to serve as a resource to you in this and all other similar matters.

Sincerely,



Evelyn L. Brust, CAE
Executive Director
Investment Management Consultants Association

ELB/dm

cc: IMCA Board of Directors
Randy H. Hardock, Davis & Harman LLP

Enclosures

Investment Management Consultants Association

Code of Professional Responsibility

Each professional investment management consultant shall:

Serve the financial interests of clients. Each professional shall always place the financial interests of the client first. All recommendations to clients and decisions on behalf of clients shall be solely in the interest of providing the highest value and benefit to the client.

‡

Disclose fully to clients services provided and compensation received. All financial relationships, direct or indirect, between consultants and investment managers, plan officials, beneficiaries, sponsors or any other potential conflicts of interest shall be fully disclosed on a timely basis.

‡

Provide to clients all information related to the investment decision making process as well as other information they may need to make informed decisions based on realistic expectations. All client inquiries shall be answered promptly, completely, and truthfully.

‡

Maintain the confidentiality of all information entrusted by the client, to the fullest extent permitted by law.

‡

Comply fully with all statutory and regulatory requirements affecting the delivery of consulting services to clients.

‡

Endeavor to establish and maintain excellence personally and among colleagues in all aspects of investment management consulting and all aspects of financial services to clients.

‡

Support and participate in the activities of the Investment Management Consultants Association to enhance the investment management consulting profession.

‡

Maintain the highest standard of personal and professional conduct.





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IMCA STANDARDS OF PRACTICE



INVESTMENT MANAGEMENT CONSULTANTS ASSOCIATION

In October 2001, the IMCA board of directors reviewed the proposed standards and recommended them to IMCA members. After review and comment by the industry, the board adopted the Standards of Practice in July 2002.

INVESTMENT
MANAGEMENT
CONSULTANTS
ASSOCIATION

IMCA

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BACKGROUND

The Investment Management Consultants Association was founded in 1985 to promote professional education and assure the highest standards of competence and ethical behavior among investment consultants. Through its conferences, publications, legislative services, and certification programs, IMCA has helped investment consultants pursue these important normative goals. Additionally, IMCA has promulgated a series of written standards for investment professionals to follow. By setting high standards for the consulting profession, IMCA strives to improve client confidence and increase the effectiveness of consultants.

IMCA's *Performance Reporting Standards* were adopted in 1993. Those standards cover the collection and analysis and reporting of performance data to clients. IMCA's *Standardized Investment Manager Questionnaire* provides consultants with a tool to discover critical information about money managers, and it has become an important tool used throughout the profession. The *IMCA Code of Professional Responsibility* was adopted in 1985 to promote and maintain the highest standard of personal and professional conduct in the investment management consulting profession. All members of IMCA are expected to subscribe to the code, which serves to assure public confidence in the integrity and service offered by professional investment management consultants. Adherence to the Code is required of all IMCA Certified Investment Management Analysts and Certified Investment Management Consultants. IMCA's *Guidelines for Consultants Regarding the Acceptance of Benefits from Third Parties* serves to safeguard clients from conflicts of interest and increase the trust between consultant and client by ensuring that consultant remains objective.

A survey of our members revealed that 90 percent thought IMCA should develop and publish general "common sense" standards of practice for the investment consulting profession. In the fall of 2000, the IMCA Practice Standards Board was formed. This board broke into four subgroups to work on their charge, which was to "establish IMCA as the standards setter for the profession by developing standards of practice, to invite review of new standards and to publish those standards."

IMCA is now releasing the final *IMCA Standards of Practice* to provide practical guidance to investment management consultants in the course of conducting their practices and providing consulting services to clients. The *IMCA Standards of Practice* are closely related to other codes and standards developed by IMCA, including the *IMCA Code of Professional Responsibility* and *IMCA Performance Reporting Standards*, and should be used in conjunction with these codes.

In general, the *IMCA Standards of Practice* are common-sense rules of conduct. However, we believe consultants will find them helpful in addressing specific situations that arise in the normal course of conducting a consulting practice. Consultants should also make it clear to clients and colleagues that they endorse and abide by these *Standards*. Violations of the *Standards* are governed by the IMCA Complaint Resolution Procedure for Matters Involving Certified Investment Management Analysts and Certified Investment Management Consultants.

The committee divided the document into five areas of responsibility:

Standard 1: Professional Responsibility

Standard 2: Responsibilities to the Client

Standard 3: Responsibilities to the Public

Standard 4: Responsibilities to the Profession

Standard 5: Responsibilities to the Employer

The professional responsibility section is a re-iteration of the existing *Code of Professional Responsibility*. The other four standards are divided into discreet categories that allow the reader to weigh the various responsibilities one by one.

Each standard is presented in a uniform template that includes a brief statement of the standard, an explanation of the standard, procedures for compliance with the standard and language describing the impact of the standard. For example, the impact of "the consultants responsibility to disclose all compensation" is as follows: "by eliminating the potential for conflicts of interest through the disclosure of compensation and its sources, the consultant enhances the reputation of the consulting professional and IMCA."

ACKNOWLEDGMENTS

In distributing these practice standards, IMCA would like to thank the experienced professionals who generously gave their time and expertise to serve on the various committees and provide their insights on the practice of investment consulting.

- Ron Surz, CIMA, PPCA Inc., IMCA Practice Standards Board Chair
- Leonard Armstrong, CIMA, Merrill Lynch, Responsibilities to the Client
- Bertram Schaeffer, CIMA, Ernst & Young, Third-party affiliations and Performance Reporting Standards
- Roger Mirka, CIMA, RBC Dominion Securities, Use of non-public information and CIMA designation
- Edward Regan, CIMA, The Regan Group, Inc., Advertising and communications
- Neil Swain, CIMA, Structured Portfolio, Inc., Comments before regulatory organizations
- Jay Shein, CIMA, Compass Financial Group, Inc., Professional conduct
- Martin Franks, CIMA, Richardson Recruiting Services, Inc., Proper use of professional designations
- Benjamin Tobias, CIMA, Tobias Financial Advisors, Continuing education and plagiarism
- Vic Rosasco, CIMA, Prudential Financial, Responsibility to inform employer of IMCA codes and standards
- Wayne Morris, CIMA, Soloman Smith Barney, Disclosure of conflicts of interest
- Dave Ferrier, CIMA, retired, Disclosure of additional compensation
- Keitha Kinne, CIMA, Prudential Investments, Responsibilities of supervisors

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STANDARD 1: Code of Professional Responsibility

Each professional investment management consultant shall:

- Serve the financial interests of clients. Each professional shall always place the financial interests of the client first. All recommendations to clients and decisions on behalf of clients shall be solely in the interest of providing the highest value and benefit to the client.
- Disclose fully to clients services provided and compensation received. All financial relationships, direct or indirect, between consultants and investment managers, plan officials, beneficiaries, sponsors or any other potential conflicts of interest shall be fully disclosed on a timely basis.
- Provide to clients all information related to the investment decision making process as well as other information they may need to make informed decisions based on realistic expectations. All client inquiries shall be answered promptly, completely, and truthfully.
- Maintain the confidentiality of all information entrusted by the client, to the fullest extent permitted by law.
- Comply fully with all statutory and regulatory requirements affecting the delivery of consulting services to clients.
- Endeavor to establish and maintain excellence personally and among colleagues in all aspects of investment management consulting and all aspects of financial services to clients.
- Support and participate in the activities of the Investment Management Consultants Association to enhance the investment management consulting profession.
- Maintain the highest standard of personal and professional conduct.

STANDARD 2: Responsibilities to the Client

- ◆ *STANDARD 2a:
A Consultant's Responsibility to Assist in Achievement of
Client's Financial Goals*

Explanation Consultants have a responsibility to make the client's financial goals their highest priority. All recommendations must be made solely in the client's interests and intended to assist clients in reaching their financial goals.

Procedures for Compliance Each client, whether institutional or individual, must have full confidence that the consultant will make objective, well-researched recommendations based on the client's goals and best interests.

All consultants shall notify clients of their intent to provide unbiased, candid, informed recommendations intended solely to assist clients in reaching their financial goals and to promote the clients' best interests.

First and foremost, in order to determine the client's goals, the consultant shall profile each client to determine rate of return objectives, risk tolerance, time horizons, and tax status. Initial and ongoing recommendations shall be based upon the client's goals, both as originally determined and as they change over time. When conflicts or the potential for conflicts arise, the client must be fully advised of the situation. Without full disclosure of the consultant's role or the role of their firm in any potential conflict of interest, the client's best interests may be compromised.

In addition to the IMCA Standards of Practice and Code of Professional Responsibility, consultants shall adhere to their firm's code of conduct and compliance. If at any time, consultants believe that they cannot comply with these standards, they should resign their contract with the client.

Impact of the Standard The professional responsibility implied by this standard is the very basis for clients' engaging a consultant on their behalf. Continual understanding, conveyance, and adherence to this standard enhance the stature of the client/consultant relationship and that of the investment consultant profession. Without compliance, trust—the most important aspect of the client/consultant relationship—cannot exist, and the balance of these Standards becomes irrelevant.

◆ **STANDARD 2b:**
A Consultant's Responsibility to Disclose All Compensation

Consultants have a responsibility to disclose to clients all compensation in all forms and amounts received for consulting services provided.

Explanation

Client knowledge of compensation received for services rendered by the consultant establishes a relationship of trust between the parties. The disclosure of compensation as well as of any financial relationships between the consultant and service providers builds an ethical bridge in the relationship. Disclosure of all compensation, and the sources of such compensation, also eliminates the potential for conflicts of interest between the client and consultant.

Procedures for Compliance

Consultants shall annually review all compensation received for consulting services rendered, and report to the client any additional compensation beyond that which the client may reasonably be expected to know.

Impact of the Standard

By eliminating the potential for conflicts of interest through the disclosure of compensation and its sources, the consultant enhances the reputation of the consulting professional and IMCA.

◆ **STANDARD 2c:**
A Consultant's Responsibility to Provide All Pertinent Information

It is the responsibility of the consultant to provide each client with all requested information as well as all information available to the consultant that enables the client to make informed decisions.

Explanation

In a world where huge amounts of information are easily available via the Internet and other sources, clients can access data that may or may not be relevant to their situations or that may be biased or incorrect. Even if relevant, correct, and unbiased, information and data do not translate to experience and knowledge. The consultant is responsible for fully researching all available information, determining the implications of that information for the client's situation, and providing full and objective comments.

Procedures for Compliance

Consultants have a professional responsibility to research every relevant and applicable situation presented to them by clients to the fullest extent possible. In all instances, the consultant must inform the client of all aspects known to be relevant to a particular situation, positive or negative. Information shall be presented in an objective and unbiased manner to assist clients in understanding progress toward their goals. This information shall also be made available with a frequency that ensures meaningful communication between the consultant and client. Such information shall relate directly to the client's goals and financial situations.

Impact of the Standard

By complying with this standard and presenting all information known to the consultant regarding the client's situation, consultants can help clients weigh the impact of their decisions in the light of full disclosure. This enhances the reputation of the consulting profession and IMCA as the professional sources of information, applicability, and objectivity.

◆ **STANDARD 2d:**
A Consultant's Responsibility to Maintain Client Confidentiality and Privacy

Consultants have a responsibility to maintain the full privacy and confidentiality of all information provided to them by both institutional and individual clients.

Explanation

Institutions, including public funds, and individuals not only have the right to but the need for highly professional, candid, and confidential relationships with their consultants. In order to provide informed professional advice, a consultant must have access to all relevant information involving a client's financial situation, investment status, and goals. By acknowledging the privacy policy relating to the confidentiality of client information and the client/consultant relationship, the consultant will be more likely to obtain a full and candid disclosure of the required information.

Procedures for Compliance

Consultants shall advise clients of the privacy policy that applies to their relationship and assure them that all information gathered is of a strictly confidential nature. In addition, the compliance officer at the consultant's firm shall be notified of Standard 2d and the consultant's code of confidentiality.

All client records and information relating to financial situations and goals shall be kept private and confidential by the consultant. Even the disclosure of a client's name without obtaining prior permission from the client is prohibited. The use of client lists that may influence a potential client's decision relative to a consultant's capability is discouraged.

If professional references are requested by new or potential clients, consultants must obtain approval from existing clients in similar industries and situations prior to disclosing the names of these clients. On no occasion shall the consultant disclose the financial status, goals, structure, or other information relating to any client to any other person or body unless legally required to do so. While certain situations may have similar structures and resolutions, any disclosure of a client's situation disenfranchises the privacy of the client/consultant relationship.

Regarding public funds, consultants may provide, if requested, information that exists in the public domain regarding public fund clients.

Impact of the Standard

Adherence to this standard improves the disclosure of information between the consultant and client and heightens the professionalism of the relationship.

◆ **STANDARD 2e:**
A Consultant's Responsibility to Maintain Competence

Consultants have a responsibility to maintain competence through the highest ethical, professional, and ongoing educational practices within their means.

Explanation

The ability to render advice in a knowledgeable, professional, candid, and objective fashion is a basic requirement for establishing client trust. In order to have confidence in the advice being rendered, the client must have reason to fully trust the consultant's competencies and capabilities.

Procedures for Compliance

Consultants shall advise clients, partners, and their firms of their commitment to upholding professionalism through compliance with this standard.

Impact of the Standard

By adhering to this standard, the consultant assures clients that their consulting needs will be met competently and professionally.

STANDARD 3: Responsibilities to the Public

▲ *STANDARD 3a:* *A Consultant's Responsibility to Abstain from Use of Material Non-public Information*

Consultants who receive material non-public information in confidence have a responsibility to abstain from disclosure or use of that information, whether or not such use would cause harm to a client.

Explanation

By nature of their profession, consultants hold a unique position of trust and are bound by rules of professional confidentiality. Unless required by law, they may not disclose private information revealed by reason of that profession or position.

Procedures for Compliance

Consultants shall not disclose any confidential client information without the specific consent of the client unless in response to proper legal or regulatory processes. The use of client information for personal benefit is improper, even if it does not cause harm to the client.

Consultants who possess material non-public information related to the value of a security shall not trade or cause others to trade in that security if such trading would breach a duty or if the information was misappropriated or relates to a tender offer. If material non-public information is disclosed in breach of a duty, the consultant shall make all reasonable efforts to achieve public dissemination of such information.

Impact of the Standard

Adherence to this standard enhances the reputation of consultants, both professionally and personally, and helps to ensure that Certified Investment Management Analysts, Certified Investment Management Consultants and IMCA members are recognized as maintaining the highest standards of conduct.

▲ **STANDARD 3b:*****A Consultant's Responsibility to Make Proper Use of Certified Investment Management Analyst and Certified Investment Management Consultant Designations***

Consultants have a responsibility to ensure that the Certified Investment Management Analyst (CIMA) and Certified Investment Management Consultant (CIMC) designations are used only by those who have completed the CIMA or CIMC certification programs and who meet IMCA's continuing education requirements. Specifications for proper use of the designations have been established by IMCA.

Explanation

The Certified Investment Management Analyst (CIMA) and Certified Investment Management Consultant (CIMC) designations are intended to enhance public awareness of the investment management consulting profession and reflect the high standards set by IMCA. To protect the status of these designations, their use has been regulated by IMCA. CIMA and CIMC licensees are to use these designations only in ways approved by IMCA.

Procedures for Compliance

Only those individuals who successfully complete the associated certification program and who meet IMCA's ongoing continuing education requirements may use the Certified Investment Management Analyst (CIMA) or Certified Investment Management Consultant (CIMC) designations. These individuals are encouraged to use these references, only in a proper, dignified, and judicious manner.

Qualified individuals may use either the full name or the acronym verbally, in print, in advertisements, on business cards and letterhead, and in marketing brochures. CIMA and CIMC licensees must obtain authorization as required from their firm's compliance department for use of the designation on business cards, letterhead, and other printed forms. When using the CIMA or CIMC logo or designation in printed materials, only IMCA-approved artwork, fonts, and positioning may be used, as specified in the IMCA Graphic Standards Manual. Neither reference may be used as any part of a business name. The designation may not be used in any form that does not comply with current IMCA guidelines without the express written approval of IMCA prior to any such use.

The use of either reference may be accompanied by an explanation of the requirements that have been met in order to earn the CIMA or CIMC designation. Any explanation of the designation must be quoted directly in the approved form and language as outlined by IMCA.

Continued use of the CIMA or CIMC designation is dependent upon meeting continuing education requirements, as determined by IMCA, as well as strict adherence to the IMCA Standards of Practice and Code of Professional Responsibility.

Impact of the Standard

As the public's understanding of investment management consulting is broadened, adherence to this standard and standardized usage of the CIMA or CIMC designation will enhance recognition of CIMA or CIMC certification as representing the highest standard in consulting expertise.

▲ **STANDARD 3c:**
A Consultant's Responsibility to Be Fair and Accurate in Advertising and Communications

It is the responsibility of the consultant to act with integrity, dignity, and honesty and to maintain the highest standards of ethics in all forms of communication.

Explanation

Consultants are prohibited from using communications, written or oral, in conjunction with professional services that contain false, fraudulent, misleading, deceptive, or unfair statements or claims. This includes, but is not limited to, a statement or claim that:

- Contains a misrepresentation of fact
- Fails to make full disclosure of relevant facts in a way that is likely to mislead or deceive
- Creates false or unjustified expectations of favorable results
- Implies educational or professional attainments or licensing recognition not supported in fact
- Represents that professional services can or will be competently performed for a stated fee when this is not the case or makes representations with respect to fees for professional services that do not disclose all variables that may reasonably be expected to affect the fees that will in fact be charged
- Contains other representations or implications that in reasonable probability will cause a person of ordinary prudence to misunderstand or be deceived

Procedures for Compliance

Consultants shall maintain the highest standards of ethics when using the media in any manner, whether for advertising or in interviews, scheduled or unscheduled.

Consultants shall not copy or use material in substantially the same form as the original prepared by another without acknowledging and identifying the name of the author, publisher, or source of such material. Consultants may use, without acknowledgement, factual information published by recognized financial and statistical reporting services or similar sources.

Any use of performance track records must not be misleading or deceptive. Returns shall be computed and communicated in compliance with IMCA's Performance Reporting Standards.

Communications shall make a clear distinction between fact and opinion. Clear distinction shall also be made between a consultant's personal standards, positions, and/or opinions and the standards, positions, and/or opinions of IMCA, the consultant's employer or firm, and associated brokers/dealers/agencies, should there be any variation.

CIMA and CIMC licensees may not use their CIMA or CIMC designations in any form of advertising or communication, written or oral, unless their continuing education requirement has been fulfilled. IMCA membership or CIMA and CIMC designations may be referenced only in a dignified and judicious manner. The reference to the CIMA and CIMC designations may be accompanied by an accurate explanation of the requirements, competency, and professional application that are associated with the right to use such designation. The use of any statement misrepresenting the nature of membership in IMCA or the CIMA and CIMC designations are forbidden.

Impact of the Standard

Adherence to this standard ensures that IMCA and the CIMA and CIMC designations are associated with honesty, accuracy, and fairness. This, in turn, ensures that IMCA members, especially CIMA and CIMC licensees continue to be held in high regard.

▲ **STANDARD 3d:**
A Consultant's Responsibility to Maintain the Highest Standards in Commenting before Regulatory Organizations

The consultant has a responsibility to act with integrity, dignity, and competence, maintaining the highest standards of ethics, when appearing before or submitting comment to a regulatory body or organization.

Explanation

To uphold the high standards set by IMCA and protect the reputation of the consulting profession, consultants may not engage in any comment, testimony, or act that would compromise the integrity of IMCA, the CIMA or CIMC designation, or the profession as a whole.

Procedures for Compliance

Consultants must exercise due diligence and thoroughness in making all public comments, testimony, recommendations, or actions. Consultants shall ensure that their comment, testimony, recommendation, or action is appropriate, judicial, accurate, and reasonable to the highest extent possible and have a reasonable and adequate basis, supportable through proper research and investigation, for any position put forth. Consultants shall not hold forth any comment or act involving a dishonest, fraudulent, deceitful, or misrepresentative position. Consultants shall disclose all matters relevant to their intended comment, testimony, or action. This disclosure includes, but is not limited to:

- Conflicts of interest concerning clients, prospects, employers, firms, or individuals
- Beneficial compensation, fees, or ownership
- The inclusion or exclusion of material or relevant factors in the preparation of comment, testimony, recommendations, or actions.

In presenting their comments, consultants shall make a clear distinction between fact and opinion. Consultants shall also make a clear distinction between their personal standards, positions, and/or opinions and the standards, positions, or opinions of IMCA, their employers or firms, and/or associated brokers/dealers/agencies, should there be any variation.

IMCA membership may be referenced only in a dignified and judicious manner. Consultants who have earned and maintained the right to use the CIMA or CIMC designation may, and are encouraged to, refer to their designation, but only in a proper, judicious, and dignified manner. The use of this reference may be accompanied by an accurate explanation of the requirements, competency, and professional application that are associated with the right to use such designation. Consultants may not make any statement misrepresenting the nature of membership in IMCA or the CIMA and CIMC designation.

Impact of the Standard

By following these standards, consultants ensure that the best interests of the public are served while helping to maintain the highest regard for membership in IMCA and the CIMA and CIMC designation.

▲ **STANDARD 3e:**
A Consultant's Responsibility to Disclose Third-Party Affiliations

Consultants have a responsibility to fully disclose the nature and amount of any and all compensation, direct and indirect, paid to a non-affiliated third party who refers, solicits, or otherwise assists the consultant in obtaining clients.

Explanation

Subject to the law and/or regulations of any governmental or regulatory body, nothing in these Standards precludes consultants from compensating a non-affiliated third party for referring, soliciting, or otherwise assisting the consultant in obtaining clients. IMCA believes, however, that it is in the best interests of the public that all financial arrangements, direct and indirect, associated with the relationship between the consultant and clients or prospective clients be fully disclosed. Disclosure of financial arrangements between consultants and third-party solicitors is also consistent with the spirit of the disclosure provisions of the IMCA Code of Professional Responsibility.

Procedures for Compliance

In addition to the disclosure that may be required by federal or state law and regulation, the amount and nature of the compensation paid or payable to the third-party solicitor must be fully disclosed in the written contract and/or written services agreement between the consultant and client.

Impact of the Standard

This standard ensures that all clients and prospective clients can be confident that a full disclosure will be made of all financial arrangements between consultants and third parties, including third-party solicitors, associated with the relationship between the client and consultant.

▲ **STANDARD 3f:**
*A Consultant's Responsibility to Comply with IMCA
 Performance Reporting Standards*

Consultants have a responsibility to use their best efforts to comply with the mandatory requirements and disclosures of IMCA's Performance Reporting Standards and to use reasonable efforts to comply with the recommended requirements and disclosures of those Standards.

Explanation

IMCA believes that the best interests of the public are served by the adoption of a uniform and consistent approach to the analysis and reporting of performance information for manager search and analysis and performance measurement reporting. Therefore, IMCA has established Performance Reporting Standards that cover the collection, analysis, and reporting of performance information for manager search and analysis and performance reporting.

These Performance Reporting Standards stress the importance of providing accurate and comparable investment performance information and appropriate disclosures to clients during manager search and analysis and performance measurement reporting. The mandatory and recommended disclosures relate to the preparation of information provided to the client or prospective client as well as to the disclosure of potential conflicts of interest, relevant business relationships, and other pertinent items.

**Procedures for
Compliance**

IMCA recognizes that the terms "best efforts" and "reasonable efforts" are subject to interpretation. IMCA further recognizes that the employment status of consultants includes individuals who control the policies of their firms as well as persons who have little or no influence or control over the policies of their firms.

For consultants who control the policies of their firms, the term "best efforts" shall mean that the consultant must comply with the mandatory requirements and disclosures of the Performance Reporting Standards. For those consultants who do not control the policies of their firms, the term "best efforts" shall mean that if the firm does not comply with the mandatory requirements and disclosures of the Standards, the consultant must submit a written request for compliance to those persons who control firm policies. Further, to the extent that consultants who do not control the policies of their firms can reasonably comply with the mandatory requirements, and such compliance is not in conflict with the policies of their firms, the consultant must comply.

All consultants must also take reasonable efforts to comply with the recommended requirements and disclosures of the Standards. In determining whether efforts to comply are reasonable, consultants should take into consideration, among other things, their position with the firm and their ability to influence and/or control firm policy, available personnel and technological resources, and the time and costs that are required to comply with the recommended requirements.

Impact of the Standard

Compliance with the IMCA Performance Reporting Standards instills confidence in the public that manager search information and client performance reporting are being presented fairly and accurately. Compliance with the Standards also enables clients to make informed investment manager selection decisions and manager performance evaluations.

STANDARD 4: Responsibilities to the Profession

- **STANDARD 4a:**
A Consultant's Responsibility to Make Proper Use of Professional Designations

Consultants have a responsibility to use care in promoting their professional designations, including the CIMA and CIMC designations.

Explanation

To maintain the status implied by a professional designation, consultants who have earned such designations should display their accomplishments in a proper and dignified manner.

Procedures for Compliance

Holders of professional designations must present the mark correctly, e.g., Certified Investment Management Analyst or CIMA and Certified Investment Management Consultant or CIMC licensee, and may use the mark only if currently entitled to do so. On signage, business cards, or stationery, the mark may not be listed in words larger than designee's name. Marks may not be misrepresented in any way.

Impact of the Standard

Compliance with this standard conveys professional courtesy and fairness and promotes respect for professional designations.

■ **STANDARD 4b:**
A Consultant's Responsibility to Abide by Regulations and Principles

Consultants have a responsibility to make every effort to understand and comply with regulations and rules that are applicable to their specific positions and duties.

Explanation

In addition to the Standards presented in this booklet, consultants are governed by various rules, including fiduciary obligations, statutes of government regulatory agencies, and rules of self-regulatory organizations. These rules and standards should be followed at all times.

Procedures for Compliance

Consultants must maintain knowledge of all rules and regulations that govern their profession. They must abide by these rules or obtain exceptions from the appropriate authority as necessary.

Impact of the Standard

Compliance with all applicable rules and regulations assures that the integrity of the consulting profession is upheld, competition is fair, and clients are well served.

■ **STANDARD 4c:**
A Consultant's Responsibility to Maintain Knowledge Base Through Continuing Education

Consultants have a responsibility to stay current with changes in their field and to expand their knowledge beyond the formal coursework taught in the pursuit of a designation. This is achieved primarily through continuing education.

Explanation

As times change, new ideas, investments, and laws are constantly introduced. To ensure that clients are well served, consultants must stay abreast of these changes and maintain competency in their profession.

Procedures for Compliance

At a minimum, a consultant who holds a professional designation shall fulfill the continuing education requirements established for that designation. Consultants should also keep informed about broader issues involving the fields of investment management and consulting. Fulfilling this obligation may require more than attending the minimum number of classes needed to maintain a professional designation. A consultant could fulfill this responsibility by additional means, e.g., reading journals, undertaking self-study, attending appropriate study groups.

Consultants shall not accept engagements unless they are competent in the specific area of expertise involved. If offered an engagement in an area where they are not competent, consultants shall either not accept the client, until and unless they have been able to obtain the appropriate level of competence, or seek the advice of qualified professionals and/or refer clients to those professionals.

Impact of the Standard

Compliance with this standard ensures that consultants fulfill their obligation to maintain a certain level of competence through continuing education and thereby continue to serve the best interests of the client.

■ **STANDARD 4d:**
A Consultant's Responsibility to Avoid Plagiarism and Other Forms of Theft

It is the responsibility of the consultant to avoid using or copying materials prepared by another without proper authorization and acknowledgement.

Explanation	In addition to being unprofessional, plagiarism and other forms of theft are illegal.
Procedures for Compliance	<p>If consultants wish to use the work of others, they must obtain the necessary permissions and include appropriate acknowledgments. Such acknowledgement includes, but is not limited to, identifying the author, publisher, and/or source of the material. While factual information such as that published by recognized financial and statistical reporting services may be used without acknowledgement, credit must be given to conclusions made by others that have been derived from the factual information.</p> <p>Acknowledgement is to be made regardless of the medium used for communication (e.g., print, verbal, electronic). Acknowledgement may be made in the body of the communication or reference made in the body of the communication to a footnote that is easily available.</p>
Impact of the Standard	Compliance with this standard promotes continued research and analytical efforts in the areas of investment management, performance, and consulting. Those who contribute to the consulting profession in this way may reconsider their efforts if their work is plagiarized.

■ **STANDARD 4e:**
*A Consultant's Responsibility to Conduct Business
 and Personal Affairs Professionally and Ethically*

Consultants have a responsibility to avoid conduct, in both their business and personal lives, that exhibits a lack of honesty, trustworthiness, or fitness to practice as a consulting professional.

Explanation

This standard goes beyond the requirements for technical compliance with rules and regulations and focuses on the integrity of consultants by prohibiting any professional or personal behavior that discredits the profession as a whole.

**Procedures for
Compliance**

In all professional and personal activities, consultants shall abide by applicable laws and regulations, including those of IMCA. Consultants shall not engage in any acts of dishonesty, fraud, or misrepresentation that reflect negatively on professional competence or acts that indicate a general disrespect for the law. Examples of such acts can include, but are not limited to:

- Acts resulting in conviction of a felony
- Acts resulting in conviction of a misdemeanor involving moral turpitude (e.g., lying, cheating, stealing)
- Conduct that compromises the integrity of the CIMA and CIMC designations or the consulting profession as a whole

In addition to self-regulatory agencies such as the National Association of Securities Dealers, the investment industry is regulated by government agencies, including the Securities and Exchange Commission and the Department of Labor, which monitor conduct and take disciplinary action in cases of unethical behavior. IMCA's procedures for investigating complaints against CIMA and CIMC licensees and implementing disciplinary action, if required, are outlined in the IMCA Complaint Resolution Procedure for Matters Involving Certified Investment Management Analysts and Certified Investment Management Consultants.

On the whole, however, compliance with standard 4e is a matter of a consultant's own personal integrity and moral character. Each consultant must be aware of the implications of all professional and personal actions. Any conduct that reflects poorly on the individual, the employer or firm, or the profession as a whole should not be tolerated. General compliance with this standard can be enhanced by strict observation of the following broad guidelines:

- Abide by all statutory and regulatory requirements involving the delivery of consulting services
- Establish and maintain a standard of excellence in all aspects of investment management consulting
- Participate in IMCA activities designed to improve the consulting profession and uphold its reputation
- Maintain the highest standard of personal conduct at all times

**Impact of the
Standard**

In conjunction with the IMCA Code of Professional Responsibility, compliance with this standard helps to promote and maintain the highest standard of personal and professional conduct in the investment management consulting profession. This, in turn, serves to assure public confidence in the integrity and services offered by professional investment management consultants.

STANDARD 5: Responsibilities to the Employer

- *STANDARD 5a:
A Consultant's Responsibility to Inform Employer of
IMCA Codes and Standards*

Consultants shall make employers aware of the IMCA Code of Professional Responsibility and Standards of Practice.

Explanation

Informing employers about the IMCA Code and Standards promotes awareness of professional responsibility and ethical practices and thereby increases consultants' adherence to these rules of conduct. In addition, the Standards may serve as the basis of employee programs within the consultant's organization designed to enhance ethical awareness and advocate honesty in interactions with clients.

Procedures for Compliance

Consultants shall provide copies of the IMCA Code of Professional Responsibility and Standards of Practice to the appropriate persons within their organizations, typically their supervisors and/or compliance officers.

Impact of the Standard

By assuring the dissemination of the IMCA Code and Standards to supervisory individuals responsible for overseeing consultant practices, Standard 5a assists the employer in supervision of the consultant's interaction with clients and adherence to professional standards.

- **STANDARD 5b:**
A Consultant's Responsibility to Disclose Conflicts of Interest

Consultants shall disclose to employers all situations, ownership of securities, and/or memberships on boards or in organizations that could reasonably interfere with their duty to employers or their ability to make unbiased and objective recommendations and decisions regarding their consulting clients.

Explanation

This standard protects employers and, indirectly, clients by requiring consultants to disclose those situations and actions that may result in a conflict of interest.

Examples of these disclosures include:

- Recommending that clients invest in companies that use the consultant's services
- Holding a seat on the board of an organization that employs them as a consultant
- Maintaining a relationship with an investment advisor that could result in a conflict of interest

Procedures for Compliance

Consultants should notify their employers in writing of any situation that could lead to a conflict of interest, as outlined above. The consultant should retain copies of such notification.

Impact of the Standard

Adherence to this standard assures that potential conflicts of interest are identified and addressed in a proactive, rather than reactive, manner, thereby minimizing potential loss of business and/or credibility.

- **STANDARD 5c:**
A Consultant's Responsibility to Disclose Additional Compensation

It is the responsibility of consultants to disclose and obtain written approval from employers prior to accepting any compensation and/or benefits from clients or consulting related third parties that are in addition to compensation and benefits provided by employers.

Explanation

The purpose of this standard is to avert conflicts of interest and ensure objectivity in the delivery of consulting-related services to clients. Adherence to this standard should prevent the consultant from providing nonobjective advice or preferential treatment to any client. Under this standard, the consultant is barred from receiving compensation from outside sources or third parties without the approval of the employer. This includes payments to vendors by third parties for services that are for the benefit of the consultant.

Procedures for Compliance

Before entering into any compensation arrangement that has not been authorized or granted by the consultant's employer, the consultant must first disclose and obtain approval for the arrangement in writing. Additionally, the consultant may only provide services offered by the firm at the firm's stated fee schedules. The provision of additional services or the charging of fees not approved by the employer is prohibited.

Impact of the Standard

Adherence to this standard prevents the consultant from entering into compensation arrangements that could impair the consultant's ability to render objective and unbiased advice to each client.

- **STANDARD 5d:**
A Consultant's Responsibility to Exercise Reasonable Supervision

Consultants acting in a supervisory capacity (responsibility and authority over others) have a responsibility to exercise reasonable supervision to prevent, detect, and correct violations of the IMCA Standards of Practice.

Explanation

This standard helps to ensure that the IMCA Standards of Practice are carried out in a uniform and ethical manner by all employees in their relationships with consulting clients. To achieve this goal, supervisors should have a thorough and current understanding of the Standards and establish and implement compliance guidelines and procedures for employees to follow.

Procedures for Compliance

Through knowledge and periodic review of the IMCA Standards, supervisors are responsible for making a reasonable effort to detect violations. Once aware of any violation of the Standards, the supervisor must initiate a prompt and thorough investigation of the violation according to established compliance guidelines and procedures. Failure to supervise or to take prompt and thorough steps to assess, investigate, and correct violations of the Standards will be a breach of Standard 5d. However, if the supervisor implements steps to reasonably supervise but is not aware of a violation, the supervisor will not be in violation of this standard.

Supervisors must report to their employers any knowledge of procedures and guidelines that are not being followed. Supervisors should also report to their employer any inadequacies they perceive in the compliance with IMCA Standards of Practice or in the procedures designed to detect violations of the standards.

Impact of the Standard

Establishing guidelines for the supervisor's responsibility under the IMCA Standards of Practice increases the likelihood that violations will be detected and that procedures for corrective action can be implemented in a timely manner.



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