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## CALIFORNIA ASSOCIATION OF REALTORS®

December 17, 2007

Nancy M. Morris  
Secretary, Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

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RE: File No. S7-26-07  
NAR Application For Exemptive Relief of REALTORS®  
On Securitized TICs

On behalf of the more than 200,000 members of the California Association of REALTORS® (C.A.R.), I am pleased to submit the following comments to the Securities and Exchange Commission (SEC) concerning the application of the National Association of REALTORS® (NAR) for exemptive relief concerning compensation for working on a securitized Tenant In Common (TIC) transaction (under sections 14 and 36 of the Exchange Act). C.A.R. is the nation's largest state trade association and its membership includes real estate agents, mortgage brokers, appraisers, property managers and other real estate professionals. This experience has allowed C.A.R. and its members the opportunity to be involved in various aspects of real estate transactions. They are trusted advisors and professionals that help guide buyers and sellers through the often complicated process of completing a real estate transaction. Nonetheless, under current rules they are unable to help their clients on TIC Securities and be compensated for their work. REALTORS® establish strong business relations and trust with their clients. These buyers want to be able to turn to their REALTORS® as a trusted advisor on their purchases.

C.A.R. applauds the SEC for reviewing the application of NAR to allow REALTORS® to be compensated with a real estate advisory fee for their work on a TIC Security property. C.A.R. believes that this is an appropriate action and that the help of REALTORS®, whom have substantial experience in the commercial real estate market, on a TIC Security benefits all involved.

The SEC has requested comments on three aspects of NAR's application for an exemption on TIC Securities:

- Is the definition of "substantial experience in commercial real estate" appropriate,

- Are there other education opportunities and designations from other groups that would be appropriate to name specifically as evidencing “substantial experience in commercial real estate”, and
- If granted, could this exemption create an incentive for Commercial Real Estate Professionals to sell TIC Securities instead of non-security forms of commercial real estate investments to their clients?

### **Definition of Substantial Experience in Commercial Real Estate**

**TIC Securities requires that a real estate advisor have substantial experience in commercial real estate. Requiring REALTORS®, acting as a real estate advisor on a TIC Security, to have either the proper designation, educational equivalent, or “have participated in at least five commercial real estate transactions having an aggregate value of at least \$3 million in the prior five years or at least 10 commercial real estate transactions having an aggregate value of at least \$10 million in the prior 10 years (including three transactions in the prior three years)” would help ensure that REALTORS® acting in the advisory role on a TIC Security have the appropriate background and education to be a trusted advisor in these transactions.**

These requirements provide a strong basis to ensure that REALTORS®, acting as real estate advisors on TIC Securities, would have ample training or experience in commercial real estate in order to become trusted and knowledgeable advisors. Additionally, these guidelines set a strong set of parameters for both REALTORS® already actively involved in commercial real estate as well as those looking to enter the area of TIC Securities.

There is a need to make sure that REALTORS® acting as real estate advisors on a TIC Security are qualified to assist in such a transaction. Additionally, it is important to set the minimum threshold at a level where REALTORS® can still enter into this developing market within a reasonable set of parameters and timeframe. The parameters advised by NAR meet both of these qualifications.

TIC Securities involving real property are fundamentally real estate transactions. Therefore, the experience of REALTORS® as advisors can only enhance the TIC Security purchase. REALTORS® with solid experience in commercial real estate would be valuable assets to purchasers of TIC Securities. The NAR parameters would make sure that REALTORS® who wish to become advisors on TIC Securities would have solid experience in time spent in commercial real estate as well as

making sure these purchases were large commercial investments, not simply a dabbling in the commercial real estate market.

Additionally, the requirement that REALTORS® who do not have that experience in commercial real estate must complete education or designation classes helps ensure that REALTORS® entering the TIC Security marketplace have the most recent and up-to-date training to assist them in their role as advisors. These education and designation classes are intensive classes and would only be taken by REALTORS® who are serious about entering this section of the real estate marketplace. Additionally, in order to continue to receive the exemption, REALTORS® will have to meet the requirements of being predominately involved in the commercial real estate market in both numbers of transactions as well as the aggregate value of those transactions.

C.A.R. believes that these definitions of “substantial experience in commercial real estate” serve to protect the consumer appropriately. REALTORS® acting as advisors in TIC Securities will have the proper education and/or experience to be a trusted advisor to the buyer or seller. This definition appropriately protects the consumer as well as sets the proper entry level for REALTORS® interested in becoming real estate advisors for TIC Securities.

### **Education and Designations**

**C.A.R. believes that NAR is the best resource for education classes and/or designations for this purpose as it would only apply to REALTORS®. NAR is a trusted and experienced source for designations and education classes in the commercial real estate market and would serve as the best group to create curriculum to meet the threshold of “substantial experience in commercial real estate.**

This exemption would apply specifically to REALTORS® and therefore, C.A.R. believes that the best governing body to determine the standards for education classes and/or designations would be NAR. NAR is the respected trade association for the nation’s REALTORS® and has the greatest experience and abilities to determine what educational classes or requirements must be met in order to qualify as “substantial experience in commercial real estate”.

C.A.R. believes that NAR would be the strongest standard bearer for these determinations and that REALTORS® would be best served by allowing NAR to be

the organization that determines the criteria for the classes and designation that would meet the requirements of “substantial experience in commercial real estate”. NAR would work diligently to determine what experience and information is needed to be required for REALTORS® to be substantially prepared to act as real estate advisors on a TIC Security. NAR has 100-years of experience helping advise and set standards for REALTORS® and C.A.R. can think of no other organization with the credibility or dedication to guarantee that REALTORS® would be properly prepared and held to the highest standards on TIC Securities other than NAR.

### **Would Commercial real estate professionals make a major shift from TIC Non-Securities to TIC Securities**

**REALTORS® work in numerous aspects of real estate. Even though some REALTORS® do have a specialty, or niche market, they do not traditionally focus only on a limited aspect of real estate, such as TIC Securities. It is likely that most REALTORS® who decide to work as advisors on TIC Securities will add that sector of the marketplace to their portfolio, but will not exclusively work in TIC Securities or abandon TIC Non-Securities.**

C.A.R. believes that there is little concern that REALTORS® will abandon their current practices of working on TIC Non-Securities and move predominately into TIC Securities. REALTORS® pride themselves on having the ability and skills to work in multiple areas of a specialization. This means that REALTORS® will continue to work in the other areas of commercial real estate, including TIC Non-Securities and add the option of TIC Securities to their portfolio of services. Additionally, since TIC Securities will only give REALTORS® the compensation of a real estate advisor, this would discourage them from abandoning their other commercial real estate market transactions as they will often prove to compensate REALTORS® more substantially.

Additionally, TICs allow investors to enter into the commercial real estate market in areas where they might not have been traditionally able to. Many investors do not have enough capital to purchase an entire apartment complex; however, using a TIC they are able to own a fractional interest in a commercial development and expand their investment portfolio. These investors may not have the same experience as others in the commercial real estate market. Therefore, these investors would depend on the help of REALTORS® in these transactions. Allowing REALTORS® to be compensated on TIC Securities would allow REALTORS® to better meet the needs of their commercial real estate clients.

Allowing REALTORS® to work on TIC Securities as real estate advisors will benefit all of those involved in these transactions and bring necessary real estate experience to the table. REALTORS® will continue to diligently work in other aspects of the commercial real estate market and convey added benefits and knowledge to TIC Securities. This will not create an entirely new industry for REALTORS®.

Thank you for your consideration of our views. If we may provide you with any additional information, please do not hesitate to contact Matt Roberts, Federal Governmental Affairs Manager, by phone at 213-739-8284, or fax 213-739-7255, or via email at matthewr@car.org.

Sincerely,

A handwritten signature in black ink, appearing to read "William E. Brown".

William E. Brown  
President, California Association of REALTORS®