

Comments on: File No. S7-26-07 (11/16/07 Federal Register 64688-64694[E7-22425]):
Notice of Application of the National Association of Realtors for Exemptive Relief under
Sections 15 and 36 of the Exchange Act and Request for Comment

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

Dear Ms. Morris:

As one of over 70,000 commercial members of the National Association of REALTORS (NAR), I am writing in response to the SEC's request for comments on NAR's exemption request referenced above. **Sentences in BLUE indicate my disagreement with NAR's position that real estate agents/brokers should be allowed to make recommendations about any kind of securities.**

As a real estate professional engaged in commercial real estate transactions, I understand how important it is for clients to receive real estate services as they consider commercial property purchases. The commercial real estate professional is obligated **(depending on the State in which they practice and the Agency Law in-place in that State)** to serve the best interest of the client and is generally only compensated when a real estate transaction is closed. Clients often ask that we analyze a number of properties of varying asset classes, markets, size and price before they make a purchase offer or decision. With the growth in the Tenant-in-Common ("TIC") segment of the real estate market in recent years, clients increasingly have asked for an analysis of property subject to TIC ownership structure. The proposed exemption would enable commercial real estate professionals, under certain circumstances, to provide real estate services on those TIC properties that are considered to be a security and to compensation for providing those services. **I AM NOT SURE THIS IS ALLOWED UNDER CURRENT FLORIDA LICENSING LAW; I am sure it is a bad idea.**

The Substantial Experience Definition is NOT Adequate:

I feel strongly that the definition of substantial commercial real estate experience **WILL NOT** ensure that consumers receive thorough real estate analysis as they consider TIC securities. Commercial real estate transactions, by their nature, require commercial real estate professionals to analyze the income generating potential of the property compared to its asking price, as well as numerous other important characteristics of the property, within the context of the local real estate market. Because the underlying asset of a TIC security is real estate, consumers **MAY benefit from that same analysis; although the analyses should be done by a Certified General Real Estate Appraisal and recommendations concerning TICs that qualify as securities should involve a licensed securities broker.**

Many real estate professionals have broad and extensive real estate experience encompassing both residential and commercial real estate, and will often shift their focus between the two as market conditions change; **where ever they can get a commission.** In setting

transactional thresholds NAR's exemption request **fails to recognize that few, if any,** commercial real estate professionals have the knowledge and skills to evaluate different classes of real estate, while acknowledging that specific commercial transactional benchmarks are necessary to advise on TIC securities. **In reality, such evaluation should be done by a Certified General Real Estate Appraiser under the cover of an Appraisal Consulting assignment and under the guidance of USPAP.**

In response to the SEC's requests for comment, I **strongly believe that the exemption will create an incentive for real estate agents/brokers to sell TIC securities** instead of non-security real estate. **Many real estate professionals are currently searching for other ways to make money in the current market; what a wonderful opportunity selling TICs would present.**

The Buyer Agent Agreements, **which differ from State to State,** is a Regulatory Burden:

While buyer-agent agreements are common in commercial real estate brokerage **to ensure agent payment** for the services of the commercial broker, it may **or may not** provide an indication that the client is serious about purchasing commercial real estate. The disclosure requirements enumerated in the proposed exemption appear to be **designed to assist in implementing the exemption so real estate agents/brokers can get paid for selling securities. Disclosure is a must to protect the buyer and seller from unscrupulous real estate brokers and must be all encompassing. Because each State controls licensing, disclosure, and what duties a real estate agent/broker owes a client and others in a transaction, having a meaningful, uniform disclosure concerning securities is not likely.**

The Proposed Exemption **Incorrectly Reflects How Commercial Real Estate Professionals Become Aware of the Availability of TIC Securities.**

As a commercial real estate professional, I know what's happening in my market, and often in surrounding markets as well, including commercial properties available for sale and in many cases who is considering purchasing what real estate.

In Florida, I am not certain that if my client has entered into an amended buyer agent agreement I can discuss securities; I do know that advising/selling securities requires a securities license and this should remain the law of the land. If a client expresses an interest in a particular TIC security, I would refer the client to a securities broker; I am not sure that I would be eligible for compensation other than what is expressed in the agreement for non-real estate matters.

I strongly urge that the S.E.C. not approve NAR's exemption request. Few, if any of the real estate brokers/agents that I know have a clue about TICs or any other security; they are not trained for this and I feel allowing them to peddle securities would be as good an idea as allowing banks to invest in junk bonds. Thank you for the opportunity to comment.

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