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Nov. 29, 2018

Mr. Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Financial Disclosures About Guarantors and Issuers of Guaranteed Securities and Affiliates Whose Securities Collateralize a Registrant's Securities Release; No. 33-10526; 34-83701; File No. S7-19-18

Dear Mr. Fields:

Nareit appreciates the opportunity to comment on the Securities and Exchange Commission's (SEC) proposed amendments (Proposed Amendments) to the financial disclosure requirements applicable to guarantors and issuers of guaranteed securities in registered offerings, and to affiliates whose securities constitute a portion of the collateral securing a registrant's securities in registered offerings, set forth in the above-captioned proposing release (Release).[1]

Nareit is the worldwide representative voice for real estate investment trusts (REITs)[2] and listed real estate companies with an interest in U.S. real estate and capital markets. Nareit advocates for REIT-based real estate investment with policymakers and the global investment community.

U.S. REITs were established by Congress in 1960 to give all investors, especially small investors, access to income-producing real estate. Since then, the U.S. REIT approach has flourished and served as the model for more than 35 countries around the world. Investments by retail investors in REITs support properties including offices, apartment buildings, warehouses, retail centers, medical facilities, data centers, cell towers, infrastructure, and hotels.

Nareit has strongly endorsed the SEC's ongoing Disclosure Effectiveness Project to address outdated, duplicative, and confusing disclosure obligations and has submitted comments to the SEC supporting its 2015 Request for Comment on the Effectiveness of Financial Disclosures about Entities other than the

[1] Financial Disclosures About Guarantors and Issuers of Guaranteed Securities and Affiliates Whose Securities Collateralize a Registrant's Securities, Securities Act Release No. 10,526, Exchange Act Release No. 83,701, 83 Fed. Reg. 49,630 (proposed rule Oct. 2, 2018), available at https://www.gpo.gov/fdsys/pkg/FR-2018-10- 02/pdf/2018-19456.pdf.
[2] REITs are real estate working for you. Through the properties they own, finance and operate, REITs help provide the essential real estate we need to live, work and play. All U.S. REITs own approximately $3 trillion in gross assets, public U.S. REITs account for $2 trillion in gross assets, and stock-exchange listed REITs have an equity market capitalization of over $1 trillion. In addition, more than 80 million Americans invest in REIT stocks through their 401(k) retirement and other investment funds.

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Registrant,[3] its 2016 Concept Release on Business and Financial Disclosure Required by Regulation S-K;[4] its related Disclosure Update and Simplification Proposal[5], and we recently reiterated our support for this initiative in comments on the SEC's Strategic Plan 2018-2022.[6] Nareit fundamentally believes that eliminating redundant and outdated disclosure requirements improves the effectiveness and usefulness of the information presented to investors and analysts, while also decreasing the costs of preparing that information, which ultimately benefits shareholders.

In our recent comments to the SEC, Nareit has focused on specific areas where our members believe that existing SEC disclosure rules and regulations applicable to REITs might be streamlined and/or improved for the benefit of REIT investors. Because Nareit believes that the Proposed Amendments will similarly benefit REIT investors, Nareit endorses the SEC's effort to simplify the financial disclosure requirements for registered offerings of guaranteed debt securities and debt securities collateralized with securities of affiliates of the issuer. Nareit also concurs with the premise underlying the Proposed Amendments, as expressed in the Release, that the main interest of investors in guaranteed securities is "whether payment will be made in full on the dates specified in the guaranteed security, rather than whether payment comes from an issuer or one or more guarantors in the same consolidated group."[7] We further agree that investors generally rely on the consolidated financial statements for this information.

After reviewing the Proposed Amendments, Nareit generally agrees that these proposed changes, if adopted, would likely improve disclosures to investors and reduce the costs and burdens associated with issuing guaranteed securities. Moreover, as we explain below, we believe that the proposed treatment of consolidated subsidiaries set forth in the Proposed Amendments may beneficially reduce the costs of raising capital for some REITs.

[3] Nareit comment on SEC Request for Comment on the Effectiveness of Financial Disclosures about Entities other than the Registrant; Release No. 33-9929; 34-75985; File No. S7-20-15 (Nov. 30, 2015) available at https://www.sec.gov/comments/s7-20-15/s72015-17.pdf.
[4] Nareit comment on SEC *Concept Release on Business and Financial Disclosure Required by Regulation S-K*; 17 CFR Parts 210, 229, 230, 232, 239, 240 and 249; Release Nos. 33-10064, 34-77599; File No. S7-06-16; RIN 3235-AL78 (July 21, 2016) available at https://www.sec.gov/comments/s7-06-16/s70616-268.pdf.
[5] Nareit comment on *SEC Proposed Rule on Disclosure Update and Simplification* (17 CFR Parts 210, 229, 230, 239, 240, 249, and 274; Release No. 33-10110, 34-78310; IC32175; File No. S7-15-16; RIN 3235-AL82) (Oct. 28, 2016) available at https://www.sec.gov/comments/s7-15-16/s71516-39.pdf
[6] Nareit comment on SEC Concept Release on Business and Financial Disclosure Required by Regulation S-K; 17 CFR Parts 210, 229, 230, 232, 239, 240 and 249; Release Nos. 33-10064, 34-77599; File No. S7-06-16; RIN 3235-AL78 (July 21, 2016) available at https://www.sec.gov/comments/s7-06-16/s70616-268.pdf.
[7] 83 Fed. Reg. 49,630 at 49645.

We respectfully offer suggestions on the following topics, which are discussed in greater detail below:

- Treatment of Consolidated Subsidiaries.
- Proposed Alternative Disclosures.
- Placement of Alternative Disclosures.
- Conforming Continuous Reporting Obligations.
- Pre-acquisition Financial Statements.

Treatment of Consolidated Subsidiaries

Nareit strongly supports the suggestion set forth in the Proposed Amendments to replace the current requirement that a subsidiary issuer or guarantor be 100 percent owned by the parent company in order to be eligible to omit its separate financial statements with a condition that a subsidiary issuer or guarantor that is consolidated in the parent company's consolidated financial statements be permitted to do so. Because minority ownership in a subsidiary does not affect the availability of assets to settle creditor claims, Nareit agrees that when the parent company controls the subsidiary, which is a legal prerequisite for consolidated treatment, requiring the disclosure of full financial information for a non-100 percent owned consolidated subsidiary does not provide investors with incremental material information related to the securities and is an unnecessary burden for the issuer.

We note that this component of the Proposed Amendments may be particularly helpful to REITs that utilize the umbrella partnership REIT (UPREIT) structure and currently rely on their non-100 percent owned operating partnership (OP) subsidiaries to issue SEC-registered debt securities. In an UPREIT structure, the parent REIT typically serves as the controlling general partner of the OP subsidiary, which owns and operates all of the parent REIT's assets. The parent REIT, effectively a holding company with a single asset, its OP interest, issues debt through the controlled OP. However, even though the OP is controlled by the parent REIT and consolidated in the REIT parent's financial statement, the OP may not be 100 percent owned. For example, when acquiring real estate assets from a seller, the OP may issue limited partnership units in the OP to the seller as consideration. Regardless, the REIT retains full control of the OP under the terms of the partnership agreement and the OP is managed by the board of directors of the REIT for the benefit both of REIT shareholders and OP minority partner(s).

Because current Rule 3-10 does not permit a parent REIT to omit full financial statements when its OP subsidiary is not 100 percent owned, REITs raising capital must frequently incur the expense of establishing these OPs as separately SEC registered issuers, subject to separate reporting requirements. This is true even though in a typical UPREIT Structure, the financial statements of the controlling parent REIT—functionally a holding company with a single asset, its OP units—are substantially similar to the financial statements of the OP. Nareit believes that the provisions of the

Proposed Amendments that would permit a parent firm to omit full financial statements when its subsidiary guarantors or issuers are consolidated in the parent company's financial statements, rather than only when the subsidiary is 100 percent owned would benefit REITs structured as UPREITs. Investors in these securities would continue to receive all material information relevant to their investment and also benefit from reduced costs of raising capital.

Proposed Alternative Disclosures

Nareit endorses the proposed changes to Alternative Disclosure requirements, set forth in the Proposed Amendments, that would permit parent companies to provide investors such Summarized Financial Information on a combined basis and reduce the number of periods presented, so long as standards of materiality are satisfied. We also endorse the proposed change that would allow the parent to omit the Summarized Financial Information of the Obligor Group when the information in the parent company's consolidated financial statements do not differ materially from those of the Obligor Group, as is often the case in an UPREIT structure.[8]

Nareit commends the SEC for adopting this principles-based approach, which recognizes that issuers are best suited to analyze materiality. We agree it is appropriate to permit parent companies to exercise their best judgement to assess what information is important to investors and to provide such financial information, balance sheet and income statement line items, and/or qualitative or quantitative information about the guarantors, the issuers and the guarantees that they deem material to making an informed investment decision with respect to the guaranteed debt security.

Placement of Alternative Disclosures

Nareit endorses the SEC's proposal to permit the parent company to place initial Alternative Disclosures either in a footnote to the parent's financial statements, or, alternatively, initially in the registration statement and any related prospectus and to also permit such disclosure to be placed in the parent firm's MD&A for the remainder of the fiscal year in which the first bona fide sale of guaranteed debt securities is completed.

Conforming Continuous Reporting Obligations

Nareit endorses the SEC's proposal to eliminate the current requirement that an issuer furnish disclosures for the entire duration that the guaranteed securities are outstanding. Nareit endorses the provision of the Proposed Amendments that would conform the duration of this reporting obligation to the requirements of the Securities Exchange Act of 1934. We believe this will usefully reduce burdens for issuers of guaranteed securities.

[8] 83 Fed. Reg. 49,630 at

Pre-acquisition Financial Statements

Nareit endorses the removal of the current requirements that issuers furnish all pre-acquisition financial statements of recently-acquired subsidiary issuers and guarantors. As noted in the Release, Rule 3-05 of Regulation S-X already requires that pre-acquisition financial statements of significant acquired businesses be furnished, and the Proposed Amendments would require disclosure about any recently-acquired subsidiary issuer or guarantor that is deemed material. Accordingly, we agree that additional disclosure requirements with respect to recently acquired subsidiary issuers and guarantors is an unnecessary burden and can be usefully eliminated.

Conclusion

Nareit appreciates the opportunity to participate in this additional rulemaking related to the SEC's ongoing Disclosure Effectiveness Project and would be pleased to discuss our comments, or any questions the SEC or its staff may have. Please contact: me at tedwards@nareit.com, Victoria Rostow, Nareit's Senior Vice President, Policy & Regulatory Affairs (vrostow@nareit.com), or Christopher Drula, Nareit's Vice President, Financial Standards (cdrula@nareit.com), if you would like to discuss these issues in greater detail.

Respectfully submitted,

Tony M. Edwards
Executive Vice President & General Counsel