

Is the application's definition of "substantial experience in commercial real estate" appropriate?

Absolutely not. While there are many very good real estate brokers out there- there are many, many more that essentially have 1 or 2 years of experience many times over- but have not necessarily learned much over the years. The TIC investments are very popular among the "baby boomers" that are selling small multi-family properties and other management intensive real estate and exchanging into TIC's. Many of these folks will depend upon these investments to finance their retirement – and therefore, it would not be prudent to allow real estate agents with little or no formal education, and little or no professional education, to become involved advising these folks.

Should the quantitative factors included in the application's definition of "substantial experience in commercial real estate" be periodically adjusted for inflation?

I don't think quantitative factors such as number of transactions or dollar volume of transactions are worthwhile in assessing competence.

Are there education and experience designations from groups other than those affiliated with NAR that would be appropriate to name specifically as evidencing "substantial experience in commercial real estate"?

The MAI designation offered by the Appraisal Institute should certainly be considered. The education and experience requirements are rigorous and a significant number of realtors also appraise and hold this designation.

Should the exemption include a quantitative threshold to describe when a commercial real estate professional would be "predominantly engaged" in the sale of real estate other than TIC securities?

No. I don't think quantitative factors such as number of transactions or dollar volume of transactions are worthwhile in assessing competence. Too many of the "top producers" are simply well connected socialites. Additionally, it is well established that in sales there are those agents that excel at analysis, and those that excel at marketing. Those that excel at marketing are generally very good at marketing themselves – but tend to lack any real understanding of the numbers. Therefore, given the importance of these investment decisions to small investors, it is very important that their advisors have some modicum of understanding of what represents prudent investment advise.

Is there a possibility that the exemption, if granted, could create an incentive for commercial real estate professionals to sell TIC securities instead of non-security forms of commercial real estate?

Absolutely, it is likely that a percentage of the industry would shift to this type of focus if it made competitive and financial sense. And I think this would be a good thing, because most the underlying value in TICs is the real estate and real estate professionals are often better able to understand some of the real estate related issues much better than securities brokers, i.e.- management issues, vacancies, highest and best use of the land and/or buildings.

In summary, the TIC industry would be well served to allow real estate brokers to become involved.... But education is paramount to protect the investors, so short-cuts based on having a license for many years, or claiming credit for producing numerous sales transactions are simply not reliable indicators of competence.

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