

# Marcus & Millichap

Real Estate Investment Services

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December 11, 2007

Office of Management and Budget  
Office of Information and Regulatory Affairs  
Washington, D.C. 20503

Attention: Desk Officer for the Securities and Exchange Commission

Ms. Nancy M. Morris  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-1090

Re: SEC File No. S7-26-07; Request for Comments

To Whom It May Concern:

Marcus & Millichap Real Estate Investment Services, Inc. supports the NAR's application for an exemption permitting licensed commercial real estate brokers to receive compensation in connection with the sale of TIC Securities. In addition to the protections investors receive by virtue of the suitability analysis performed by a licensed securities broker-dealer, permitting commercial real estate brokers to participate in TIC transactions will give investors the benefit of commercial real estate expertise in evaluating the quality of the underlying asset.

Marcus & Millichap is the largest brokerage firm in the United States specializing in commercial real estate investments. In 2006, Marcus & Millichap closed more than \$20.5 billion of investment transactions for private and institutional investors. Our specialization in investment transactions, product type and geography, together with our managed sales force and formal in-house training and mentorship programs, enables our brokers to offer unparalleled expertise and perspective on commercial real estate assets by both product type and geographic market.

It is not uncommon for investors to evaluate traditional real estate transactions and TIC Securities as alternative investments. Under the current regulatory framework, however, investors must seek separate advice from real estate and securities professionals who are not permitted to coordinate their services. Permitting commercial real estate brokers to work with securities professionals reduces the burden to investors and promotes efficiencies by facilitating a coordinated investment decisions.



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Pursuant to the Commission's request, Marcus & Millichap provides the following comments:

- The definition of "substantial experience" should include training and certifications provided through in-house programs that meet stated minimum criteria. National firms such as Marcus & Millichap have dedicated training departments and provide extensive formal in-house training programs and continuing education in numerous areas including regulatory compliance, legal aspects of real estate transactions, specialized product types (e.g., multi-family, retail, office and industrial, senior housing, self-storage, etc.), deal underwriting and market analysis. These programs are designed and administered by our Training Department, outside professionals, and company executives with substantial experience in commercial real estate investments. Additionally, this training is supplemented through weekly workshops and web casts.
- Brokers who do not meet the dollar volume, deal volume or years in practice requirements under the definition of substantial experience should be permitted to participate in TIC transactions under the direction and supervision of a senior broker with substantial experience. This would be done pursuant to a formal supervision and cooperation agreement between the senior broker and the less experienced broker under which the senior broker would have ultimate responsibility and authority for the supervision and oversight of the transaction. This is consistent with current practices involving interstate commercial real estate transactions, where out-of-state brokers are required to enter into written cooperation agreements with in-state brokers who are responsible for ensuring compliance with state laws, rules and regulations.
- As discussed above, education and experience designations should not be limited to groups affiliated with NAR, but rather, should extend to those of approved sponsors who meet an objective set of criteria, which might include factors such as course content, credentials of the instructor, and hours of education.

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- We do not believe that the exemption would create an disincentive for commercial real estate professionals to sell non-security forms of commercial real estate as the sale of traditional real estate is more profitable. Commissions on TIC Securities, which would be shared with a securities broker-dealer, are based on equity invested, whereas commissions on non-security forms of commercial real estate are based on the asset's total purchase price. Additionally, depending on the type of TIC Security, TIC investments can be less liquid than traditional real estate investments, which makes it less likely for brokers to obtain repeat business through the future sale and replacement of the asset.

Marcus & Millichap appreciates the opportunity to submit comments and would be pleased to provide any additional information that might assist the Commission in its review of the proposed exemption.

Sincerely,



Matthew D. Schwartz

Vice President & East Coast General Counsel