

**NOTICE OF REQUEST FOR PUBLIC COMMENT
REGARDING A PROPOSED AMENDMENT
TO THE NASAA STATEMENT OF POLICY REGARDING
REAL ESTATE INVESTMENT TRUSTS**

July 27, 2016

The North American Securities Administrators Association, Inc. (“NASAA”) is requesting public comment on proposed amendments to the NASAA Statement of Policy Regarding Real Estate Investment Trusts (“REIT Guidelines”), as set forth below.

Comments are due on or before September 12, 2016. To facilitate consideration of comments, please send comments to Michael Pieciak (Michael.Pieciak@vermont.gov), Chair of the Corporation Finance Section; Mark Heuerman (mark.heuerman@com.state.oh.us), Chair of Direct Participation Programs Policy Project Group; Anya Coverman, NASAA Deputy Director of Policy and Associate General Counsel; and Mark Stewart (nasaacomment@nasaa.org), NASAA Counsel, at the NASAA Corporate Office. We encourage, but do not require, comments to be submitted by e-mail. Hard copy comments may be submitted at the address below.

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Note: After the comment period has closed, NASAA will post to its website the comments it receives as submitted by the authors. Parties should therefore only submit information that they wish to make publicly available. Further, the following notice will appear on NASAA’s website where comments are posted: NASAA, its agents, and employees accept no responsibility for the content of the comments posted on this Web page. The views, expressions, and opinions expressed in the comments are solely those of the author(s).

Concentration Limit Proposal

Background

NASAA is evaluating concentration limits for direct participation programs (“DPPs”). Currently, several states have concentration limits that are applicable to DPPs including non-traded REITs. Non-traded REIT investments are highly complex, illiquid, and come with significant fees including upfront sales fees.

This concentration limit proposal, the first in an anticipated series in this regulatory area, focuses on proposed amendments to the NASAA REIT Guidelines, as set forth below. The NASAA REIT Guidelines apply to non-traded REIT offerings for the registration of the securities that the issuer will be offering for sale to the public.

Summary

The proposal would add a uniform concentration limit of ten percent (10%) of an individual's liquid net worth, applicable to their aggregate investment in a REIT, its affiliates, and other non-traded REITs, as defined therein. Liquid net worth consists of cash, cash equivalents, and readily marketable securities. The proposal also includes a carve-out for Accredited Investors under the income and net worth standards set forth in Regulation D, Rule 501.

The proposal also includes a recordkeeping requirement for the Sponsor or any person selling shares on behalf of the Sponsor or REIT. Such individuals must maintain records of the information obtained from Shareholders to ensure compliance with the concentration limit for a period of at least six years. Further, the Sponsor must disclose in the Prospectus the responsibility of the Sponsor and any person selling shares on behalf of the Sponsor or REIT to make every reasonable effort to ensure compliance with the concentration limit based on the information the Shareholder provides.

The proposal includes additional Administrator discretion in its application, including by providing for application of the concentration limit "Unless the Administrator determines that the risks associated with the REIT would require a lower or higher standard." Finally, the proposal distinguishes a suitability analysis from concentration limit compliance, by providing that adhering to the concentration limit does not satisfy the independently required suitability determination under the Guidelines, existing administrative rules, or the rules of a self-regulatory organization. The proposal requires the Prospectus to include language clarifying this distinction.

Conclusion

Please note the deadline for comment is September 12, 2016. A "red-line" edited version of the proposed amendments to the NASAA REIT Guidelines, highlighting the proposed changes, is attached as Exhibit A.

EXHIBIT A

STATEMENT OF POLICY REGARDING REAL ESTATE INVESTMENT TRUSTS

As revised and adopted by the NASAA membership on May 7, 2007

I. INTRODUCTION

A. Application

1. This Statement of Policy applies to qualifications and registrations of Real Estate Investment Trusts (REITS)
2. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown, certain guidelines may be modified or waived by the Administrator.

B. Definitions

1. **ADMINISTRATOR:** The official or agency administering the Securities laws of a jurisdiction.
2. **ACQUISITION EXPENSES:** Expenses including but not limited to legal fees and expenses, travel and communications expenses, cost of appraisals, nonrefundable option payments on property not acquired, accounting fees and expenses, title insurance, and miscellaneous expenses related to selection and acquisition of properties, whether or not acquired.
3. **ACQUISITION FEE:** The total of all fees and commissions paid by any party to any party in connection with making or investing in mortgage loans or the purchase, development or construction of property by a REIT. Included in the computation of such fees or commissions shall be any real estate commission, selection fee, **DEVELOPMENT FEE**, **CONSTRUCTION FEE**, nonrecurring management fee, loan fees or points or any fee of a similar nature, however designated. Excluded shall be **DEVELOPMENT FEES** and **CONSTRUCTION FEES** paid to **PERSONS** not affiliated with the **SPONSOR** in connection with the actual development and construction of a project.
4. **ADVISOR:** The **PERSON** responsible for directing or performing the day-to-day business affairs of a REIT, including a **PERSON** to which an Advisor subcontracts substantially all such functions. To the extent the provisions of this Statement of Policy are germane they shall apply to self-administered REITS.
5. **AFFILIATE:** An **AFFILIATE** of another **PERSON** includes any of the following:
 - a. any **PERSON** directly or indirectly owning, controlling, or holding, with power to vote ten percent or more of the outstanding voting securities of such other **PERSON**.
 - b. any **PERSON** ten percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held, with power to vote, by such other **PERSON**.

- c. any PERSON directly or indirectly controlling, controlled by, of under common control with such other PERSON.
 - d. any executive officer, director, trustee or general partner of such other PERSON.
 - e. any legal entity for which such PERSON acts as an executive officer, director, trustee or general partner.
- 6. **AVERAGE INVESTED ASSETS:** For any period the average of the aggregate book value of the assets of the Trust invested, directly or indirectly, in equity interests in and loans secured by real estate, before reserves for depreciation or bad debts or other similar non-cash reserves computed by taking the average of such values at the end of each month during such period.
- 7. **COMPETITIVE REAL ESTATE COMMISSION:** Real estate or brokerage commission paid for the purchase or sale of a property which is reasonable, customary and competitive in light of the size, type and location of such property.
- 8. **CONTRACT PRICE FOR THE PROPERTY:** The amount actually paid or allocated to the purchase, development, construction or improvement of a property exclusive of ACQUISITION FEES and ACQUISITION EXPENSES.
- 9. **CONSTRUCTION FEE:** A fee or other remuneration for acting as general contractor and/or construction manager to construct improvements, supervise and coordinate projects or to provide MAJOR REPAIRS OR REHABILITATION on a REITS property.
- 10. **CROSS REFERENCE SHEET:** A compilation of the STATEMENT OF POLICY sections, referenced to the page of the PROSPECTUS and DECLARATION OF TRUST, or other exhibits, and justification for any deviation from the STATEMENT OF POLICY. Such compilation shall comply with the provisions set forth on the CROSS REFERENCE SHEET.
- 11. **DECLARATION OF TRUST:** The declaration of trust, by-laws, certificate, articles of incorporation or other governing instrument pursuant to which a REIT is organized.
- 12. **DEVELOPMENT FEE:** A fee for the packaging of a REIT'S property, including negotiating and approving plans, and undertaking to assist in obtaining zoning and necessary variances and necessary financing for the specific property, either initially or at a later date.
- 13. **INDEPENDENT EXPERT:** A PERSON with no material current or prior business or personal relationship with the ADVISOR or TRUSTEES who is engaged to a substantial extent in the business of rendering opinions regarding the value of assets of the type held by the REIT.
- 14. **INDEPENDENT TRUSTEE(S):** The TRUSTEE(S) of a REIT who are not associated and have not been associated within the last two years, directly or indirectly, with the SPONSOR or ADVISOR of the REIT.

- a. A TRUSTEE shall be deemed to be associated with the SPONSOR or ADVISOR if he or she:
 - i. owns an interest in the SPONSOR, ADVISOR, or any of their AFFILIATES; or
 - ii. is employed by the SPONSOR, ADVISOR or any of their AFFILIATES; or
 - iii. is an officer or director of the SPONSOR, ADVISOR, or any of their AFFILIATES; or
 - iv. performs services, other than as a TRUSTEE, for the REIT; or
 - v. is a TRUSTEE for more than three REITS organized by the SPONSOR or advised the ADVISOR; or
 - vi. has any material business or professional relationship with the SPONSOR, ADVISOR, or any of their AFFILIATES.
 - b. For purposes of determining whether or not the business or professional relationship is material, the gross revenue derived by the prospective INDEPENDENT TRUSTEE from the SPONSOR and ADVISOR and AFFILIATES shall be deemed material per se if it exceeds 5% of the prospective INDEPENDENT TRUSTEE'S:
 - i. annual gross revenue, derived from all sources, during either of the last two years; or
 - ii. net worth, on a fair market value basis.
 - c. An indirect relationship shall include circumstances in which a TRUSTEE'S spouse, parents, children, siblings, mothers- or fathers-in-law, sons- or daughters-in-law, or brothers- or sisters-in-law is or has been associated with the SPONSOR, ADVISOR, any of their AFFILIATES, or the REIT.
15. INITIAL INVESTMENT: That portion of the initial capitalization of the REIT contributed by the SPONSOR or: its AFFILIATES pursuant to Section II.A of this Statement of Policy.
 16. LEVERAGE: The aggregate amount of indebtedness of a REIT for money borrowed (including purchase money mortgage loans) outstanding at any time, both secured and unsecured.
 17. NET ASSETS: The total assets (other than intangibles) at cost before deducting depreciation or other non-cash reserves less total liabilities, calculated at least quarterly on a basis consistently applied.
 18. NET INCOME: For any period total revenues applicable to such period, less the expenses applicable to such period other than additions to reserves for

depreciation or bad debts or other similar non-cash reserves. If the ADVISOR receives an incentive fee, NET INCOME, for purposes of calculating TOTAL OPERATING EXPENSES in Section IV.D shall exclude the gain from the sale of the REIT'S assets.

19. ORGANIZATION AND OFFERING EXPENSES: All expenses incurred by and to be paid from the assets of the REIT in connection with and in preparing a REIT for registration and subsequently offering and distributing it to the public, including, but not limited to, total underwriting and brokerage discounts and commissions (including fees of the underwriters' attorneys), expenses for printing, engraving, mailing, salaries of employees while engaged in sales activity, charges of transfer agents, registrars, trustees, escrow holders, depositaries, experts, expenses of qualification of the sale of the securities under Federal and State laws, including taxes and fees, accountants' and attorneys' fees.
20. PERSON: Any natural persons, partnership, corporation, association, trust, limited liability company or other legal entity.
21. PROSPECTUS: Shall have the meaning given to that term by Section 2(10) of the Securities Act of 1933, including a preliminary Prospectus; provided, however, that such term as used herein shall also include an offering circular as described in Rule 256 of the General Rules and Regulations under the Securities Act of 1933 or, in the case of an intrastate offering, any document by whatever name known, utilized for the purpose of offering and selling securities to the public.
22. REAL ESTATE INVESTMENT TRUST ("REIT"): A corporation, trust, association or other legal entity (other than a real estate syndication) which is engaged primarily in investing in equity interests in real estate (including fee ownership and leasehold interests) or in loans secured by real estate or both.
23. ROLL-UP: A transaction involving the acquisition, merger, conversion, or consolidation either directly or indirectly of the REIT and the issuance of securities of a ROLL-UP ENTITY. Such term does not include:
 - a. a transaction involving securities of the REIT that have been for at least 12 months listed on a national securities exchange or traded through the National Association of Securities Dealers Automated Quotation National Market System; or
 - b. a transaction involving the conversion to corporate, trust, or association form of only the REIT if, as a consequence of the transaction there will be no significant adverse change in any of the following:
 - i. SHAREHOLDERS' voting rights;
 - ii. The term of existence of the REIT;
 - iii. SPONSOR or ADVISOR compensation;
 - iv. The REIT'S investment objectives.

24. **ROLL-UP ENTITY:** A partnership, real estate investment trust, corporation, trust, or other entity that would be created or would survive after the successful completion of a proposed ROLL-UP transaction.
25. **SHARES:** Shares of beneficial interest or of common stock of a REIT of the class that has the right to elect the Trustees of such REIT.
26. **SHAREHOLDERS:** The registered holders of a REIT'S SHARES.
27. **SPECIFIED ASSET REIT:** A PROGRAM where, at the time a securities registration is ordered effective, at least 75% of the net proceeds from the sale of SHARES are allocable to the purchase, construction, renovation, or improvement of individually identified assets. Reserves shall not be included in the 75%.
28. **SPONSOR:** Any PERSON directly or indirectly instrumental in organizing, wholly or in part, a REIT or any PERSON who will control, manage or participate in the management of a REIT, and any AFFILIATE of such PERSON. Not included is any PERSON whose only relationship with the REIT is as that of an independent property manager of REIT assets, and whose only compensation is as such. SPONSOR does not include wholly independent third parties such as attorneys, accountants and underwriters whose only compensation is for professional services. A PERSON may also be deemed a SPONSOR of the REIT by:
 - a. taking the initiative, directly or indirectly, in founding or organizing the business or enterprise of the REIT; either alone or in conjunction with one or more other PERSONS;
 - b. receiving a material participation in the REIT in connection with the founding or organizing of the business of the REIT, in consideration of services or property, or both services and property;
 - c. having a substantial number of relationships and contacts with the REIT;
 - d. possessing significant rights to control REIT properties;
 - e. receiving fees for providing services to the REIT which are paid on a basis that is not customary in the industry; or
 - f. providing goods or services to the REIT on a basis which was not negotiated at arms length with the REIT.
29. **TOTAL OPERATING EXPENSES:** Aggregate expenses of every character paid or incurred by the REIT as determined under Generally Accepted Accounting Principles, including ADVISORS' fees, but excluding:
 - a. the expenses of raising capital such as ORGANIZATION AND OFFERING EXPENSES, legal, audit, accounting, underwriting, brokerage, listing, registration and other fees, printing and other such expenses, and tax incurred in connection with the issuance,

distribution, transfer, registration, and stock exchange listing of the REIT'S SHARES;

- b. interest payments;
- c. taxes;
- d. non-cash expenditures such as depreciation, amortization and bad debt reserves;
- e. incentive fees paid in compliance with Section ~~IV~~V.F., notwithstanding Section I.B.29.(f);
- f. ACQUISITION FEES, ACQUISITION EXPENSES, real estate commissions on resale on property and other expenses connected with the acquisition, disposition, and ownership of real estate interests, mortgage loans, or other property, (such as the costs of foreclosure, insurance premiums, legal services, maintenance, repair, and improvement of property).

COMMENT: The Exclusion from TOTAL OPERATING EXPENSES for costs related directly to asset acquisition, operation and dispositions intended to allow exclusion of expenses incurred on the individual property level but not to allow to exclusion of expenses incurred on the REIT level.

- 30. TRUSTEE(S): The members of the board of trustees or directors or other body which manages the REIT.
- 31. UNIMPROVED REAL PROPERTY: The real property of a REIT which has the following three characteristics:
 - a. an equity interest in real property which has not acquired for the purpose of producing rental or other operating income;
 - b. has no development or construction in process on such land; and
 - c. no development or construction on such land is planned in good faith to commence on such land within one year.

II. REQUIREMENTS OF SPONSOR, ADVISOR, TRUSTEES AND ANY AFFILIATE

A. Minimum Capital

- 1. Prior to the initial public offering, the SPONSOR, or any AFFILIATE, shall contribute to the REIT an amount not less than the lesser of:
 - a. 10% of the total net assets upon completion of the offering, or
 - b. \$200,000 as an INITIAL INVESTMENT.
- 2. The SPONSOR or any AFFILIATE may not sell this INITIAL INVESTMENT while the SPONSOR remains a SPONSOR but may transfer the shares to other AFFILIATES.

B. Number and Election of TRUSTEES

1. The REIT shall have a minimum of three TRUSTEES, each of whom (other than a TRUSTEE elected to fill the unexpired term of another TRUSTEE) is elected by the SHAREHOLDERS of the REIT and who shall serve for a term of one year.
2. Nothing in this section shall prohibit a TRUSTEE from being reelected by the SHAREHOLDERS.
3. A majority of the TRUSTEES shall be INDEPENDENT TRUSTEES.
4. INDEPENDENT TRUSTEES shall nominate replacements for vacancies amongst the INDEPENDENT TRUSTEES' positions.
5. the TRUSTEES may establish such committees they deem appropriate (provided the majority of the members of each committee are INDEPENDENT TRUSTEES).

C. Duties of TRUSTEES

1. At, or before, the first meeting of the TRUSTEES, the DECLARATION OF TRUST shall be reviewed and ratified by a majority vote of the TRUSTEES and of the INDEPENDENT TRUSTEES. The PROSPECTUS shall disclose that such ratification is required.
2. The TRUSTEES shall establish written policies on investments and borrowing and shall monitor the administrative procedures, investment operations and performance of the REIT and the ADVISOR to assure that such policies are carried out.
3. A majority of the INDEPENDENT TRUSTEES must approve matters to which this Section and Sections II.A., II.F., II.G., ~~IV~~V.A., ~~IV~~V.B., ~~IV~~V.C., ~~IV~~V.D., ~~IV~~V.E., ~~IV~~V.F., ~~IV~~V.G., ~~V~~VI.E., ~~V~~VI.H., ~~V~~VI.J., ~~VI~~VII.A., ~~VI~~VII.B.4, and ~~VI~~VII.G., of this Statement of Policy.

COMMENT: The special obligations of the INDEPENDENT TRUSTEES should not be interpreted to lessen in any way to obligations of the affiliated TRUSTEES.

D. Experience of TRUSTEES

A TRUSTEE shall have had at least three years of relevant experience demonstrating the knowledge and experience required to successfully acquire and manage the type of assets being acquired by the REIT. At least one of the INDEPENDENT TRUSTEES shall have three years of relevant real estate experience.

COMMENT: "Relevant real estate experience" shall mean actual direct experience by the TRUSTEE in acquiring or managing the type of real estate to be acquired by the REIT for his or her own account or as an agent. For example, in the REIT will acquire commercial real estate. i.e. office buildings or shopping centers, "relevant real estate

experience” would not include experience in buying and selling houses because it is apparent that a different level of sophistication and knowledge is required.

E. Fiduciary Duty

The TRUSTEES and ADVISOR of the REIT shall be deemed to be in a fiduciary relationship to the REIT and the SHAREHOLDERS. The TRUSTEES of the REIT shall also have a fiduciary duty to the SHAREHOLDERS to supervise the relationship of the REIT with the ADVISOR.

F. Advisory Contract

1. It shall be the duty of the TRUSTEES to evaluate the performance of the ADVISOR before entering into or renewing an advisory contract. The criteria used in such evaluation shall be reflected in the minutes of such meeting.
2. Each contract for the services of an ADVISOR entered into by the TRUSTEES shall have a term of no more than one year.
3. Each advisory contract shall be terminable by a majority of the INDEPENDENT TRUSTEES, or the ADVISOR on sixty (60) days written notice without cause or penalty. In the event of the termination of such contract, the ADVISOR will cooperate with the REIT and take all reasonable steps requested to assist the TRUSTEES in making an orderly transition of the advisory function.
4. The qualifications of the ADVISOR shall be set forth in the PROSPECTUS relating to the initial public offering of the SHARES of the REIT and the TRUSTEES shall determine that any successor ADVISOR possesses sufficient qualifications to:
 - a. perform the advisory function for the REIT; and
 - b. justify the compensation provided for in its contract with the REIT.

G. Liability and Indemnification

1. The REIT shall not provide for indemnification of the TRUSTEES, ADVISORS or AFFILIATES for any liability or loss suffered by the TRUSTEES, ADVISORS or AFFILIATES, nor shall it provide that the TRUSTEES, ADVISORS or AFFILIATES be held harmless for any loss or liability suffered by the REIT, unless all of the following conditions are met:
 - a. The TRUSTEES, ADVISORS or AFFILIATES have determined, in good faith, that the course of conduct which caused the loss or liability was in the best interests of the REIT.
 - b. The TRUSTEES, ADVISORS or AFFILIATES were acting on services for the REIT.
 - c. Such liability or loss was not the result of:
 - i. negligence or misconduct by the TRUSTEES, excluding the INDEPENDENT TRUSTEES, ADVISORS or

AFFILIATES; or

- ii. gross negligence or willful misconduct by the INDEPENDENT TRUSTEES.
 - d. Such indemnification or agreement to hold harmless is recoverable only out of REIT net assets and not from SHAREHOLDERS.
- 2. Notwithstanding anything to the contrary contained in Section II.G.1, the TRUSTEES, ADVISORS or AFFILIATES and any persons acting as a broker-dealer shall not be indemnified by the REIT for any losses, liabilities or expenses arising from or out of an alleged violation of federal or state securities laws by such party unless one or more of the following conditions are met:
 - a. There has been a successful adjudication on the merits of each count involving alleged securities law violations as to the particular indemnitee.
 - b. Such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to the particular indemnitee.
 - c. A court of competent jurisdiction approves a settlement of the claims against a particular indemnitee and finds that indemnification of the settlement and the related costs should be made, and the court considering the request for indemnification has been advised of the position of the Securities and Exchange Commission and of the published position of any state securities regulatory authority in which securities of the REIT were offered or sold as to indemnification for violations of securities laws.
- 3. The advancement of REIT funds to the TRUSTEES, ADVISORS or AFFILIATES for legal expenses and other costs incurred as a result of any legal action for which indemnification is being sought is permissible only if all of the following conditions are satisfied:
 - a. The legal action relates to acts or omissions with respect to the performance of duties or services on behalf of the REIT.
 - b. The legal action is initiated by a third party who is not a SHAREHOLDER or the legal action is initiated by a SHAREHOLDER acting in his or her capacity as such and a court of competent jurisdiction specifically approves such advancement.
 - c. The TRUSTEES, ADVISORS or AFFILIATES undertake to repay the advanced funds to the REIT, together with the applicable legal rate of interest thereon, in cases in which such TRUSTEES, ADVISORS or AFFILIATES are found not to be entitled to indemnification.

H. Arbitration Provisions

The DECLARATION OF TRUST may contain provisions relating to the use of arbitration as a means of dispute resolution; provided, however, it may not require arbitration for allegations involving breach of contract, negligence, violations of state or federal securities laws, breach of fiduciary duty or other misconduct by the TRUSTEES or ADVISOR, nor shall it provide for mandatory venue. A DECLARATION OF TRUST which contains arbitration provisions shall prominently disclose such fact on the cover page of the DECLARATION OF TRUST. Allocation of the cost of arbitration may be made a matter for determination in the proceedings. This Section is not intended to prohibit arbitration agreements entered into as a condition for opening or maintaining an account with a broker-dealer, who may also be a SPONSOR. In addition, this Section should not be interpreted to prohibit separate arbitration agreements between SPONSORS and SHAREHOLDERS if the agreements are not a condition of making an investment in the REIT.

III. SUITABILITY OF SHAREHOLDERS

A. General Policy

1. The SPONSOR shall establish minimum income and net worth standards for PERSONS who purchase SHARES in a REIT for which there is not likely to be a substantial and active secondary market.
2. The SPONSOR shall propose a minimum income and net worth standards which are reasonable given the type of REIT and the risks associated with the purchase of SHARES. REITS with greater investor risk shall have minimum standards with a substantial NET WORTH requirement. The ADMINISTRATOR shall evaluate the standards proposed by the SPONSOR when the REIT'S application for registration is reviewed. In evaluating the proposed standards, the ADMINISTRATOR may consider the following:
 - a. the REIT'S use of leverage;
 - b. tax implications;
 - c. balloon payment financing;
 - d. potential variances in cash distributions;
 - e. potential SHAREHOLDERS;
 - f. relationship among potential SHAREHOLDERS, the SPONSOR and ADVISOR;
 - g. liquidity of REIT SHARES;
 - h. prior performance of SPONSOR and ADVISOR;
 - i. financial condition of the SPONSOR;
 - j. potential transactions between the REIT and the SPONSOR and ADVISOR; and
 - k. any other relevant factors.

B. Income and Net Worth Standards

1. Unless the ADMINISTRATOR determines that the risks associated with the REIT would require lower or higher standards, SHAREHOLDERS shall have:
 - a. a minimum annual gross income of \$70,000 and a minimum NET WORTH of \$70,000; or
 - b. a minimum NET WORTH of \$250,000.
 2. NET WORTH shall be determined exclusive of home, home furnishings, and automobiles.
 3. In the case of sales to fiduciary accounts, these minimum standards shall be met by the beneficiary, the fiduciary, account, or, by the donor or grantor, who directly or indirectly supplies the funds to purchase the SHARES if the donor or grantor is the fiduciary.
 4. The SPONSOR shall set forth in the final PROSPECTUS:
 - a. the investment objectives of the REIT;
 - b. a description of the type of PERSON who might benefit from an investment in the REIT; and
 - c. the minimum standards imposed on each SHAREHOLDER in the REIT.
- C. Determination that Sale to SHAREHOLDER is Suitable and Appropriate
1. The SPONSOR and each PERSON selling SHARES on behalf of the SPONSOR or REIT shall make every reasonable effort to determine that the purchase of SHARES is a suitable and appropriate investment for each SHAREHOLDER.
 2. In making this determination, the SPONSOR or each PERSON selling SHARES on behalf of the SPONSOR or REIT shall ascertain that the prospective SHAREHOLDER:
 - a. meets the minimum income and net worth standards established for the REIT;
 - b. can reasonably benefit from the REIT based on the prospective SHAREHOLDER'S overall investment objectives and portfolio structure.
 - c. is able to bear the economic risk of the investment based on the prospective SHAREHOLDER'S overall financial situation; and
 - d. has apparent understanding of:
 - i. the fundamental risks of the investment;
 - ii. the risk that the SHAREHOLDER may lose the entire investment;
 - iii. the lack of liquidity of REIT SHARES;

- iv. the restrictions on transferability of REIT SHARES;
 - v. tax consequences of the investment.
- 3. The SPONSOR or each PERSON selling SHARES on behalf of the SPONSOR or REIT will make this determination on the basis of information it has obtained from a prospective SHAREHOLDER. Relevant information for this purpose will include at least the age, investment objectives, investment experience, income, NET WORTH, financial situation, and other investments of the prospective SHAREHOLDERS, as well as any other pertinent factors.
- 4. The SPONSOR or each PERSON selling SHARES on behalf of the SPONSOR or REIT shall maintain records of the information used to determine that an investment in SHARES is suitable and appropriate for a SHAREHOLDER. The SPONSOR or each PERSON selling SHARES on behalf of the SPONSOR or REIT shall maintain these records for at least six years.
- 5. The SPONSOR shall disclose in the final PROSPECTUS the responsibility of the SPONSOR and each PERSON selling SHARES on behalf of the SPONSOR or REIT to make every reasonable effort to determine that the purchase of SHARES is a suitable and appropriate investment for each SHAREHOLDER, based on information provided by the SHAREHOLDER regarding the SHAREHOLDER'S financial situation and investment objectives.

D. Subscription Agreements

- 1. The ADMINISTRATOR may require that each SHAREHOLDER complete and sign a written subscription agreement.
- 2. The SPONSOR may require that each SHAREHOLDER make certain factual representations in the subscription agreement, including the following:
 - a. The SHAREHOLDER meets the minimum income and net worth standards established for the REIT.
 - b. The SHAREHOLDER is purchasing the SHARES for his or her own account.
 - c. The SHAREHOLDER has received a copy of the PROSPECTUS.
 - d. The SHAREHOLDER acknowledges that the SHARES are not liquid.
- 3. The SHAREHOLDER must separately sign or initial each representation made in the subscription agreement. Except in the case of fiduciary accounts, the SHAREHOLDER may not grant any PERSON a power of attorney to make such representations on his or her behalf.

4. The SPONSOR and each PERSON selling SHARES on behalf of the SPONSOR or REIT shall not require SHAREHOLDERS to make representations in the subscription agreement which are subjective or unreasonable and which:
 - a. might cause the SHAREHOLDER to believe that he or she has surrendered rights to which he or she is entitled under federal or state law; or
 - b. would have the effect of shifting the duties regarding suitability, imposed by law on broker-dealers, to the SHAREHOLDERS.
 5. Prohibited representations include, but are not limited to the following:
 - a. The SHAREHOLDER understands or comprehends the risks associated with an investment in the REIT.
 - b. The investment is a suitable one for the SHAREHOLDER.
 - c. The SHAREHOLDER has read the PROSPECTUS.
 - d. In deciding to invest in the REIT, the SHAREHOLDER has relied solely on the PROSPECTUS, and not on any other information or representations from other PERSONS or sources.
 6. The SPONSOR may place the content of the prohibited representations in the subscription agreement in the form of disclosures to SHAREHOLDERS. The SPONSOR may not place these disclosures in the SHAREHOLDER representation section of the subscription agreement.
- E. Completion of Sale
1. The SPONSOR or any PERSON selling SHARES on behalf of the SPONSOR or REIT may not complete a sale of .SHARES to a SHAREHOLDER until at least five business days after the date the SHAREHOLDER receives a final PROSPECTUS.
 2. The SPONSOR or the PERSON designated by the SPONSOR shall send each SHAREHOLDER a confirmation of his or her purchase.
- F. Minimum Investment
- The ADMINISTRATOR may require minimum initial and subsequent cash investment amounts.

IV. CONCENTRATION LIMIT OF SHAREHOLDERS

A. General Policy

1. The SPONSOR shall establish a minimum concentration limit for PERSONS

who purchase SHARES in a REIT for which there is not likely to be a substantial and active secondary market.

2. The SPONSOR shall propose a minimum concentration limit which is reasonable given the type of REIT and the risks associated with the purchase of SHARES. REITS with greater investor risk shall have a restrictive concentration limit. The ADMINISTRATOR shall evaluate the standards and any exclusion proposed by the SPONSOR when the REIT'S application for registration is reviewed. In evaluating the proposed standards and any exclusion, the ADMINISTRATOR may consider the following:

- a. the REIT'S use of leverage;
- b. tax implications;
- c. balloon payment financing;
- d. potential variances in cash distributions;
- e. potential SHAREHOLDERS;
- f. relationship among potential SHAREHOLDERS, the SPONSOR and the ADVISOR;
- g. liquidity of REIT SHARES;
- h. prior performance of the REIT, SPONSOR and the ADVISOR;
- i. financial condition of the SPONSOR;
- j. potential transactions between the REIT, the SPONSOR and the ADVISOR;
- k. complexity of the offering;
- l. past disciplinary or legal actions by state or federal securities regulators, self-regulatory organizations or investors;
- m. administrative rules or statutory provisions of the Administrator's jurisdiction; and
- n. any other relevant factors.

3. Adhering to the concentration limit does not satisfy the independently required suitability determination under these Guidelines, existing administrative rules, or self-regulatory organization rules including when selling SHARES to any PERSON. The PROSPECTUS shall include disclosure to this effect.

B. Concentration Limit

1. Unless the ADMINISTRATOR determines that the risks or other factors in IV.A. associated with the REIT would require lower or higher standards, a PERSON's aggregate investment in the REIT, its AFFILIATES, and other non-traded REITS shall not exceed 10% of the PERSON's liquid net worth. This standard shall not be applied to Accredited Investors under income or net worth standards according to Regulation D, Rule 501.

2. "Liquid net worth" shall be defined as that portion of net worth consisting of cash, cash equivalents, and readily marketable securities.

3. In the case of sales to fiduciary accounts, these minimum standards shall be met by the beneficiary, the fiduciary account, or, by the donor or grantor, who directly or indirectly supplies the funds to purchase the SHARES if the donor or grantor is the fiduciary.

4. The SPONSOR or each PERSON selling SHARES on behalf of the SPONSOR or REIT shall maintain records of the information used to determine that an investment in SHARES satisfies the concentration standard for a SHAREHOLDER. The SPONSOR or each PERSON selling SHARES on behalf of the SPONSOR or REIT shall maintain these records for at least six years.

5. The SPONSOR shall disclose in the final PROSPECTUS the responsibility of the SPONSOR and each PERSON selling SHARES on behalf of the SPONSOR or REIT to make every reasonable effort to determine that the purchase of SHARES meets the concentration standard for each SHAREHOLDER, based on information provided by the SHAREHOLDER regarding the SHAREHOLDER'S financial situation and investment objectives.

V. FEES, COMPENSATION AND EXPENSES

A. Introduction

1. The PROSPECTUS must fully disclose and itemize all consideration which may be received in connection with REIT activities directly or indirectly by the SPONSOR, TRUSTEES, ADVISOR and underwriters, what the consideration is for and how and when it will be paid. This shall be set forth in one location in tabular form.
2. The INDEPENDENT TRUSTEES will determine, from time to time but at least annually, that the total fees and expenses of the REIT are reasonable in light of the investment performance of the REIT, its NET ASSETS, its NET INCOME, and the fees and expenses of other comparable unaffiliated REITS. Each such determination shall be reflected in the minutes of the meeting of the Trustees.

B. ORGANIZATION AND OFFERING EXPENSES

The ORGANIZATION AND OFFERING EXPENSES paid in connection with the REIT'S formation or the syndication of its shares shall be reasonable and shall in no event exceed an amount equal to 15% of the proceeds raised in an offering.

C. ACQUISITION FEES and ACQUISITION EXPENSES

1. The total of all ACQUISITION FEES and ACQUISITION EXPENSES shall be reasonable, and shall not exceed an amount equal to 6% of the contract price of the property, or in the case of a mortgage loan, 6% of the funds advanced.
2. Notwithstanding the above, a majority of the TRUSTEES (including a majority of the INDEPENDENT TRUSTEES) not otherwise interested in the transaction may approve fees in excess of these limits if they determine the transaction to be commercially competitive, fair and reasonable to the REIT.

D. TOTAL OPERATING EXPENSES

1. The TOTAL OPERATING EXPENSES of the REIT shall (in the absence of a satisfactory showing to the contrary) be deemed to be excessive if they exceed in any fiscal year the greater of 2% of its AVERAGE INVESTED ASSETS or 25% of its NET INCOME for such year. The INDEPENDENT TRUSTEE shall have the fiduciary responsibility of limiting such expenses to amounts that do not exceed such limitations unless such INDEPENDENT TRUSTEES shall have made a finding that, based on such unusual and non-recurring factors which they deem sufficient, a higher level of expenses is justified for such year. Any such findings and the reasons in support thereof shall be reflected in the minutes of the meeting of the TRUSTEES.
2. Within 60 days after the end of any fiscal quarter of the REIT for which TOTAL OPERATING EXPENSES (for the twelve (12) months then ended) exceeded 2% of AVERAGE INVESTED ASSETS or 25% of NET INCOME, whichever is greater, there shall be sent to the SHAREHOLDERS of the REIT a written disclosure of such fact, together with an explanation or the factors the INDEPENDENT TRUSTEES considered in arriving at the conclusion that such higher operating expenses were justified.
3. In the event the INDEPENDENT TRUSTEES do not determine such excess expenses are justified, the ADVISOR shall reimburse the REIT at the end of the twelve month period the amount by which the aggregate annual expenses paid or incurred by the REIT exceed the limitations herein provided.

E. Real Estate Commissions on Resale of Property

If an ADVISOR, TRUSTEE, SPONSOR or any AFFILIATE provides a substantial amount of the services in the effort to sell the property of the REIT,

then that PERSON may receive up to one-half of the brokerage commission paid but in no event to exceed an amount equal to 3% of the contracted for sales price. In addition, the amount paid when added to the sums paid to unaffiliated parties in such a capacity shall not exceed the lesser of the COMPETITIVE REAL ESTATE COMMISSION or an amount equal to 6% of the contracted for sales price.

F. Incentive Fees

1. An interest in the gain from the sale of assets of the REIT, for which full consideration is not paid in cash or property of equivalent value, shall be allowed provided the amount or percentage of such interest is reasonable. Such an interest gain from the sale of REIT assets shall be considered presumptively reasonable if it does not exceed 15% of the balance of such net proceeds remaining after payment to SHAREHOLDERS, in the aggregate, of an amount equal to 100% of the original issue price of REIT SHARES, plus an amount equal to 6% of the original issue price of the REIT shares per annum cumulative. For purposes of this Section, the original issue price of the REIT SHARES may be reduced by prior cash distributions to SHAREHOLDERS of net proceeds from the sale of REIT assets.
2. In the case of multiple ADVISORS, ADVISORS and any AFFILIATE shall be allowed incentive fees provided such fees are distributed by a proportional method reasonably designed to reflect the value added to REIT assets by each respective ADVISOR or any AFFILIATE.

COMMENT: Distribution of incentive fees to ADVISORS/AFFILIATES, in proportion to the length of time served as ADVISOR while such property was held by the REIT or in ratio to the fair market value of the asset at the time of the ADVISOR'S termination, and the fair market value of the asset upon its disposition by the REIT shall be considered reasonable methods by which to apportion incentive fees.

G. Advisor Compensation

The INDEPENDENT TRUSTEES shall determine from time to time and at least annually that the compensation which the REIT contracts to pay to the ADVISOR is reasonable in relation to the nature and quality of services performed and that such compensation is within the limits prescribed by this Statement of Policy. The INDEPENDENT TRUSTEES shall also supervise the performance of the ADVISOR and the compensation paid to it by the REIT to determine that the provisions of such contract are being carried out. Each such determination shall be based on the factors set forth below and all other factors such INDEPENDENT TRUSTEES may deem relevant and the findings of such TRUSTEES on each of such factors shall be recorded in the minutes of the TRUSTEES:

1. The size of the advisory fee in relation to the size, composition and profitability of the portfolio of the REIT.

2. The success of the ADVISOR in generating opportunities that meet the investment objectives of the REIT.
3. The rates charged to other REIT's and to investors other than REIT'S by advisors performing similar services.
4. Additional revenues realized by the ADVISOR and any AFFILIATE through their relationship with the REIT, including loan, administration, underwriting or broker commissions, servicing, engineering, inspection and other fees, whether paid by the REIT or by others with whom the REIT does business.
5. The quality and extent of service and advice furnished by the ADVISOR.
6. The performance of the investment portfolio of the REIT, including income, conservation or appreciation of capital, frequency of problem investments and competence in dealing with distress situations.
7. The quality of the portfolio of the REIT in relationship to the investments generated by the ADVISOR for its own account.

VI. CONFLICTS OF INTEREST AND INVESTMENT RESTRICTIONS

A. Sales and Leases to REIT

The REIT shall not purchase property from the SPONSOR, ADVISOR, TRUSTEE, or any AFFILIATE thereof, unless a majority of TRUSTEES (including a majority of INDEPENDENT TRUSTEES) not otherwise interested in such transaction approve the transaction as being fair and reasonable to the REIT and at a price to the REIT no greater than the cost of the asset to such SPONSOR, ADVISOR, TRUSTEE or any AFFILIATE thereof, or if the price to the REIT is in excess of such cost, that substantial justification for such excess exists and such excess is reasonable. In no event shall the cost of such asset to the REIT exceed its current appraised value.

B. Sales and Leases to SPONSOR, ADVISOR, TRUSTEES or any AFFILIATE

1. A SPONSOR, ADVISOR, TRUSTEE or any AFFILIATE thereof shall not acquire assets from the REIT unless approved by a majority of TRUSTEES (including a majority of INDEPENDENT TRUSTEES), not otherwise interested in such transaction, as being fair and reasonable to the REIT.
2. A REIT may lease assets to a SPONSOR, ADVISOR, TRUSTEE or any AFFILIATE thereof only if approved by a majority of TRUSTEES (including a majority of INDEPENDENT TRUSTEES), not otherwise interested in such transaction, as being fair and reasonable to the REIT.

C. Loans

1. No loans may be made by the REIT to the SPONSOR, ADVISOR, TRUSTEE or any AFFILIATE thereof except as provided under Section

~~VI~~.K.3 or to wholly owned subsidiaries of the REIT.

2. The REIT may not borrow money from the SPONSOR, ADVISOR, TRUSTEE, or any AFFILIATE thereof, unless a majority of TRUSTEES (including a majority of INDEPENDENT TRUSTEES) not otherwise interested in such transaction approve the transaction as being fair, competitive, and commercially reasonable and no less favorable to the REIT than loans between unaffiliated parties under the same circumstances.

D. Investments

1. The REIT shall not invest in joint ventures with the SPONSOR, ADVISOR, TRUSTEE, or any AFFILIATE thereof, unless a majority of TRUSTEES (including a majority of INDEPENDENT TRUSTEES) not otherwise interested in such transactions, approve the transaction as being fair and reasonable to the REIT and on substantially the same terms and conditions as those received by the other joint venturers.
2. The REIT shall not invest in equity, securities unless a majority of TRUSTEES (including a majority of INDEPENDENT TRUSTEES) not otherwise interested in such transaction approve the transaction as being fair, competitive, and commercially reasonable.

E. Statement of Objectives

1. The PROSPECTUS must state specific investment objectives of the REIT. It should indicate whether the primary objective is to obtain current income, tax benefits, or capital appreciation for its SHAREHOLDERS.
2. The INDEPENDENT TRUSTEES shall review the investment policies of the REIT with sufficient frequency and at least annually to determine that the policies being followed by the REIT at any time are in the best interests of its SHAREHOLDERS. Each such determination and the basis therefor shall be set forth in the minutes of the TRUSTEES.

F. Multiple PROGRAMS

The method for the allocation of the acquisition of properties by two or more PROGRAMS of the same SPONSOR or ADVISOR seeking to acquire similar types of assets shall be reasonable. The method shall be described in the PROSPECTUS. It shall be the duty of the TRUSTEES (including the INDEPENDENT TRUSTEES) to insure such method is applied fairly to the REIT.

G. Other Transactions

All other transactions between the REIT and the SPONSOR, ADVISOR, TRUSTEE or any AFFILIATE thereof, shall require approval by a majority of the TRUSTEES (including a majority of INDEPENDENT TRUSTEES) not otherwise interested in such transactions as being fair and reasonable to the REIT and on terms and conditions not less favorable to the REIT than those available

from unaffiliated third parties.

H. Appraisal of Real Property

The consideration paid for real property acquired by the REIT shall ordinarily be based on the fair market value of the property as determined by a majority of the TRUSTEES. In cases in which a majority of the INDEPENDENT TRUSTEES so determine, and in all cases in which assets are acquired from the ADVISORS, TRUSTEES, SPONSORS or AFFILIATES thereof, such fair market value shall be as determined by an INDEPENDENT EXPERT selected by the INDEPENDENT TRUSTEES.

I. Roll-Up Transaction

1. In connection with a proposed ROLL-UP, an appraisal of all REIT assets shall be obtained from a competent, INDEPENDENT EXPERT. If the appraisal will be included in a PROSPECTUS used to offer the securities of a ROLL-UP ENTITY, the appraisal shall be filed with the SEC and the states as an Exhibit to the Registration Statement for the offering. Accordingly, an issuer using the appraisal shall be subject to liability for violation of Section 11 of the Securities Act of 1933 and comparable provisions under state laws for any material misrepresentations or material omissions in the appraisal. REIT assets shall be appraised on a consistent basis. The appraisal shall be based on an evaluation of all relevant information, and shall indicate the value of the REIT'S assets as of a date immediately prior to the announcement of the proposed ROLL-UP transaction. The appraisal shall assume an orderly liquidation of REIT assets over a 12 month period. The terms of the engagement of the INDEPENDENT EXPERT shall clearly state that the engagement is for the benefit of the REIT and its investors. A summary of the independent appraisal, indicating all material assumptions underlying the appraisal, shall be included in a report to the investors in connection with a proposed ROLL-UP.
2. In connection with a proposed ROLL-UP, the PERSON sponsoring the ROLL-UP shall offer to SHAREHOLDERS who vote "no" on the proposal the choice of:
 - a. accepting the securities of the ROLL-UP ENTITY offered in the proposed ROLL-UP; or
 - b. one of the following:
 - i. remaining as SHAREHOLDERS of the REIT and preserving their interests therein on the same terms and conditions as existed previously; or
 - ii. receiving cash in an amount equal to the SHAREHOLDERS' pro-rata share of the appraised value of the net assets of the REIT.

COMMENT: With respect to the options specified in Subsection V.I.2.(b), the PERSON sponsoring the ROLL-UP needs only offer one of these alternatives to dissenting investors who do not wish to accept the security of the ROLL-UP ENTITY.

3. The REIT shall not participate in any proposed ROLL-UP which would result in SHAREHOLDERS having democracy rights in the ROLL-UP ENTITY that are less than those provided for under Sections ~~VIVII.A.~~, ~~VIVII.B.~~, ~~VIVII.C.~~, ~~VIVII.D.~~, ~~VIVII.E~~ of these Guidelines.
4. The REIT shall not participate in any proposed ROLL-UP which includes provisions which would operate to materially impede or frustrate the accumulation of shares by any purchaser of the securities of the ROLL-UP ENTITY (except to the minimum extent necessary to preserve the tax status of the ROLL-UP ENTITY). The REIT shall not participate in any proposed ROLL-UP which would limit the ability of an investor to exercise the voting rights of its securities of the ROLL-UP ENTITY on the basis of the number of REIT SHARES held by that investor.
5. The REIT shall not participate in any proposed ROLL-UP in which investors' rights of access to the records of the ROLL-UP ENTITY will be less than those provided for under Section VI.E of these Guidelines.
6. The REIT shall not participate in any proposed ROLL-UP in which any of the costs of the transaction would be borne by the REIT if the ROLLUP is not approved by the SHAREHOLDERS.

J. Leverage

The PROSPECTUS shall include an explanation of the borrowing policies of the REIT. The aggregate borrowings of the REIT, secured and unsecured, shall be reasonable in relation to the NET ASSETS of the REIT and shall be reviewed by the TRUSTEES at least quarterly. The maximum amount of such borrowings in relation to the NET ASSETS shall, in the absence of a satisfactory showing that higher level of borrowing is appropriate, not exceed 300%. Any excess in borrowing over such 300% level shall be approved by a majority of the INDEPENDENT TRUSTEES and disclosed to SHAREHOLDERS in the next quarterly report of the REIT, along with justification for such excess.

K. Other Limitations. The REIT may not:

1. Invest more than 10% of its total assets in UNIMPROVED REAL PROPERTY or mortgage loans on UNIMPROVED REAL PROPERTY.
2. Invest in commodities or commodity future contracts. Such limitation is not intended to apply to future contracts, when used solely for hedging purposes in connection with the REIT's ordinary business of investing in real estate assets and mortgages.
3. Invest in or make mortgage loans unless an appraisal is obtained concerning the underlying property except for those loans insured or guaranteed by a government or government agency. In cases in which a

majority of the INDEPENDENT TRUSTEES so determine, and in all cases in which the transaction is with the ADVISOR, TRUSTEES, SPONSOR or AFFILIATES thereof, such an appraisal must be obtained from an INDEPENDENT EXPERT concerning the underlying property. This appraisal shall be maintained in the REIT's records for at least five years, and shall be available for inspection and duplication by any SHAREHOLDER. In addition to the appraisal, a mortgagee's or owner's title insurance policy or commitment as to the priority of the mortgage or the condition of the title must be obtained. Further, the ADVISOR and TRUSTEES shall observe the following policies in connection with investing in or making mortgage loans:

- a. The REIT shall not invest in real estate contracts of sale, otherwise known as land sale contracts, unless such contracts of sale are in recordable form and appropriately recorded in the chain of title.
- b. The REIT shall not make or invest in mortgage loans, including construction loans, on any one property if the aggregate amount of all mortgage loans outstanding on the property, including the loans of the REIT, would exceed an amount equal to 85% of the appraised value of the property as determined by appraisal unless substantial justification exists because of the presence of other underwriting criteria. For purposes of this subsection, the "aggregate amount of all mortgage loans outstanding on the property, including the loans of the REIT," shall include all interest (excluding contingent participation in income and/or appreciation in value of the mortgaged property), the current payment of which may be deferred pursuant to the terms of such loans, to the extent that deferred interest on each loan exceeds 5% per annum of the principal balance of the loan;

COMMENT: Section ~~V~~VI.K.3(b) provides certain minimum standards in connection with the investment in or making of mortgage loans by a REIT. The standards may be exceeded for a particular registration if the mortgage loans are supported by sound underwriting criteria, such as the net worth of the borrower; the credit rating of the borrower based on historical financial performance; or collateral adequate to justify waiver from application of this section. The standards may also be exceeded where program mortgage loans are or will be insured or guaranteed by a government or a government Agency; where the loan is secured by the pledge or assignment of other real estate or another real estate mortgage; where rents are assigned under a lease where a tenant or tenants have demonstrated through historical net worth and cash flow the ability to satisfy the terms of the lease; or where similar criteria is presented satisfactory to the ADMINISTRATOR.

- c. The REIT shall not make or invest in any mortgage loans that are subordinate to any mortgage or equity interest of the ADVISOR, TRUSTEES, SPONSORS or any AFFILIATE of the REIT.
4. Issue redeemable equity securities.

5. Issue debt securities unless the historical debt service coverage (in the most recently completed fiscal year) as adjusted for known changes is sufficient to properly service that higher level of debt.
6. Issue options or warrants to purchase its SHARES to the ADVISOR, TRUSTEES, SPONSORS or any AFFILIATE thereof except on the same terms as such options or warrants are sold to the general public. The REIT may issue options or warrants to persons not so connected with the REIT but not at exercise prices less than the fair market value of such securities on the date of grant and for consideration (which may include services) that in the judgement of the INDEPENDENT TRUSTEES, has a market value less than the value of such option on the date of grant. Options or warrants issuable to the ADVISOR, TRUSTEES, SPONSORS or any AFFILIATE thereof shall not exceed an amount equal to 10% of the outstanding SHARES of the REIT on the date of grant of any options or warrants.
7. Issue its shares on a deferred payment basis or other similar arrangement.

VII. RIGHTS AND OBLIGATIONS OF SHAREHOLDERS

A. Meetings

1. There shall be an annual meeting of the SHAREHOLDERS of the REIT upon reasonable notice and within a reasonable period (not less than 30 days) following delivery of the annual report. The TRUSTEES, including the INDEPENDENT TRUSTEES, shall be required to take reasonable steps to insure that this requirement is met.
2. Special meetings of the SHAREHOLDERS may be called by the chief executive officer, by a majority of the TRUSTEES or by a majority of the INDEPENDENT TRUSTEES, and shall be called by an officer of the REIT upon written request of SHAREHOLDERS holding in the aggregate not less than 10% of the outstanding SHARES of the REIT entitled to vote at such meeting. Upon receipt of a written request, either in person or by mail, stating the purpose(s) of the meeting, the SPONSOR shall provide all SHAREHOLDERS within ten days after receipt of said request, written notice, either in person or by mail, of a meeting and the purpose of such meeting to be held on a date not less than fifteen nor more than sixty days after the distribution of such notice, at a time and place specified in the request, or if none is specified, at a time and place convenient to SHAREHOLDERS.

B. Voting Rights of SHAREHOLDER

1. A public offering of equity securities of a REIT other than voting shares will be looked upon with disfavor.
2. The voting rights per share of equity securities of the REIT (other than the publicly held equity securities of the REIT) sold in a private offering shall not exceed voting rights which bear the same relationship to the voting rights of the publicly held shares of the REIT as the consideration

paid to the REIT for each privately offered REIT share bears to the book value of each outstanding publicly held share.

3. The DECLARATION OF TRUST must provide that a majority of the then outstanding SHARES may, without the necessity for concurrence by the TRUSTEES, vote to:
 - a. amend the DECLARATION OF TRUST;
 - b. terminate the REIT;
 - c. remove the TRUSTEES.
4. The DECLARATION OF TRUST must provide that a majority of SHAREHOLDERS present in person or by proxy at an Annual Meeting at which a quorum is present, may, without the necessity for concurrence by the TRUSTEES, vote to elect the TRUSTEES. A quorum shall be 50% of the then outstanding shares.
5. Without concurrence of a majority of the outstanding SHARES, the TRUSTEES may not:
 - a. amend the DECLARATION OF TRUST, except for amendments which do not adversely affect the rights, preferences and privileges of SHAREHOLDERS including amendments to provisions relating to, TRUSTEE qualifications, fiduciary duty, liability and indemnification, conflicts of interest, investment policies or investment restrictions;
 - b. sell all or substantially all of the REIT's assets other than in the ordinary course of the REIT'S business or in connection with liquidation and dissolution;
 - c. cause the merger or other reorganization of the REIT; or
 - d. dissolve or liquidate the REIT, other than before the initial investment in property.

COMMENT: A sale of all or substantially all of the REIT's assets shall mean the sale of two-thirds or more of the REIT's assets based on the total number of properties and mortgages, or the current fair market value of these assets.

6. With respect to SHARES owned by the ADVISOR, the TRUSTEES, or any AFFILIATE, neither the ADVISOR, nor the TRUSTEES, nor any AFFILIATE may vote or consent on matters submitted to the SHAREHOLDERS regarding the removal of the ADVISOR, TRUSTEES or any AFFILIATE or any transaction between the REIT and any of them. In determining the requisite percentage in interest of SHARES necessary to approve a matter on which the ADVISOR, TRUSTEES and any AFFILIATE may not vote or consent, any SHARES owned by any of them shall not be included.

C. Liability of SHAREHOLDERS

The DECLARATION OF TRUST shall provide that:

1. The SHARES of the REIT shall be non-assessable by the REIT whether a trust, corporation or other entity.
2. The SHAREHOLDERS of the REIT which is not a corporation shall not be personally liable on account of any of the contractual obligations undertaken by the REIT.
3. All written contracts to which the REIT which is not a corporation is a party shall include a provision that the SHAREHOLDER shall not be personally liable thereon.

D. Reports

1. The DECLARATION OF TRUST shall provide that the REIT shall cause to be prepared and mailed or delivered to each SHAREHOLDER as of a record date after the end of the fiscal year and each holder of other publicly held securities of the REIT within 120 days after the end of the fiscal year to which it relates an annual report for each fiscal year ending after the initial public offering of its securities which shall include:
 - a. financial statements prepared in accordance with generally accepted accounting principles which are audited and reported on by independent certified public accountants;
 - b. the ratio of the costs of raising capital during the period to the capital raised;
 - c. the aggregate amount of advisory fees and the aggregate amount of other fees paid to the ADVISOR and any AFFILIATE of the ADVISOR by the REIT and including fees or charges paid to the ADVISOR and any AFFILIATE of the ADVISOR by third parties doing business with the REIT;
 - d. the TOTAL OPERATING EXPENSES of the REIT, stated as a percentage of AVERAGE INVESTED ASSETS and as a percentage of its NET INCOME;
 - e. a report from the INDEPENDENT TRUSTEES that the policies being followed by the REIT are in the best interests of its SHAREHOLDERS and the basis for such determination; and
 - f. separately stated, full disclosure of all material terms, factors, and circumstances surrounding any and all transactions involving the REIT, TRUSTEES, ADVISORS, SPONSORS and any AFFILIATE thereof occurring in the year for which the annual report is made. INDEPENDENT

TRUSTEES shall be specifically charged with a duty to examine and comment in the report on the fairness of such transactions;

COMMENT: A partial enumeration of such transactions would include the lease or purchase of property by the REIT to or from any TRUSTEE, ADVISOR, SPONSOR or AFFILIATE; and loan transactions involving, directly or indirectly, the REIT and any TRUSTEE, ADVISOR, SPONSOR or AFFILIATE; and any joint venture involving the REIT and a TRUSTEE, ADVISOR, SPONSOR or AFFILIATE thereof.

2. The TRUSTEES, including the INDEPENDENT TRUSTEES, shall be required to take reasonable steps to insure that the above requirements are met.

COMMENT: The above section is not intended to be exhaustive of the tope and extent of information to be presented to SHAREHOLDERS in an annual

E. Access to Records

Any SHAREHOLDER and any designated representative thereof shall be permitted access to all records of the REIT at all reasonable times, and may inspect and copy any of them. Inspection of the REIT books and records by the ADMINISTRATOR shall be provided upon reasonable notice and during normal business hours. The DECLARATION OF TRUST shall include the following provisions regarding access to the list of SHAREHOLDERS:

1. An alphabetical list of the names, addresses, and telephone numbers of the SHAREHOLDERS of the REIT along with the number of SHARES held by each of them (the "SHAREHOLDER List") shall be maintained as part of the books and records of the REIT and shall be available for inspection by any SHAREHOLDER or the SHAREHOLDER'S designated agent at the home office of the REIT upon the request of the SHAREHOLDER;
2. The SHAREHOLDER List shall be updated at least quarterly to reflect changes in the information contained therein.
3. A copy of the SHAREHOLDER List shall be mailed to any SHAREHOLDER requesting the SHAREHOLDER List within ten days of the request. The copy of the SHAREHOLDER List shall be printed in alphabetical order, on white paper, and in a readily readable type size (in no event smaller than 10-point type). A reasonable charge for copy work may be charged by the REIT.
4. The purposes for which a SHAREHOLDER may request a copy of the SHAREHOLDER List include, without limitation, matters relating to SHAREHOLDERS' voting rights under the REIT agreement, and the exercise of SHAREHOLDERS' rights under federal proxy laws; and
5. If the ADVISOR or TRUSTEES of the REIT neglects or refuses to exhibit; produce, or mail a copy of the SHAREHOLDER List as requested, the ADVISOR, and the TRUSTEES shall be liable to any

SHAREHOLDER requesting the list for the costs, including attorneys' fees, incurred by that SHAREHOLDER for compelling the production of the SHAREHOLDER List, and for actual damages suffered by any SHAREHOLDER by reason of such refusal or neglect. It shall be a defense that the actual purpose and reason for the requests for inspection or for a copy of the SHAREHOLDER List is to secure such list of SHAREHOLDERS or other information for the purpose of selling such list or copies thereof, or of using the same for a commercial purpose other than in the interest of the applicant as a SHAREHOLDER relative to the affairs of the REIT. The REIT may require the SHAREHOLDER requesting the SHAREHOLDER List to represent that the list is not requested for a commercial purpose unrelated to the SHAREHOLDER'S interest in the REIT. The remedies provided hereunder to SHAREHOLDERS requesting copies of the SHAREHOLDER List are in addition to, and shall not in any way limit, other remedies available to SHAREHOLDERS under federal law, or the laws of any state.

F. Repurchase of SHARES

Ordinarily, the REIT is not obligated to repurchase any of the SHARES. However, the REIT is not precluded from voluntarily repurchasing the SHARES if such repurchase does not impair the capital or operations of the REIT. The REIT may have excess share provisions that provide for mandatory redemption. The SPONSOR, ADVISOR, TRUSTEES or AFFILIATES are prohibited from receiving a fee on the repurchase of the SHARES by the REIT.

G. Distribution Reinvestment Plans

All Distribution Reinvestment Plans shall, at the minimum provide for the following:

1. All material information regarding the distribution to the SHAREHOLDER and the effect of reinvesting such distribution, including the tax consequences thereof, shall be provided to the SHAREHOLDER at least annually.
2. Each SHAREHOLDER participating in the plan shall have a reasonable opportunity to withdraw from the plan at least annually after receipt of the information required in subparagraph (1) above.

H. Distributions

The DECLARATION OF TRUST shall state the manner in which distributions to SHAREHOLDERS are to be determined.

I. Distributions in Kind

Distributions in kind shall not be permitted, except for;

1. distributions of readily marketable securities;
2. distributions of beneficial interests in a liquidating trust established for the dissolution of the REIT and the liquidation of its assets in accordance

- with the terms of the DECLARATION OF TRUST; or
3. distributions of in-kind property which meet all of the following conditions:
 - a. The TRUSTEES advise each SHAREHOLDER of the risks associated with direct ownership of the property.
 - b. The TRUSTEES offer each SHAREHOLDER the election of receiving in-kind property distributions.
 - c. The Trustees distribute in-kind property only to those SHAREHOLDERS who accept the TRUSTEES'S offer.

VHVIII. DISCLOSURE AND MARKETING

A. Sales Material

Sales material, including without limitation, books, pamphlets, movies, slides, article reprints, television and radio commercials, materials prepared for broker/dealer use only, sales presentations (including prepared presentations to prospective SHAREHOLDERS at group meetings) and all other advertising used in the offer or sale of units shall conform to filing, disclosure, and adequacy requirements under any applicable state regulations. Statements made in sales material communicated directly or indirectly to the public may not conflict with, or modify risk factors or other statements made in the PROSPECTUS.

B. PROSPECTUS and its Contents

1. PROSPECTUS

A PROSPECTUS which is not part of a Registration Statement declared effective by the Securities and Exchange Commission pursuant to the Securities Act of 1933 shall generally conform to the disclosure requirements which would apply if the offering were so registered. The format and information requirements of applicable Guide(s) promulgated by the Securities and Exchange Commission shall be followed, with appropriate adjustments made for the different business of the REIT.

2. Prohibited Representations

- a. In connection with the offering and sale of SHARES in a REIT, neither the SPONSOR(S) nor the underwriter(s) may, in writing or otherwise, directly or indirectly, represent or imply that an Administrator has approved the merits of the investment or any aspects thereof.
- b. Any reference to the REIT'S compliance with these Guidelines or any provisions herein which connotes or implies compliance shall not be allowed.

3. Forecasts and Projections

- a. Neither the PROSPECTUS nor any sales material communicated directly or indirectly to the public shall

contain a quantitative estimate of a REIT'S anticipated economic performance or anticipated return to participants, in the form of investment objectives, cash distributions, tax benefits or otherwise, except as permitted by this Section of these Guidelines.

b. The presentation of predicted future results of operations of programs shall be permitted but not required for SPECIFIED ASSET REITS and shall be prohibited for all other REITS. The cover of the PROSPECTUS must contain in bold face language one of the following statements:

- i. for SPECIFIED ASSET REITS with forecasts: "Forecasts are contained in this prospectus. Any representation to the contrary and any predictions, written or oral, which do not conform to that contained in the prospectus shall not be permitted"; or
- ii. for all other REITS: "The use of forecasts in this offering is prohibited. Any representation to the contrary and any predictions, written or oral, as to the amount or certainty of any present or future cash benefit or tax consequence which may flow from an investment in this program is not permitted."

c. Content of Forecasts

Forecasts for SPECIFIED ASSET REITS may be included in the PROSPECTUS and sales material of the REIT only if they comply with all of the following requirements:

- i. Generally, forecasts shall be realistic in their predictions and shall clearly identify the assumptions made with respect to all material features of presentation. Forecasts should be examined by an independent certified public accountant in accordance with the Guide for Prospective Financial Statements and the Statement on Standards for Accountant's Services on Prospective Financial Information as promulgated by the American Institute of Certified Public Accountants. The report of the independent certified public accountant must be included in the PROSPECTUS.
- ii. if any part of the forecast appears in the sales

material, the entire forecast must be presented.

- iii. Forecasts shall generally be for a period equivalent to the anticipated holding period for REIT assets. Forecasts which do not extend through the expected term of the REIT'S life must show the effects of a hypothetical liquidation of program assets under good and bad conditions. Yield information may not be presented for Forecasts which do not extend through the expected term of the REIT'S life.
- iv. Forecasts shall disclose possible undesirable tax consequences of an early sale of program assets, such as depreciation recapture, the loss of prior year tax credits or the possible failure to generate sufficient cash from the disposition to pay the associated tax liabilities.
- v. In computing any rate of return or yield to investors, no unrealized gains or value shall be included.

C. The ADMINISTRATOR may require that the DECLARATION OF TRUST be given to prospective SHAREHOLDERS.

VIII. MISCELLANEOUS

A. Provisions of the DECLARATION OF TRUST

The requirements and/or provisions of appropriate portions of the following Sections shall be included in the DECLARATION OF TRUST:

I.B.; II.A.; II.B.; II.C.; II.D.; II.E.; II.F.; II.G.; II.H.; III.B.; III.C.; III.F.; IV.A.2; IV.C.; B.; V.A.2; V.C.; V.D.; V.E.; V.F.; V.G.; VI.A.; VI.B.; VI.C.; VI.D.; VI.E.2; VI.G.; VI.H.; VII.I.; VI.J.; VI.K.; VII.A.; VII.B.; VII.C.; VII.D.; VII.E.; VII.F.; VII.G.; VII.H.; VIII.I.
IV.D.; IV.E.; IV.F.; IV.G.; V.A.; V.B.; V.C.; V.D.; V.E.2; V.G.; V.H.; V.I.; V.J.; V.K.; VI.A.; VI.B.; VI.C.; VI.D.; VI.E.; VI.F.; VI.G.; VI.H.; VII.

B. Amendments and Supplements

A marked copy of all amendments and supplements to an application shall be filed with the ADMINISTRATOR as soon as the amendment or supplement is available.

C. Cross Reference Sheet Requirement

The CROSS REFERENCE SHEET shall be included with the application for registration.

REIT GUIDELINES CROSS REFERENCE SHEET

General Instructions

1. This CROSS REFERENCE SHEET should be completed and submitted with the Application for Registration.
2. Sections which are not applicable should be noted as such.
3. Provisions of the REIT which vary from the Guidelines must be explained by endnote; for example, if the REIT uses a defined term which is different from the Guidelines' definition, the variance must be explained. Endnotes should be numbered sequentially in the column designated "Endnotes" and should be presented on a rider identified as "Endnotes" with each endnote on the rider numerically corresponding to the endnote identified on the CROSS REFERENCE SHEET.

REIT GUIDELINES CROSS REFERENCE SHEET

Name of Applicant: _____

Guideline Section	Section Number Declaration of Trust	Page Number Prospectus	Endnote See Instruction 3
II. Requirements of Sponsor, Advisor, Trustees & Affiliates			
A. Minimum Capital			
B. Number & Election of Trustees			
C. Duties of Trustees			
D. Experience of Trustees			
E. Fiduciary Duty			
F. Advisory Contract			
G. Liability and Indemnification			
H. Arbitration Provisions			
III. Suitability of Shareholders			
B. Income & Net Worth Standards			
D. Subscription Agreements			
E. Completion of Sale			
F. Minimum Investment			
IV. <u>Concentration Limit</u>			
B. <u>10% liquid net worth in REIT, Affiliates and other non-traded REITS</u>			
IV. <u>Fees, Compensation & Expenses</u>			
A. Introduction			
B. Organization & Offering Expenses			
C. Acquisition Fees & Acquisition Expenses			
D. Total Operating Expenses			
E. Real Estate Commissions on Resale of Property			
F. Incentive Fees			
G. Advisor Compensation			
V. <u>Conflicts of Interest & Investment Restrictions</u>			
A. Sales & Leases to REIT			
B. Sales & Leases to Sponsor, Advisor, Trustees or Affiliates			
C. Loans			
D. Investment			
E. Statement of Objectives			
F. Multiple Programs			
G. Other Transactions			
H. Appraisal of Real Property			
I. Roll-up Transaction			

