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NATIONAL ASSOCIATION OF
REAL ESTATE INVESTMENT TRUSTS®

VIA E-MAIL

December 9, 2002

Mr. Jonathan G. Katz
Secretary
U.S. Securities and Exchange Commission
Mail Stop 6-9
450 Fifth Street, NW
Washington, DC 20549-6009

Re: Disclosure in Management's Discussion and Analysis About Off-Balance Sheet Arrangements, Contractual Obligations and Contingent Liabilities and Commitments (File No. S7-42-02)

Dear Mr. Katz:

The National Association of Real Estate Investment Trusts® ("NAREIT®") welcomes this opportunity to respond to the request for comments from the Securities and Exchange Commission ("Commission") on various proposals contained in Release Nos. 33-8144 and 34-46767 ("Releases"). NAREIT is the national trade association for real estate investment trusts ("REITs") and other publicly traded real estate companies. Members include REITs and other businesses that own, operate, and finance income-producing real estate, as well as those firms and individuals who advise, study and service those businesses.

Executive Summary

NAREIT commends the Commission's efforts to improve the transparency, usefulness and credibility of financial reporting. In particular, we support efforts to have public companies clearly disclose off-balance sheet arrangements, contractual obligations and contingent liabilities and commitments that are likely to impact a registrant's future operating results or financial position. Further, we are pleased that, in Section II B 2 of the release, the Commission concludes that the proposed rule would "include an instruction that no obligation to make disclosure of an off-balance sheet arrangement shall arise until an unconditionally

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binding definitive agreement, subject only to customary closing conditions exists or, if there is no such agreement, when settlement of the transaction occurs." This disclosure threshold is similar to NAREIT's views reflected in its comment letter and discussed with the Commission's staff with respect to the Commission's proposal to include non-binding agreements on Form 8-K *(See NAREIT comments filed on August 26, 2002, File No. S7-22-02).*

Although we generally support the proposed disclosures, we request that the Commission consider the following two issues:

- We believe that adopting the "reasonably likely standard" as the threshold for the proposed disclosures will result in more focused and meaningful financial reporting, and

- We are concerned with redundant disclosures in the financial statement notes and in the proposed MD&A section of a company's disclosure documents.

Adoption of a "Reasonably Likely" Threshold

Section II B 3 of the release indicates that the current threshold for disclosing the effects of prospective events on a company in MD&A is whether the effect is "reasonably likely" to occur. The proposed rule would lower that threshold. It would require disclosure regarding off-balance sheet arrangements unless the likelihood of either the occurrence of an event or the materiality of its effect on the financial statements, is remote.

We recommend that the final rule adopt the "reasonably likely" standard as the threshold triggering disclosure. We believe this standard would result in more focused and meaningful information for consumers of financial information. To report all information that is "other than remote" could result in lengthy disclosure that may evolve over time into routine boilerplate, which would decrease the market's ability to discern those financial matters which are most relevant and meaningful. Furthermore, to disclose all information that is "other than remote" would result in reporting information that may be highly speculative and that may obscure or hinder the substantive analysis and understanding of likely impacts of off-balance sheet arrangements, contractual obligations and contingent liabilities and commitments.

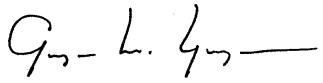
Redundant Disclosures

We are concerned with redundant disclosures in the financial statement notes and in the proposed MD&A section of a company's disclosure documents. We appreciate the Commission's purpose to have all off-balance sheet arrangements, contractual obligations and contingent liabilities and commitments shown in one place in the disclosure documents, but are concerned that the redundant disclosures may be misunderstood by users of these documents.

We recommend that the Commission and FASB staffs review the requirements under the proposed rule and eliminate redundant disclosures in the notes to financial statements. The notes could refer to the MD&A disclosures.

NAREIT thanks the Commission for this opportunity to comment on the Releases. Please contact Robert Cohen, NAREIT's National Policy Counsel, at (202) 739-9415 if you would like to discuss our comments in more detail.

Respectfully submitted,



George Yungmann
Vice President, Financial Standards