



Real estate
working for you®

April 6, 2020

The Honorable Steven T. Mnuchin
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Mnuchin,

Nareit requests that you provide a waiver for real estate investment trusts (REITs), which are required by tax law to distribute dividends representing their taxable income each year, from the dividend restriction requirements contained in the recently enacted CARES Act with respect to Title IV direct loan programs. Nareit is the worldwide representative voice for REITs and publicly-traded real estate companies with an interest in U.S. real estate and capital markets. Nareit's members are REITs and other real estate businesses throughout the world that own, operate and finance residential and commercial real estate.

Nareit makes this request because there are a number of REITs experiencing financial hardship as a result of the COVID-19 crisis which would otherwise be eligible for direct loans; because application of the dividend-related restriction to REITs would not be consistent with the longstanding Federal interest of supporting REIT-based real estate investment; and because the absence of an exception for REITs from application of this restriction is, in our view, an oversight stemming from the emergency nature of the CARES Act.

Congress created REITs sixty years ago to provide a way for individuals from all walks of life to be able to obtain the savings and investment diversification benefits of real estate. Today, more than 87 million Americans own REITs directly or indirectly. REITs are invested in every part of the country in every type of real estate and nearly the entire real estate sector of the public equity market is comprised of REITs. As a result, REITs own \$3 trillion in real estate assets, of which \$2 trillion is represented in the public equity market. Of particular note with today's COVID-19 crisis, REITs own approximately 8,800 medical facilities including medical office buildings, assisted living facilities, skilled nursing facilities, and other health care facilities.

To be specific, the direct loan program established under the CARES Act through section 4003(b)(4) is available only upon the agreement of the eligible business not to distribute dividends with respect to the common stock of the eligible business for the period of the loan plus one year. Likewise, the loan program specifically designed for mid-sized businesses under section 4003(c)(3)(D) is only available upon a good-faith certification that a borrower will not pay dividends with respect to the common stock of the business.

1875 I Street, NW, Ste 500
Washington, D.C. 20006-5413
202-739-9400

reit.com



Real estate
working for you

Under the Internal Revenue Code of 1986, REITs earning any amount of taxable income, no matter how small, are required to distribute dividends, at least annually. The Internal Revenue Code section 857(a)(1)(A) requires that a REIT distribute at least 90% of its taxable income annually as a dividend to continue to qualify as REIT. Additionally, if a REIT does not distribute 100% of taxable income annually it is subject to corporate-level tax on the undistributed portion. Consequently, REITs annually distribute at least 100% of taxable income.

The large-scale economic disruption associated with the COVID-19 pandemic is making it exceedingly difficult for a significant number of the tenants of REIT-owned property across the nation to pay their rents on a current basis. This extraordinary development means that a number of REITs, especially within the hotel, retail, health care, office and residential sectors, must put a priority on conserving cash and preserving liquidity. Like other U.S. businesses which are not required by law to pay dividends, these REITs equally need and would like access to the Federal Reserve direct loan program to support their businesses so that their employees, tenants and the communities that they serve are best able to manage through the crisis and to recover from it.

In short, consistent with the waiver authority provided to you in the CARES Act, Nareit requests that the Treasury Department provide a waiver for tax-qualified REITs from the dividend prohibitions applying to the direct loan program under sections 4003(b)(4) and 4003(c)(3)(D).

Sincerely,

Steven A. Wechsler
President & CEO
Nareit

CCs: Jerome H. Powell, Chair, Board of Governors of the Federal Reserve System
Richard H. Clarida, Vice Chair, Board of Governors of the Federal Reserve System
Justin G. Muzinich, Deputy Secretary, Department of the Treasury