Statement by the
National Association of Real Estate Investment Trusts,
The Real Estate Roundtable, and the
International Council of Shopping Centers

Submitted for the Record of the House Committee on Agriculture's
Hearing Held on September 17, 2009, To Review Proposed
Legislation by the U.S. Department of Treasury

The National Association of Real Estate Investment Trusts (NAREIT), The Real Estate Roundtable (RER) and the International Council of Shopping Centers (ICSC) (the "Associations") thank the Chairman, the Ranking Member and the Committee for the opportunity to submit these comments for the record of the hearing held by the Committee on Agriculture on September 17, 2009, regarding the proposed legislation by the Department of the Treasury to regulate over-the-counter derivative markets.

The Associations support efforts by the Administration and the Congress to enact financial regulations that enhance transparency and accountability while restoring stability to capital markets. The Associations believe it is possible to enact this reform and minimize systemic risk while still maintaining access to reasonably priced and customized OTC derivative products for business end-users that seek to control cost and manage the risk inherent to their day-to-day business operations.

Commercial real estate companies rely upon low-cost, customized over-the-counter (OTC) derivative products – such as interest rate swaps, forward starting swaps, and foreign exchange forward contracts – to mitigate risk and to manage the costs of their development and operational activities. By utilizing these products to minimize volatility and reduce risk, these companies can better manage their balance sheets and better serve their customers and shareholders.

We support efforts to contain any systemic risk posed by derivative arrangements between two major market participants through reasonable capital requirements and through mandatory central clearing or exchange trading of standardized derivatives.

However, proposals that would require OTC derivatives used by business end-users to be standardized, centrally cleared, executed on exchanges, or cash collateralized – or that would increase the cost of hedging through unreasonable capital charges – would create a significant drain on working capital and could prevent our member companies from accessing these important risk management tools.

The Associations appreciate the collaboration between Agriculture Committee Chairman Peterson and Financial Services Committee Chairman Frank, and the work of the Treasury Department in the effort to craft proposals that attempt to reduce systemic risk, while also recognizing the particular concerns of business end-users that utilize derivatives to manage business risk in a responsible way.

The Associations support these dual objectives, though we believe more must be done to ensure that the proposed legislation truly targets systemic risk and speculation without undermining legitimate risk management techniques for business end-users. We look forward to working with policymakers to achieve these goals.

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