NATIONAL ASSOCIATION OF REAL ESTATE INVESTMENT TRUSTS®

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REITS: BUILDING DIVIDENDS AND DIVERSIFICATION®

July 19, 2017

Submitted to: taxreform2017@finance.senate.gov

The Honorable Orrin G. Hatch
Chairman
Committee on Finance
219 Dirksen Office Building
Washington, D.C. 20510

The Honorable Ron Wyden
Ranking Member
Committee on Finance
219 Senate Dirksen Office Building
Washington, D.C. 20510

Dear Chairman Hatch and Ranking Member Wyden:

NAREIT®, the National Association of Real Estate Investment Trusts®, is the worldwide representative voice for real estate investment trusts (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 businesses throughout the world that own, operate, and finance income-producing real estate, as well as firms and individuals who advise, study, and service those businesses.

NAREIT recognizes the importance of your initiative to examine the Internal Revenue Code of 1986. We also look to continue to work constructively with both of you as you chart the path forward for comprehensive tax reform. For your background information, an abbreviated chronology of the REIT Industry beginning in 1960 is provided as Attachment A.

Consistent with our mission as an organization, our focus with respect to the Internal Revenue Code of 1986 and its potential reform includes REITs as well as real estate investment more generally.

REITs

REITs were created in 1960 when the U.S. Congress passed, and President Dwight D. Eisenhower signed into law, the Cigar Excise Tax Extension Act, which contained within it the initial Federal tax legislation authorizing REITs in the United States.

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This tax legislation was intentionally patterned after the tax rules governing mutual funds (regulated investment companies), a type of investment structure first adopted two decades earlier meant to provide the public with an efficient means for investing in diversified portfolios of corporate securities. As the legislative history of the original REIT rules states, the primary intention of Congress in authorizing the use of REITs was to provide a means "whereby small investors can secure advantages normally available only to those with larger resources," in connection with real estate investment. Congress specifically noted that these beneficial characteristics included "greater diversification of investment," "expert investment counsel" and the means of "collectively financing projects which the investors could not undertake singly."

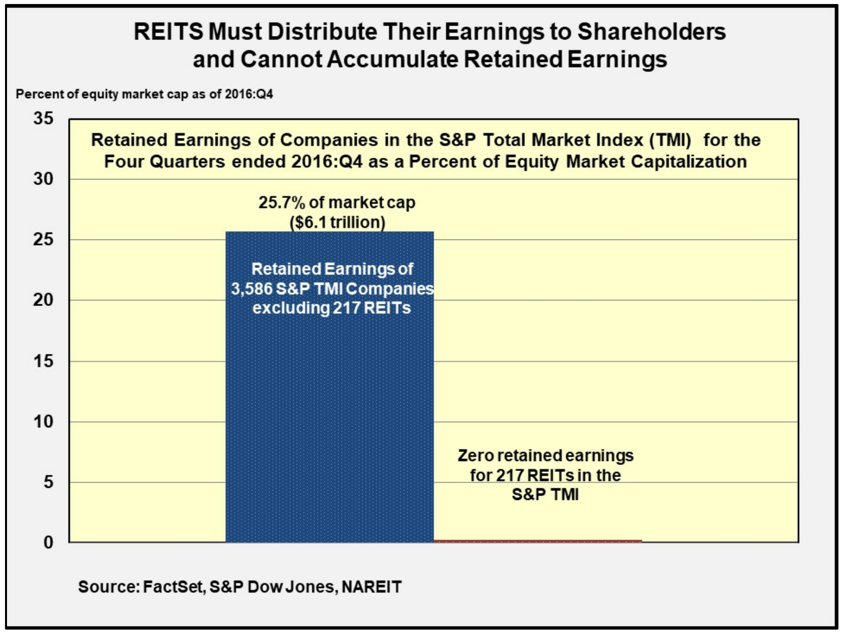
What Congress also understood then and has endorsed through support for, and amendment of, the REIT rules for over 55 years is that, without a model for real estate investment akin to mutual funds, only a select few would have the opportunity to gain from the three most fundamental benefits of real estate investment (aside from owner-occupied housing): 1) current income; 2) long-term capital preservation and appreciation; and, 3) investment diversification.

To provide this opportunity to the public, Congress has required since 1960 that REITs follow rules closely modeled after the mutual fund rules, with the proviso that REITs primarily invest in real estate rather than corporate securities. In general, the REIT rules create an operating framework requiring that real estate investment is undertaken for the longer term; that taxable income results from real estate-related investment; and, that REITs' taxable income is distributed annually to REIT shareholders.

This operating framework is delineated within the Internal Revenue Code by numerous rules, restrictions and limitations under which REITs are required to operate. Specifically, any entity that elects with the IRS to operate and be taxed as a REIT under the U.S. corporate income tax must be incorporated or otherwise organized in the United States (e.g. partnerships, limited liability companies, business trusts); must maintain at least 75% of its assets in qualifying real estate assets; must receive 75% of its income from some combination of rent from real property, interest from mortgages secured by real property and gains from the sale of real property; must receive 95% of its income from the aforementioned qualified real estate sources and from other passive sources; and, must have more than 100 shareholders with no fewer than five individuals owning more than 50% of its stock.

Certainly, among the most burdensome of restrictions is the fact that REITs are required to distribute at least 90% of their taxable income each year to their shareholders. Consequently, REITs, unlike corporations as well as unlike other pass-through entities (partnerships, limited liability companies and S corporations), are not permitted to retain an appreciable amount of earnings as illustrated in the chart below. This limitation on retained earnings imposes the concomitant requirement that REITs regularly return to the capital markets to fund new investment, thereby remaining disciplined in their use of capital and subject to the scrutiny of investors and the public. Unlike other pass-through entities, which today account for a clear majority of commercial real estate investment in the United States, REITs also are not generally permitted to pass through tax losses or tax credits to their shareholders.

By complying with these burdensome restrictions as well as several other related constraints, a REIT may deduct from its taxable income the dividends it pays to its shareholders when completing its tax return. Moreover, the dividends paid by REITs generally are not treated as "qualified" dividends but are taxable at the shareholder's ordinary income tax rate.

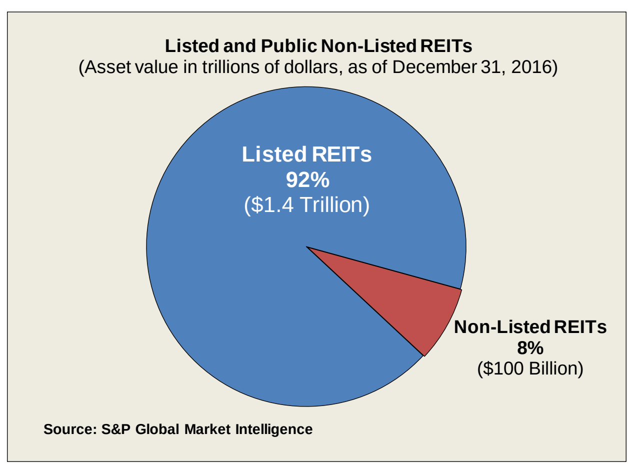


U.S. REIT INDUSTRY TODAY

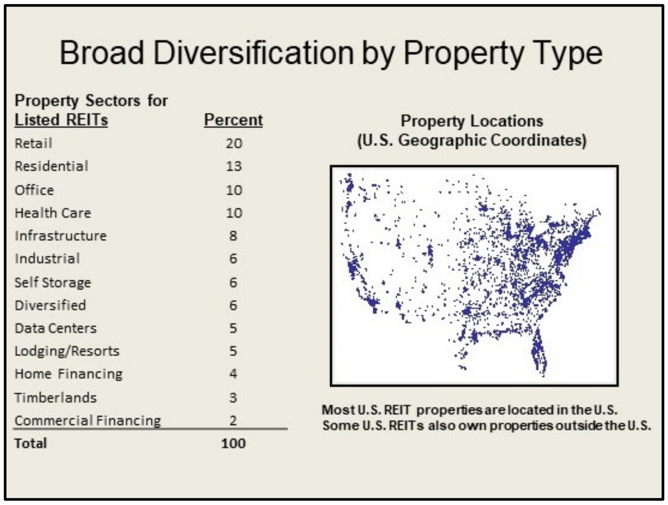
The U.S. REIT industry today includes a vibrant range of companies engaged in real estate ownership or financing that support nearly all sectors of the economy. While there is great diversity within the industry, the REIT rules as described above remain true to their original purpose: a REIT must primarily invest in and derive income from real estate; it must be widely held; and each year it must distribute virtually all its income to its shareholders.

A REIT may be a public company with its shares registered with the Securities and Exchange Commission (SEC), or it may be a private company. A public REIT's shares may be either listed on an established stock exchange, or its shares may be unlisted and sold directly to investors through a broker-dealer.

At the end of 2016, 320 REITs were registered in the U.S. with the SEC, and 232 of these REITs were listed on established U.S. stock exchanges (predominantly on the NYSE). Of the 320 SEC-registered REITs, 92% (by asset value) are stock exchange-listed REITs, and 8% are public non-listed REITs. Private REITs are not registered with the SEC; nevertheless, each of them still must comply with the REIT rules, and each must file with the IRS every year.

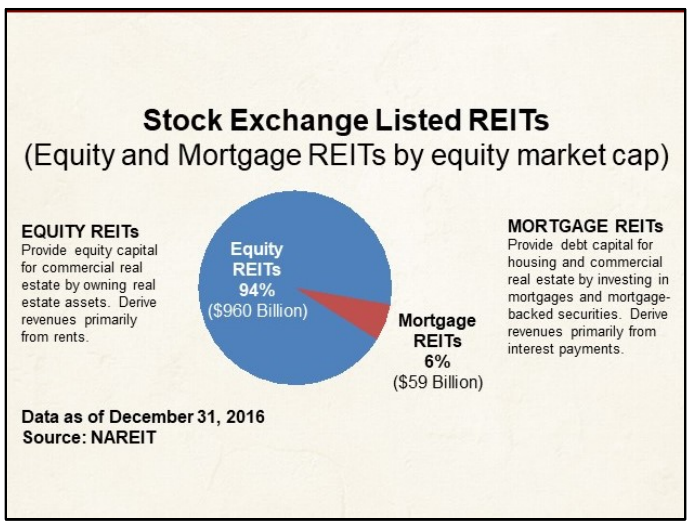


Today's REITs generally specialize in either owning or financing real estate. "Equity REITs" primarily own, and in most cases, operate income-producing properties, including apartments, data centers, hospitals, hotels, industrial facilities, life science buildings, nursing homes, offices, shopping malls, storage centers, senior housing, student housing, telecommunications towers and timberlands. Equity REITs currently own more than $1.5 trillion of real estate in the United States, including nearly 300,000 properties in all 50 states and accounting for an estimated 10% to 20% of the total commercial real estate market nationwide.



"Mortgage REITs" primarily invest in mortgages and mortgage-backed securities, providing financing for residential and commercial properties. More than 2.5 million single-family homes are currently financed by mortgages owned by mortgage REITs. Most of these mortgages would otherwise be funded on the balance sheets of commercial banks or one of the government-sponsored enterprises.

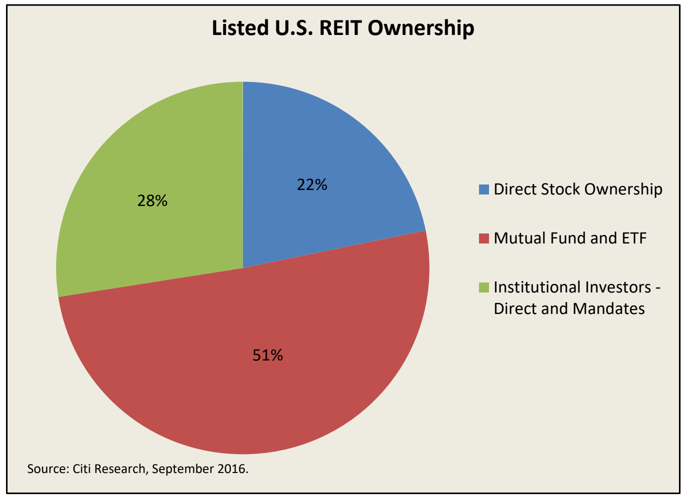
Based on total stock exchange-listed REIT equity market capitalization, 94% of today's stock exchange-listed REITs are equity REITs, and 6% are mortgage REITs.



For more than 50 years, REITs have built a record of success in meeting the intent of Congress to provide individuals from all walks of life with the opportunity to earn the benefits of long-term real estate investment. For example, by investing in the shares of stock exchange-listed equity REITs, the public can efficiently and effectively own a stake in a diversified portfolio of large-scale, income-producing properties. The portfolio diversification benefits manifest themselves in two ways: first, by providing exposure to the real estate asset class alongside other stocks, bonds, cash and other assets; and second, by diversifying the real estate exposure across many different property sectors and geographic regions owing to REIT-owned properties being located around the country and supporting different sectors of the economy. A further source of diversification is available to investors through mutual funds and exchange-traded funds (ETFs) that diversify their investments across many different REITs.

REITs that are listed on stock exchanges currently have an equity market capitalization of about $1 trillion and help support nearly one million jobs in the U.S. each year, both through their own operations and operations of the businesses that occupy their properties. In addition to the REIT rules, these listed REITs are subject to SEC as well as stock exchange listing requirements.

Because stock exchange-listed REITs must invest for the long-term, must generate reliable and predictable current income for shareholders, must use their capital in a disciplined manner and finance themselves with only moderate leverage, many have argued that listed REITs, being widely monitored and scrutinized by analysts and investors through their transparent financial statements and publicly available information, have served as a stabilizing force within the real estate market and broader economies during times of economic turbulence.



Not only have stock exchange-listed REITs served an important role in moderating the extreme highs and lows that have characterized previous commercial real estate cycles, they also have performed well relative to other equity and fixed income investments, both in the U.S. and internationally over both short- and long-term investment horizons due in no small part to the discipline and demands associated with required dividend distribution.

It is important to note that, as the public increasingly searches for investments to help secure their savings and their futures, the U.S. REIT industry – primarily through the elected burden of mandatory distribution of taxable income – has helped to foster growing interest in long-term, income-oriented real estate investment in the U.S. and, increasingly, around the world.

The transparency of these public REITs, together with the disciplined use of capital encouraged by the REIT rules and public markets, have benefited all participants in the real estate market, including institutional and individual investors; providers of credit; local, state and federal governments; and regulators. REITs also make significant contributions to the economic growth and stability of the country through their development and redevelopment projects.

Because of this track record, REITs have become widely accepted in today's investment landscape. For example, REITs are in 225,000 401(k) plans, representing 70 million Americans. There are more than 300 mutual funds and ETFs dedicated to REITs and real estate sponsored by companies like Vanguard, Fidelity and T. Rowe Price. And REITs are in 90% of target date funds, the fastest-growing retail investment default option.

<u>REITs AROUND THE WORLD</u>

Over the course of the past five decades, the U.S. REIT industry has both grown substantially and performed well. Not surprisingly, other nations have taken notice. To provide their citizens and economies with the benefits of REIT-based real estate investment, more than 35 countries so far have adopted various adaptations of the U.S. REIT model.

For example, every G-7 nation has adopted a regime for REIT-based real estate investment. Additionally, a majority of countries that are members of the Organisation for Economic Co-operation and Development (OECD) have adopted their own regimes for REIT-based real estate investment. Finally, both of our nation's neighbors, Canada and Mexico, have REIT regimes in place. These countries have chosen to follow, more or less, the pioneering experience set forth by the U.S.

The FTSE EPRA/NAREIT Global Real Estate Index is the leading investment benchmark worldwide for stock exchange-listed equity real estate investments. The equity market capitalization of the Index today is approximately $1.6 trillion worldwide, three-fourths of which represent publicly traded equity REITs. Notably, the largest listed real estate company in the world is a U.S. REIT, and U.S. REITs represent 24 of the largest 50 listed real estate companies worldwide. With REIT models now adopted by many nations around the world, seven of the largest 50 real estate companies are REITs organized and headquartered outside the U.S., meaning that 31of the largest 50 listed real estate companies in the world are REITs.

Because the United States currently has the highest corporate tax rate in the world, advocates of comprehensive tax reform have argued for reducing the statutory corporate rate. It is noteworthy in the table below that most nations that have adopted the REIT approach to real estate investment also have significantly lower corporate tax rates when compared to the United States. These tax disparities underscore the fact that REITs, as a matter of national economic policy, have become an attractive and important way to provide public access to real estate investment worldwide, regardless of the rate and related structure of a national corporate income tax.

Corporate Tax Rates of REIT Nations
(Percent)

G7		OECD		OTHERS		POTENTIAL	
Canada	15.0	Australia	30.0	Bahrain	0.0	Cambodia	20.0
France	33.3	Belgium	33.0	Brazil	16.5	China	25.0
Germany	15.8	Finland	20.0	Bulgaria	10.0	Indonesia	25.0
Italy	24.0	Greece	29.0	Costa Rica	30.0	Malta	35.0
Japan	23.0	Hungary	9.0	Hong Kong	16.5	Nigeria	30.0
UK	19.0	Ireland	12.5	India	32.1	Poland	19.0
USA	35.0	Israel	24.0	Kenya	30.0	Saudi Arabia	20.0
		Mexico	30.0	Malaysia	24.0	Sweden	22.0
		Netherlands	25.0	Pakistan	31.0	Tanzania	30.0
		New Zealand	28.0	Philippines	30.0		
		Spain	25.0	Singapore	17.0		
		Turkey	20.0	South Africa	28.0		
				South Korea	22.0		
				Taiwan	17.0		
				Thailand	20.0		
				UAE	0.0		
				Vietnam	20.0		

Source: EY Worldwide Corporate Tax Guide 2017

GUIDING TAX PRINCIPLES for REITS, REAL ESTATE INVESTMENT and TAX REFORM

Our guiding principles for REITs, real estate investment and tax reform are simple.

First, it is important in any tax reform plan to maintain parity between REITs and other pass-through entities with respect to the taxation of rent and interest. Today, a dollar of rental or interest income whether received through a REIT or a pass-through entity such as a partnership has the same rate, character and timing for tax purposes. Tax parity with respect to the treatment of rent or interest should be maintained whether the rent or interest is collected through a partnership, a limited liability company, an S corporation or a REIT. To do otherwise would discriminate against REIT-based rent or interest received by owners of the REITs, even though REITs are not permitted to keep the rent or interest and must pay it out annually to owners.

Second, care should be taken to either adjust the REIT rules appropriately so REITs continue to operate as intended or to account for the existence of REIT based real estate investment in the general tax rule to ensure that the Congressional intent to allow average investors to access high quality commercial real estate is not hampered. For example, the rules on net operating losses should be carefully crafted to ensure that income distributed to REIT shareholders continue to be taxed only at the shareholder level. Another example is that any repatriation rules on overseas profits should also not inadvertently create an entity level tax because a REIT is not allowed to use a dividends received deduction.[1]

Third, to support growth, the capital cost recovery system for real estate investment should, at a minimum, reflect the present value of economic depreciation. Because debt is also a vital ingredient to finance capital investment, including real estate, interest expense should continue to be deductible as an ordinary and necessary business expense.

Fourth, it is important to retain the like-kind exchange rules because the marketplace for real estate is illiquid and because real estate itself is so highly capital intensive. For many decades, these rules have ensured the property markets are not frozen, that necessary reinvestment takes place and that unless property owners "cash out" they are permitted to exchange property while deferring gain for tax purposes.

Fifth, the retroactive application of parts of the Tax Reform Act of 1986 contributed to a severe downturn in the commercial real estate markets in the late 1980s and early 1990s. We urge the Committee to design appropriate and generous transition rules as a basic part of any tax reform plan rather than wait until the end of the process so that current investors who have relied on current laws are not inappropriately disadvantaged compared to new investors.

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NAREIT very much appreciates the opportunity to provide this letter to you and your colleagues on the Senate Committee on Finance. We welcome the opportunity to discuss this submission, or any of the issues affecting REITs and real estate investment, as you continue to work towards the enactment of comprehensive tax reform. If you have any questions, please contact me or Tony Edwards, NAREIT's Executive Vice President and General Counsel, at (202) 739-9408 or tedwards@nareit.com.

Respectfully submitted,

Steven A. Wechsler
President & Chief Executive Officer

[1] See NAREIT letter to Chairman Hatch and Ranking Member Wyden regarding the Finance Committee International Tax Reform Working Group, dated April 15, 2015.

Attachment A: REIT Chronology

1960 REITs are Created

Sept. 14, 1960: REITs are created when President Eisenhower signs into law the REIT Act title contained in the Cigar Excise Tax Extension of 1960. REITs, patterned after mutual funds, were created by Congress in order to give the public the opportunity to invest in large-scale, diversified portfolios of income-producing real estate.

NAREIT is Formed

Sept. 15, 1960: NAREIT is incorporated and today is the worldwide representative voice for REITs and publicly traded real estate companies with an interest in U.S. real estate and capital markets.

Initial REITs Debut

1960-1961: The first REITs--Bradley Real Estate Investors, Continental Mortgage Investors, First Mortgage Investors, First Union Real Estate (now Winthrop Realty Trust, NYSE: FUR), Pennsylvania REIT (NYSE: PEI) and Washington REIT (NYSE: WRE)--are created. The latter three are still in existence today.

1965 First NYSE REIT

June 1965: Continental Mortgage Investors becomes the first REIT to be listed on the New York Stock Exchange.

1969 REITs Around the World

1969: The first European REIT legislation is passed in The Netherlands. This marks the beginning of the global spread of the REIT model, with REITs launching in Australia shortly after in 1971. REITs began to spread across Asia with the launch of Japanese REITs in 2001. REITs in Europe were buoyed by legislation in France (2003), Germany (2007) and the U.K. (2007). In total, more than 35 countries now have REIT legislation.

1970 First Health Care REIT

June 1970: Health Care Fund, founded by Bruce Thompson and Frederic Wolfe, becomes the first health care REIT. The company changed its name to Health Care REIT, Inc. (NYSE: HCN) in 1985.

1972 First REIT Index Unveiled

January 1972: NAREIT REIT Index debuts as the first REIT index available for benchmarking the price and total return investment performance of REITs. The index originates the classification of Equity and Mortgage REITs.

Attachment A: REIT Chronology

1976 Tax Reform Act of 1976

November 1976: As part of the Tax Reform Act of 1976, President Ford signs into law the first package of REIT simplification amendments, most notably allowing REITs to be established as corporations in addition to business trusts.

1985 Dedicated Real Estate Funds Developed

January 1985: The National Real Estate Stock Fund is formed as the first open-end mutual fund dedicated to REITs. Today, there are more than 300 dedicated real estate mutual funds and ETFs. In 1986, Martin Cohen and Robert Steers found Cohen & Steers, which becomes the nation's largest REIT manager with more than $60 billion in assets under management, as of June 2017.

1986 Tax Reform Act of 1986

October 1986: President Reagan signs the Tax Reform Act of 1986. Among its real estate provisions, there are several new rules that prevent taxpayers from using partnerships to shelter earnings from other sources. Additionally, a number of REIT simplification changes take effect, including one that for the first time allows REITs to be internally advised and managed.

1989 Dramatic Real Estate Downturn

1989-1991: The nation is beset by the worst real estate downturn since the Great Depression of the 1930s. REIT stock prices decrease well before prices of private real estate begin substantial decline. However, REIT share prices also begin to increase well before recovery in the private real estate market.

1991 Kimco's IPO Launches the Modern REIT Era

November 1991: Kimco Realty Corporation (NYSE: KIM) concludes the first successful equity REIT IPO in many years. This step marks the beginning of the modern REIT era, sets the stage for the resurgence of the REIT industry and helps to stabilize the financial and real estate markets.

Attachment A: REIT Chronology

1993 Pension Plans

August 1993: As part of the Omnibus Budget Reconciliation Act of 1993, President Clinton signs into law a change that makes it easier for pension plans to invest in REITs.

Simon Property Goes Public

December 1993: Setting the stage for offerings to come, Simon Property Group (NYSE: SPG) concludes what was then the biggest REIT IPO to date, raising $839.9 million. Simon has gone on to become one of the largest publicly traded real estate companies in the world.

1999 Plum Creek Becomes First Timber REIT

1999: Plum Creek Timber Company (NYSE: PCL) becomes the first timber REIT. The company was acquired by fellow timber REIT Weyerhaeuser (NYSE: WY) in 2016.

REIT Modernization Act

December 1999: As part of the Ticket to Work and Work Incentives Improvement Act of 1999, President Clinton signs into law provisions of the REIT Modernization Act of 1999. Among other items is the ability of a REIT to form one or more taxable REIT subsidiaries (TRS).

2000 REIT ETFs Hit the Market

June 2000: The iShares Dow Jones U.S. Real Estate Index Fund launches, becoming the first real estate exchange traded fund. Within less than a year, it is joined by the streetTRACKS Wilshire REIT Index Fund and iShares Cohen & Steers Realty Majors Index Fund. Today, there are more than 20 REIT ETFs.

2001 Ibbotson Research Highlights REIT Benefits

August 2001: Ibbotson Associates, a leading authority on asset allocation, releases results of its landmark research clarifying the benefits of REITs in a diversified investment portfolio. The results, which were a driving force in the industry's investor outreach efforts, show that exposure to REITs not only improved portfolio returns but also lowered portfolio risk.

Global Real Estate Index Launches

October 2001: In a joint venture, NAREIT, EPRA and FTSE launch the EPRA/NAREIT Global Real Estate Index.

Attachment A: REIT Chronology

2001 Equity REITs Added to S&P Indexes

October 2001: Standard & Poor's opens its indexes to equity REITs.

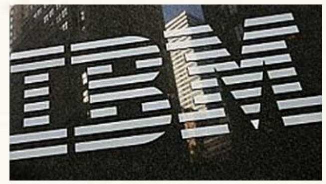
2003 SEC Recognizes Funds From Operations (FFO)

January 2003: The Securities and Exchange Commission explicitly allows companies to use FFO per share as defined by NAREIT in SEC filings.

Research Identifies Complementary Nature of Public and Private Real Estate Investment

June 2003: Ibbotson Associates releases results of its pioneering research with respect to the comparative performance of REIT and direct real estate investment in diversified investment portfolios. Ibbotson's analysis clearly demonstrates the complementary nature of both public and private forms of commercial real estate investment in long-term portfolios.

2004 IBM Adds a REIT Option



May 2004: IBM, the country's largest 401(k) plan sponsor, introduces a REIT index fund as a distinct investment choice to its plan.

REIT Improvement Act

October 2004: President Bush signs into law the American Jobs Creation Act, including all three titles of the REIT Improvement Act.

2008 REIT Investment and Diversification Act

July 2008: REIT Investment and Diversification Act (RIDEA) becomes law, allowing REITs to buy and sell real estate assets more efficiently, among other things.

Attachment A: REIT Chronology

2008 Research Shows REITs Assist with Liability Relative Optimization

September 2008: Ibbotson Associates releases results of its pioneering research with respect to the benefits of including publicly traded REITs and property companies in long-term, diversified investment portfolios using liability relative optimization.

OECD Model Tax Treaty Modified

The Organization for Economic Cooperation and Development adopts a model tax treaty to achieve uniform tax treatment for cross-border REIT investments around the world.

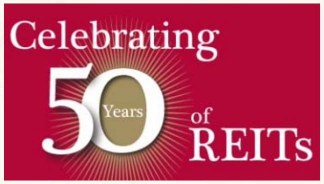
2009 Emerging Markets Added to Global Index

January 2009: FTSE, NAREIT and EPRA announce the addition of REITs and listed property companies in emerging markets to the FTSE EPRA/NAREIT Global Real Estate Index.

2009 REITs Prove Resilient in Great Recession

2009: In response to the global credit crisis, listed REITs respond by deleveraging and re-equitizing their balance sheets. Listed REITs and REOCs raised $37.5 billion in 91 secondary equity offerings, nine IPOs, and 37 unsecured debt offerings as the public continued to act favorably to companies strengthening their balance sheets amidst the Great Financial Crisis.

2010 REITs at 50



Sept. 14, 2010: REITs and NAREIT celebrate their 50th anniversaries, as recognized by a U.S. Congressional Resolution.

2012 REITs in Retirement Savings

April 2012: NAREIT released research by Wilshire Associates helping target date fund (TDF) managers to develop more effective 401(k) and other retirement portfolios. Wilshire found that a TDF portfolio including U.S. REITs would have produced an ending portfolio value nearly 10 percent higher than a portfolio without REITs over the 35-year period from 1976 through 2010, while also reducing risk.

Single-Family Home Rental REITs Emerge

December 2012: Silver Bay Realty Trust Corp. (NYSE: SBY) became the first REIT focused on single-family home rentals to go public. Three other REITs went public in 2013 solidifying the single-family rental market as a viable solution to America’s housing needs. That strategy was further validated when Blackstone Group took its single-family rental REIT Invitation Homes (NYSE: INVH) public in a $1.54 billion IPO in February 2017.

Attachment A: REIT Chronology

2013 S&P Opens Door for Mortgage REITs

Standard & Poor's announces mortgage REITs are eligible for inclusion in its indexes.

2014 India Approves REITs

August 2014: India, the world's largest democracy, became the 31st country to enact REIT legislation following action by the Securities and Exchange Board of India, which issued rules that closely hew to U.S. REITs. Notably, Indian REITs will be required to distribute at least 90 percent of net distributable cash flows to investors at least once every six months. At least 80 percent of the value of Indian REITs' assets must come from properties that are generating revenue.

Paramount Launches Largest REIT IPO to Date

November 2014: Paramount Group Inc. (NYSE: PGRE), which owns office properties in New York, San Francisco and Washington, held the largest IPO by a U.S. REIT to date. The $2.3 billion raised in the Paramount IPO eclipsed the previous record of $1.6 billion raised when Douglas Emmett, Inc. went public in 2006.

2014 REIT-Owned Assets Continue to Grow

The REIT-owned real estate across the country continues to grow. As of 2014, all REITs owned nearly $3 trillion in gross assets in the U.S. Publicly traded REITs alone owned nearly $2 trillion in gross assets.

2015 PATH Act

December 2015: President Obama signs into law the PATH Act, which includes removing FIRPTA obstacles impeding non-U.S. investment in REITs and real estate, and the repeal of the punitive preferential dividend rule for SEC-listed REITs.

2016 REITs Pass $1 Trillion Mark

$1 trillion

June 2016: The equity market capitalization of publicly traded REITs passed the $1 trillion mark for the first time.

Real Estate Becomes News GICS Sector

At the close of trading on Aug. 31, 2016, Real Estate became the 11th headline sector within the Global Industry Classification Standard (GICS). S&P Dow Jones Indices and MSCI Inc. moved equity REITs and other listed real estate companies from the Financials Sector to the new Real Estate Sector.