

NAREIT Alert (August 12, 2016)

NAREIT Alert Important Industry Updates from NAREIT

On Aug. 4, the Securities and Exchange Commission (SEC or Commission) issued a [proposal](#) (the Proposal) that would amend certain disclosure requirements that it believes have become redundant, duplicative, outdated, or superseded by other SEC disclosure requirements, US Generally Accepted Accounting Principles (GAAP), International Financial Reporting Standards (IFRS) or changes in the business environment. The SEC is also seeking constituent input on SEC disclosure requirements that overlap with, or are incremental to, existing GAAP to determine whether the SEC should retain, modify or eliminate the disclosure requirements. Alternatively, the SEC questions whether the Commission should simply refer the disclosure requirements to the Financial Accounting Standards Board (FASB) for potential incorporation into GAAP.

The Proposal may be of interest to REITs, as it specifically cites REIT examples when current SEC guidance would be amended and duplicative disclosure would be eliminated. If you are interested in participating in a task force that will evaluate the Proposal and consider whether NAREIT should develop a comment letter, please contact Christopher Drula at cdrula@nareit.com by close of business on Aug. 22. Comments are due to the Commission by Oct. 3.

Reporting Gains or Losses on Sales of Properties by REITs

The Proposal seeks to align current SEC and FASB guidance for reporting gains or losses on sales of properties by real estate companies such as REITs. Current SEC requirements in Regulation S-X mandate that REITs present separately all gains and losses on the sale of properties outside of continuing operations in the income statement. This guidance is in conflict with current GAAP, which restricts that presentation to gains and losses on disposals that meet the definition of discontinued operations. In July 2014, NAREIT [alerted its members](#) of the inconsistency, the SEC staff's acknowledgement of the inconsistency, and our understanding that the SEC staff would not comment on issuers' filings so long as either GAAP or SEC guidance was consistently applied.

Prior to 2014, application of Regulation S-X often resulted in the same presentation as GAAP because most REIT dispositions met the definition of discontinued operations. Thus, any gains or losses were presented outside of continuing operations in compliance with both SEC and GAAP requirements. In 2014, consistent with NAREIT's [recommendation](#), the FASB narrowed the definition of discontinued operations in GAAP, such that the reporting now more frequently results in a presentation that differs from that under Regulation S-X. The Proposal would eliminate the inconsistency by amending Regulation S-X to conform to GAAP.

Disclosure of Issuer's REIT Status

The Proposal would eliminate disclosures about an issuer's status as a REIT in the audited notes to the financial statements, in reliance on disclosures within the same filing, but outside the audited financial statements (e.g., management's discussion and analysis).

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