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Impact of NASAA REIT Guidelines Amendments to Non-Traded REIT Sponsors – Effective January 1, 2026

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Certain amendments to the North American Securities Administrators Association Statement of Policy Regarding Real Estate Investment Trusts (the "**NASAA REIT Guidelines**") applicable to public non-traded real estate investment trusts (**REITs**) that register their securities offerings in states take effect on January 1, 2026. State adoption varies – sponsors should review applicable jurisdiction implementation timelines and expect to receive correspondence from state securities administrators.

- Higher Income and Net Worth Standards: Effective January 1, 2026, investors in a public non-traded REIT need to have (a) both an annual gross income and net worth of $100,000 (increased from $70,000) **or** (b) a minimum net worth of $350,000 (increased from $250,000). Additionally, beginning January 1, 2031, and every five (5) years thereafter, NASAA will publish an addendum to update these thresholds to adjust for the effects of inflation.

Public non-traded REITs conducting registered offerings will need to make certain updates to their disclosures and subscription agreements to reflect the updated income and net worth standards as well as monitor state adoption.

- Uniform 10% Concentration Limit for Non-Accredited Investors, with Accredited Investor Exception: The amended NASAA REIT Guidelines require sponsors of non-traded REITs establish a minimum concentration limit for non-accredited investors that is "reasonable" given the type of REIT and "the risks associated with the purchase" of shares of such REIT. As a default, an investor's aggregate investment in non-traded REITs, BDCs, oil and gas programs, equipment leasing programs and commodity pools shall not exceed 10% of the investor's liquid net worth at the time of their investment in the non-traded REIT. While accredited investors are generally exempted from the concentration limit, state securities administrators have discretion to apply concentration limits to accredited investors. The amended REIT Guidelines provide that investments in a distribution reinvestment plan are excluded from the concentration limit.

The 10% concentration limit for non-accredited investors could make sponsors reluctant to accept non-accredited investors in their offerings due to the additional diligence required to determine whether the concentration limit will apply.

- Updated "Conduct Standards" that Require Additional Sponsor Oversight: The amended NASAA REIT Guidelines incorporate the SEC's Regulation Best Interest and impose heightened oversight obligations for sponsors and anyone selling REIT shares by requiring that they "make every reasonable effort" to determine that the purchase complies with applicable Conduct Standards, which include the SEC's Regulation Best Interest, fiduciary duties under federal or applicable state law, FINRA rules and ERISA fiduciary rules, as applicable. Simply complying with the NASAA REIT Guidelines does not satisfy these obligations.

Sponsors should consider how to best approach this heightened oversight effort and review with counsel their offering documents, dealer manager agreements, selling group agreements, and indemnification provisions to ensure they align with the amended NASAA REIT Guidelines.

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