



April 11, 2012

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

RE: Regulatory Notice 12-14 regarding Customer Account Statements

Dear Ms. Asquith,

Please accept this letter in response to Regulatory Notice 12-14 on the Proposed Amendments to NASD Rule 2340¹ to Address Values of Unlisted Direct Participation Programs and Real Estate Investment Trusts on Customer Account Statements (the "Notice").

In the Notice, Financial Industry Regulatory Authority, Inc. ("FINRA") has proposed amendments to NASD Rule 2340 to address how firms report the per share estimated values of unlisted Direct Participation Programs ("DPPs") and unlisted Real Estate Investment Trusts ("REITs") (collectively, "Issuers") on customer account statements. The proposed amendments would require a member firm to provide per share estimated values based on per share estimates disclosed in the Issuer's most recent periodic or current report filed with the SEC. Further, the amendments would require that these per share estimates be "based on an appraisal of assets and liabilities."

American Realty Capital and its FINRA member subsidiary, Realty Capital Securities, LLC, applaud FINRA's Division of Corporate Financing in taking such action which will serve to ensure enhanced transparency and Issuer accountability. These measures will allow the investor better visibility on those costs to investors which today are somewhat difficult to ascertain. We illustrate below how these proposed changes can be especially helpful to investors in reviewing their customer account statements.

Accordingly, we respectfully present FINRA the following comments for consideration:

- *First*, in light of comments made to Regulatory Notice 11-44, FINRA drafted a revised proposal requiring an Issuer to disclose a per share estimated value once it has conducted an appraisal of its assets and liabilities, as presented in the second periodic or current report as filed with the SEC.

¹ As part of the rulebook consolidation process, FINRA has proposed new FINRA Rule 2231 to replace NASD Rule 2340. See SR-FINRA-2009-028. The amendments discussed in FINRA Regulatory Notice 12-14 would be made to NASD Rule 2340 or new FINRA Rule 2231, depending upon the timing of SEC approval. The timeline for this amendment was extended until April 27, 2012.

We support the proposed requirement that a firm provide a per share estimated value based upon an acceptable valuation of the Issuer's assets and liabilities from its most recent periodic or current report. This proposal addresses the need to provide investors with important information on the value of their investment, while allowing Issuers sufficient time to invest net offering proceeds in line with its investment objectives.

- *Second, during an Issuer's initial offering period, for the purposes of reporting a per share value on customer account statements, a firm would only be required to list a modified net offering price² or list the security as "not priced."*

We support the presentation of a "Net Offering Price" which excludes any upfront "underwriting compensation expenses [as defined in Rule 2310(b)(4)(c)(ii)] reimbursed or paid for with offering proceeds" until the per share estimated value is provided in the Issuer's periodic or current report. We believe that amount best reflects what is received by the Issuer for investment and it provides for a more consistent treatment when compared to other financial products.

Furthermore, American Realty Capital and Realty Capital Securities respectfully suggest the following additional proposals:

- **"Uniform Implementation"** – We oppose the concept of "grandfathering." As we previously noted with respect to FINRA Regulatory Notice 11-44, we believe that the effective date of this proposal should uniformly be July 1, 2014. This allows sufficient time for Issuers, transfer agents, broker dealers, and statement providers to prepare for the changed approach. Each Issuer should comply simultaneously and two years affords ample time for Issuers to put policies in place to comply with the Notice.
- **"Initial Offering Period"** – We believe that the Notice should clarify the definition of "initial offering period." This will allow Issuers to define with greater precision when they must begin their process to determine per share estimated value. We believe that it would be helpful to clarify that the "initial offering period" is three years *plus* the potential 180 day extension as provided for in Rule 415 of the Securities Act of 1933.
- **"Applicability to all NAV products"** – We believe that the Notice should apply to all NAV products, not just daily NAV products in order to provide clarity with respect to the disclosures required in customer account statements.

American Realty Capital and Realty Capital Securities remain committed to conducting ourselves and our sponsor's companies in accordance with industry "best practices." We embrace this principle for our entire suite of investment programs and have taken significant steps to present the current value of certain of our securities offerings to our investors.

In fact, American Realty Capital Trust IV, Inc., our latest non-traded REIT offering currently in registration with the SEC, adheres to the requirements of the proposed amendments and goes a step further by requiring quarterly NAV calculations beginning the first quarter following its acquisition of at least \$1.2 billion in total portfolio assets (or approximately halfway through its intended equity raise,

² This proposal also will amend FINRA Rule 2310(b)(4)(c)(ii) to redefine "net offering price" as "gross offering price less any front-end underwriting compensation expenses reimbursed or paid for with offering proceeds."

instead of after the initial offering period). At that time, it intends to set a purchase price equal to NAV plus applicable commissions while the purchase price in its distribution reinvestment plan will be equal to NAV. We believe this new offering more closely aligns a best practice, i.e., current third-party valuation, with the interests of stockholders. We expect this practice will establish a new standard for the public, non-listed REIT and DPP industries.

Thank you in advance for your repeated courtesies and consideration.

Respectfully,

Michael Weil



CEO, Realty Capital Securities, LLC, Dealer Manager for:

American Realty Capital New York Recovery REIT, Inc.
American Realty Capital Trust III, Inc.
American Realty Capital Healthcare Trust, Inc.
American Realty Capital – Retail Centers Of America, Inc.
Phillips Edison – ARC Shopping Center REIT, Inc.
American Realty Capital Daily Net Asset Value Trust, Inc.
American Realty Capital Global Daily Net Asset Value Trust, Inc.
American Realty Capital Trust IV, Inc.
United Development Funding IV, Inc.

Nicholas S. Schorsch



Chairman & CEO, American Realty Capital,
parent company to Realty Capital Securities
and sponsor of American Realty Capital
public non-traded real estate offerings