

May 28, 2025

Submitted electronically

Faith Anderson
Chair, Corporate Finance Section and Direct Participation Programs Project Group
North American Securities Administrators Association
750 First Street NE #990
Washington, DC 20002

Re: Proposed Amendments to the NASAA *Statement of Policy Regarding Real Estate Investment Trusts*

Dear Ms. Anderson,

LPL Financial Holdings (“LPL” or the “firm”) appreciates the opportunity to provide comments to the North American Securities Administrators Association (“NASAA”) proposed amendments to the NASAA *Statement of Policy Regarding Real Estate Investment Trusts* (the “Proposal”). We recognize that NASAA has carefully considered comments received on the 2022 proposal¹ and subsequently issued this Proposal with the goal of addressing concerns. However, we believe that this Proposal continues to have the potential to reduce investor access to investment products and create an unnecessary patchwork of varying state concentration limits.

For the foregoing reasons, we recommend that NASAA reconsider this Proposal and work with industry partners to update the Statement of Policy in a manner that continues to provide important investor protections while reducing unnecessary complexity in both compliance and supervision requirements.

I. Overview of LPL

LPL Financial Holdings, Inc.² is a retail investment advisory firm and independent broker-dealer operating in all 50 states and territories. We are steadfast in our belief that Americans deserve access to personalized guidance from a financial professional. LPL serves as a trusted partner to more than 29,500 financial professionals and the wealth management practices at approximately 1,200 financial institutions, servicing and custodialing approximately \$1.8 trillion in brokerage and advisory assets on behalf of approximately seven million Americans.

We provide our financial professionals with the technology, research, clearing and compliance services and practice management programs they need to serve their clients and create thriving businesses. Our financial professionals offer investment and financial education, financial planning, access to investment products and brokerage services, and personalized investment advice to investors seeking wealth management, retirement planning, financial planning and asset management solutions.

II. Support for Trade Association Comments

¹ See Request for Public Comment, Proposed Revisions to NASAA Statement of Policy Regarding Real Estate Investment Trusts (July 12, 2022), https://www.nasaa.org/wp-content/uploads/2022/07/Request_for_Public_Comment_on_Amendments_to_NASAA_REIT_Guidelines_Extended-1.pdf.

² LPL Financial Holdings, Inc. is the parent company of two dually registered broker-dealers.

LPL is a member of the Securities Industry and Financial Markets Association (“SIFMA”) and the Institute for Portfolio Alternatives (“IPA”). We support and incorporate their comments into this letter.

III. Comments on the Proposal

LPL believes that NASAA should not finalize the Proposal in its current form. Importantly, we believe that the Proposal will create significant variances between state and federal securities regulations that must be harmonized before the Proposal’s amendments can become effective.

The Proposal Is Likely to Reduce Investor Choice and the Ability to Build a Resilient Portfolio

Consistent with our comments on the previous proposal,³ we believe that the proposed changes are likely to result in reduced access for retail investors to products and services. We believe that individualized recommendations to customers should be based on the customer’s financial needs, investment goals and investment time horizon. Therefore, we are concerned with the proposed ten percent aggregate concentration limit. This provision will essentially make investment decisions for investors, rather than allowing financial professionals to design a personalized investment portfolio that helps the client achieve their goals with financial resiliency. Additionally, the Proposal lacks clarity on when the concentration limit is applicable (at point of sale or ongoing) and whether there is an implementation period to allow firms to adjust systems and make necessary supervision changes. We recommend that it be removed from the Proposal.

The Proposal Creates Misalignment with the SEC’s Accredited Investor Definition

The U.S. Securities and Exchange Commission’s (“SEC”) accredited investor definition under Rule 501(a) of Regulation D is an important component of the securities industry regulatory regime. Accredited investors are designated by the SEC as qualified to invest in unregistered securities that are typically more complex or sophisticated because of their income, expertise and/or net worth. In addition, accredited investors are deemed able to bear the risks of these types of investments. Accredited investors routinely request access to unregistered investments such as non-traded REITs and benefit from the portfolio diversification that they can provide, withstanding periods of volatility in exchange for the possibility of receiving a potentially higher return as compared to other investments. Importantly, this definition is universally accepted and utilized by various regulators. It is a widely recognized standard for determining investor eligibility to participate in various investment offerings.

The Proposal seeks to give unprecedented authority to state securities administrators that does not currently exist under either federal or state statutes and undermines the widespread acceptance of the accredited investor definition. LPL has significant concerns with Section III(D)(4) which would empower the securities administrator to deny accredited investor status to qualifying investors without justification or documentation. This creates the potential that one investor will be deemed an accredited investor by the securities administrator and another investor, with a similar investment profile and objectives, could be excluded. Broker-dealers will be required to maintain additional books and records reflecting the administrator’s decision in each

³ See Ian J. Frimet, LPL Financial Comment Letter on Proposed Revisions to NASAA Statement of Policy Regarding Real Estate Investment Trusts (Sept. 12, 2022), <https://www.nasaa.org/wpcontent/uploads/2022/08/LPL-LTR-to-NASAA-in-Response-to-Proposal-9-12-22-Final.pdf>

state and for each individual “person,” defined as any “natural persons, partnership, corporation, association, trust, limited liability company or other legal entity.” This would create a patchwork of differing compliance standards that would be both costly and untenable for firms to manage and supervise.

We are further concerned with the provision of the Proposal that would allow NASAA to adjust the net income and net worth thresholds every five years in that it that would further misalign the widely understood and accepted SEC accredited investor definition with the definition in the Proposal and create investor confusion by using the same terminology as the SEC’s definition. The SEC does not have a statutory requirement to adjust regulations, including the accredited investor definition, and undertakes rulemaking after careful consideration. It is almost certain that the Proposal’s automatic adjustment of net income and net worth thresholds will lead to a significant gap between federal and state standards that creates unnecessary compliance complexity as well as investor confusion. LPL asks that NASAA adopt an accredited investor exemption that is uniform for all investors and aligns with the federal standard.

The Incorporation of Reg BI Needs to Be Further Refined for Better Harmonization

LPL appreciates NASAA’s recognition that Reg BI is the uniform standard of conduct for financial professionals and broker-dealers. We believe that upholding Reg BI creates a consistent standard of conduct for financial professionals across the country that is easily understood by retail investors.

However, there are components of the Proposal that can be further refined to reflect a concise adoption of Reg BI. In particular, we recommend that NASAA consolidate Section 3(C)(1) to simply reference 17 C.F.R. §240.151-1(b)(1). This will eliminate confusion, particularly around the undefined term “non-retail customer” and reflect NASAA’s demonstrated goal to align with Reg BI.

IV. Conclusion

Thank you for your consideration of this letter. While we think that this Proposal represents certain positive progress in recognizing the SEC’s definition of accredited investor, we recommend that NASAA reconsider this Proposal and work with industry partners to update the Statement of Policy in a manner that continues to provide important investor protections while reducing unnecessary complexity in both compliance and supervision requirements. Please contact me with any questions. We look forward to working with the Project Group to continue refining the proposal.

Best regards,



Althea Brown
Group Managing Director and Chief Legal Officer
LPL Financial