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Via E-mail (pubcom@finra.org)

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

Re: Regulatory Notice 11-44 (Proposed Amendments to NASD Rule 2340 to Address Values of Unlisted Direct Participation Programs and Real Estate Investment Trusts in Customer Account Statements)

Dear Ms. Asquith:

The Cornell Securities Law Clinic (the "Clinic") submits this comment to support the proposal (the "Rule Proposal") of the Financial Industry Regulatory Authority ("FINRA") to amend NASD Rule 2340 relating to customer account statements. The Clinic is a Cornell Law School curricular offering, in which law students provide representation to public investors and public education as to investment fraud in the largely rural "Southern Tier" region of upstate New York. For more information, please see: <http://securities.lawschool.cornell.edu>.

The Clinic supports the Rule Proposal because it provides investors with greater transparency and a better understanding of the true value of their investment. NASD Rule 2340 currently requires that member firms ("firms") send account statements to customers at least quarterly. With respect to unlisted Direct Participation Programs ("DPP") and unlisted Real Estate Investment Trusts ("REIT"), NASD Rule 2340(c) also addresses how firms should report the per share estimated value of an unlisted DPP or REIT. NASD Rule 2340(c) specifies, among other things, that when a firm reports the per share estimated value of an unlisted DPP or REIT on a customer account statement, the firm must use data that is not more than 18 months old.

FINRA proposes to amend NASD 2340(c) to permit valuations of the per share values of unlisted DPPs and REITs based on the offering price during the Initial Offering Period (as defined in the Securities Act of 1933), net of all organizational and offering expenses. After the Initial Offering Period, the per share estimated value of a DPP or

REIT must be based on an appraisal of a DPP or REIT's assets, liabilities, and operations. Firms must base their appraisal on data that is no less current than the data in the most recent annual report.

Additionally, the proposed amendments prohibit firms from using a per share estimated value if the firm "knows or has reason to know the value is unreliable." Finally, the proposed amendments allow a firm to omit reporting the per share estimated value on an account statement if the most recent annual report of the unlisted DPP or REIT does not comply with the disclosure requirements of NASD Rule 2340.

The Clinic supports this Rule Proposal because it increases transparency and facilitates a better understanding of the true value of an investment.

First, requiring firms to report the estimated per share value net of fees provides greater transparency to investors about the cost of their investment. The fees to invest in unlisted REITs and DPPs are sometimes as high as 15%.¹ To recoup the amount lost by fees, investors must receive a substantial return. Forcing firms to disclose the customer's estimated per share value net of fees highlights the true portion of an investor's initial principal that is actually getting invested.

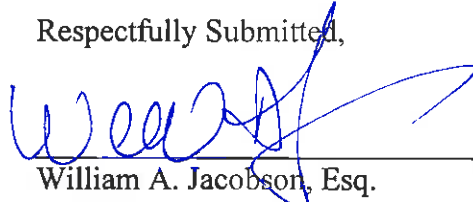
Additionally, requiring that the estimated per share value after the Initial Offering Period be based on data that is no less current than the most recent annual report of the REIT or DPP ensures that the information provided to an investor is timely. The 18-month grace period allowed under the current rule often meant that firms could wait as long as four to five years before having to report an estimated per share value that differs from the initial offering price. This gives some investors the mistaken impression that unlisted REITs and DPPs are less volatile and more stable than other investments, when in reality firms are deferring reporting of the true per share value of the investment. The Clinic supports the proposed amendment because it eliminates the grace period to ensure that investors receive more current information about the value of their investment.

We acknowledge that some commentators have noted the difficulty of preparing a fair valuation of the per share value of an unlisted REIT or DPP. This should not, however, excuse firms from providing information that provides some indication of how an investment is faring. Omitting the valuation process from the Rule Proposal leaves investors without any information to help them understand the value of their investment and make informed investment decisions, which is a greater danger than the commentators suggest.

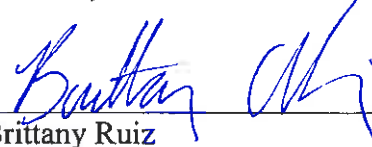
¹ Gail Liberman, *Private REIT Explosion*, FIN. ADVISOR MAG., June 2010, <http://www.fa-mag.com/component/content/article/5637.html?issue=146&magazineID=1&Itemid=73>.

For the foregoing reasons, the Clinic supports FINRA's Rule Proposal.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "W. Jacobson", written over a horizontal line.

William A. Jacobson, Esq.
Associate Clinical Professor of Law
Director, Cornell Securities Law Clinic

A handwritten signature in blue ink, appearing to read "Brittany Ruiz", written over a horizontal line.

Brittany Ruiz
Cornell Law School '13