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FREQUENTLY ASKED QUESTIONS ABOUT

NON-GAAP FINANCIAL MEASURES FOR REITS

The use of non-GAAP financial measures is nearly ubiquitous for U.S. public companies. According to Audit Analytics, 97% of S&P 500 companies used non-GAAP financial measures in earnings releases during 2017[1].

Many companies believe that non-GAAP financial measures provide meaningful supplemental information to their financial statements that are prepared in accordance with U.S. generally accepted accounting principles ("**GAAP**"). For real estate investment trusts ("**REITs**"), non-GAAP financial measures have always been important due, in large part, to the impact of GAAP on accounting for real estate, such as the impact of depreciation and amortization on the income statement.

Non-GAAP financial measures can provide valuable financial metrics to investors and research analysts; however, the lack of uniformity in the use of non-GAAP financial measures can result in confusion among investors and potentially misleading disclosures by companies. As a result, non-GAAP financial measures have long been a focus of the U.S. Securities and Exchange Commission (the "**SEC**"), beginning with cautionary guidance issued in 2001 and the adoption of Regulation G and Item 10(e) of Regulation S-K in 2003. In May 2016, the SEC staff issued new and updated Compliance and Disclosure Interpretations ("**C&DIs**") to clarify and reinforce the SEC's position on the use of non-GAAP financial measures due to the increased use and prominence of such measures. Since then, the use of non-GAAP financial measures has been one of the most frequent subjects of SEC comment letters and has been the subject of SEC enforcement actions (see *Exhibit A (Recent SEC Comments for REITs)* and "*Have there been any SEC enforcement actions related to non-GAAP financial measures?*" below).

Therefore, it is important for REITs, including their boards of directors, management teams and advisors, to understand the SEC's rules, regulations and latest guidance with respect to non-GAAP financial measures.

UNDERSTANDING NON-GAAP FINANCIAL MEASURES

What is a "non-GAAP financial measure"?

Under Regulation G and Item 10(e) of Regulation S-K, a non-GAAP financial measure is defined as a numerical measure of a registrant's historical or future financial performance, financial position or cash flows that:

- excludes amounts, or is subject to adjustments that have the effect of excluding amounts, that are included in the most directly comparable measure calculated and presented in accordance with GAAP in the statement of comprehensive income, balance sheet or statement of cash flows (or equivalent statements) of the registrant; or
- includes amounts, or is subject to adjustments that have the effect of including amounts, that are excluded from the most directly comparable GAAP measure.

The SEC's 2003 adopting release for Regulation G and Item 10(e) of Regulation S-K further provides that the definition of a non-GAAP financial measure is intended to capture all measures that have the effect of depicting either:

- a measure of performance that is different from that presented in the financial statements, such as income or loss before taxes or net income or loss as calculated in accordance with GAAP; or
- a measure of liquidity that is different from cash flow or cash flow from operations computed in accordance with GAAP.

In other words, if a registrant takes a defined GAAP measure and excludes items that are components of that GAAP measure, or includes items that are not components of that GAAP measure, then the resulting measure is a non-GAAP financial measure.

[1] See Audit Analytics' report "Long-Term Trends in Non-GAAP Disclosures: A Three-Year Overview" (October 2018).

Are there any exclusions from the definition of non-GAAP financial measure?

Yes, under SEC rules, non-GAAP financial measures exclude:

- operating and other statistical measures (e.g., occupancy, percentage leased, turnover, average daily rate (ADR), rental rates and RevPAR);
- ratios or statistical measures calculated using exclusively one or both of:
    - financial measures calculated in accordance with GAAP; and
    - operating measures or other measures that are not non-GAAP financial measures; and
- financial measures required to be disclosed by GAAP, SEC rules or a system of regulation of a government or governmental authority or self-regulatory organization (e.g., the Financial Accounting Standards Board ("**FASB**") and the New York Stock Exchange) that are applicable to the registrant.

See "*Is segment information required under ASC 280 a non-GAAP financial measure?*" below.

Why do REITs use non-GAAP financial measures?

Most REITs believe that there are limitations on the usefulness of certain financial measures prepared in accordance with GAAP (such as net income) and that GAAP measures alone do not convey a full picture of the operating performance, liquidity and financial position of real estate owning entities, including REITs. Accordingly, virtually all public REITs present one or more non-GAAP financial measures. Management teams also can present non-GAAP financial measures to provide valuable insight into factors they consider important in operating and assessing the performance of the business.

In addition, REITs may disclose certain non-GAAP financial measures to enhance investors' and research analysts' ability to value companies and compare and evaluate their performance against comparable companies.

What are common examples of non-GAAP financial measures used by REITs?

Common examples of non-GAAP financial measures used by REITs include:

- funds from operations ("**FFO**") as defined by the National Association of Real Estate Investment Trusts, the leading industry trade group for REITs ("**Nareit**"), and variations of FFO, such as adjusted FFO ("**AFFO**"), core FFO and normalized FFO;
- earnings before interest, taxes, depreciation and amortization ("**EBITDA**") and variations of EBITDA, such as EBITDAre, adjusted EBITDA and core EBITDA;
- net operating income ("**NOI**"), cash NOI and same-store NOI;
- core earnings or adjusted earnings (for mortgage REITs);
- cash or funds available for distribution ("**CAD**" or "**FAD**," respectively); and
- net debt or core debt.

In addition, many REITs use one or more non-GAAP financial measures in certain ratios, including to show their leverage (e.g., net debt to adjusted EBITDA), ability to cover interest expense (e.g., adjusted EBITDA divided by cash interest expense) and ability to cover fixed charges (e.g., adjusted EBITDA divided by fixed charges).

Are there industry standards applicable to non-GAAP financial measures used by REITs?

FFO

In 1991, Nareit published a white paper on FFO in order to promote a uniform, widely accepted standard measure of REIT operating performance. The FFO white paper was supplemented over the years and, in December 2018, was restated to consolidate Nareit's prior guidance (see *the 2018 restatement of Nareit's FFO white paper*). The primary reason that Nareit developed FFO as a supplemental performance measure was "to address the artificial nature of historical cost depreciation and amortization of real estate and real estate-related assets mandated by GAAP." In addition, Nareit-defined FFO excludes gains or losses on the sale of certain real estate assets, as well as impairment write-downs of certain real estate assets, which improves the comparability of companies' period-over-period results.

FFO is defined by Nareit as net income (computed in accordance with GAAP), excluding:

- depreciation and amortization expenses related to real estate;
- gains and losses from the sale of certain real estate assets;
- gains and losses from change in control; and
- impairment write-downs of certain real estate assets and investments in entities when the impairment is directly attributable to decreases in the value of depreciable real estate held by the entity.

The reconciling items should include amounts to adjust earnings from consolidated partially-owned entities and equity in earnings of unconsolidated affiliates to FFO, or such adjustments could be presented as a single line item.

Nareit's definition does not specify whether FFO should be presented as FFO attributable to common stockholders or FFO attributable to all common equity holders (i.e., common stockholders and outside limited partners of a REIT's operating partnership). REITs should be mindful that they accurately and appropriately label FFO and variations of

FFO to reflect the securities to which the reported measure is applicable, which has been a subject of SEC comment letters (see *Exhibit A (Recent SEC Comments for REITs – Labeling)*). For example, UPREITs with outside limited partners should specify whether FFO is presented as "FFO attributable to common stockholders and OP unitholders" or "FFO attributable to common stockholders."

Many REITs also present additional variations of FFO, such as AFFO and core FFO, in order to show a more consistent comparison of operating performance over time or to report a metric that better explains their dividend policies. These metrics may adjust for additional items such as straight-line rent, non-cash stock-based compensation expense, gains/losses on early extinguishment of debt, capital expenditures and acquisition and pursuit costs. However, there are not uniform approaches to the labeling of, or the adjustments included in, such variations of FFO.

EBITDAre

Similar to its white paper on FFO, in September 2017, Nareit published a white paper to create a uniform definition of EBITDA for real estate ("**EBITDAre**"). Similar to FFO, in order to improve the comparability of REITs' period-over-period performance, EBITDAre includes adjustments for gains/losses on the disposition of depreciated property and impairment write-downs of depreciated property. Nareit defines EBITDAre as net income (computed in accordance with GAAP), plus:

- interest expense;
- income tax expense;
- depreciation and amortization expense;
- losses (or minus gains) on the disposition of depreciated property, including losses/gains on change of control;
- impairment write-downs of depreciated property and of investments in unconsolidated affiliates caused by a decrease in value of depreciated property in the affiliate; and
- adjustments to reflect the entity's share of EBITDAre of unconsolidated affiliates.

For additional information, see *Nareit's EBITD Are white paper*.

SEC RULES FOR NON-GAAP FINANCIAL MEASURES

As noted above, in 2003, the SEC adopted Regulation G and Item 10(e) of Regulation S-K, which govern the use of non-GAAP financial measures by SEC registrants.

When does Regulation G apply?

Regulation G applies whenever a registrant, or person acting on its behalf, publicly discloses or releases material information that includes a non-GAAP financial measure, ***even if such information is not furnished or filed with the SEC***. For example, a registrant's investor presentations, press releases, earnings calls, supplemental materials and webcasts are subject to Regulation G.

What are the requirements under Regulation G?

Whenever a registrant, or a person acting on its behalf, publicly discloses material information that includes a non-GAAP financial measure, the registrant must accompany that non-GAAP financial measure with:

- a presentation of the most directly comparable financial measure calculated and presented in accordance with GAAP; and
- a quantitative reconciliation of the non-GAAP financial measure to the most directly comparable GAAP measure.

In addition, Regulation G contains a general requirement that non-GAAP financial measures not be misleading—more specifically, that a registrant not publicly disclose a non-GAAP financial measure that, taken together with the other information presented, "contains an untrue statement of material fact or omits to state a material fact necessary in order to make the presentation of the non-GAAP financial measure, in light of the circumstances under which it is presented, not misleading."

When does Item 10(e) of Regulation S-K apply?

Item 10(e) of Regulation S-K applies when one or more non-GAAP financial measures are included in a filing with the SEC, including registration statements, annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K (including certain "furnished" Form 8-Ks, as discussed below) and proxy statements.

What are the disclosure obligations under Item 10(e) of Regulation S-K?

Item 10(e) contains the same quantitative reconciliation requirement as Regulation G, but also includes additional disclosure obligations. Whenever one or more non-GAAP financial measures are included in a filing with the SEC, the registrant must include the following in the filing:

- a presentation, ***with equal or greater prominence***, of the most directly comparable financial measure calculated and presented in accordance with GAAP;
- a quantitative reconciliation of the non-GAAP financial measure to the most directly comparable GAAP measure;
- a statement disclosing the reasons why the registrant's management believes the presentation of the non-GAAP financial measure provides useful information to investors regarding the registrant's financial condition and results of operations; and

- to the extent material, a statement disclosing the additional purposes, if any, for which the registrant's management uses the non-GAAP financial measure.

Are there any prohibitions under Item 10(e) of Regulation S-K?

In addition to the affirmative disclosure obligations described above, Item 10(e) of Regulation S-K also contains a number of specific prohibitions, including:

- excluding from non-GAAP liquidity measures (other than EBIT and EBITDA), charges or liabilities that required, or will require, cash settlement, or would have required cash settlement absent an ability to settle in anther manner;
- adjusting a non-GAAP performance measure to eliminate or smooth items identified as non-recurring, infrequent or unusual, when the nature of the charge or gain is such that it is reasonably likely to recur within two years or there was a similar charge or gain within the prior two years;
- presenting non-GAAP financial measures on the face of the registrant's financial statements presented in accordance with GAAP or in the accompanying notes;
- presenting non-GAAP financial measures on the face of any pro forma financial information required to be disclosed by Article 11 of Regulation S-X; and
- using titles or descriptions of non-GAAP financial measures that are the same as, or confusingly similar to, titles or descriptions used for GAAP financial measures.

Is a registrant's earnings release subject to any provisions of Item 10(e) of Regulation S-K?

Yes, a registrant's earnings release furnished under Item 2.02 of Form 8-K is subject to the affirmative disclosure obligations contained in Item 10(e)(i) of Regulation S-K, including the equal or greater prominence requirement.

Although Item 10(e) of Regulation S-K generally applies only to documents that are filed (as opposed to furnished) with the SEC, the instructions to Item 2.02 of Form 8-K expressly state that the requirements of Item 10(e)(i) of Regulation S-K apply to disclosures under Item 2.02 of Form 8-K.

Does the quantitative reconciliation requirement apply to a registrant's guidance and other forward-looking information?

Yes, a quantitative reconciliation is required for non-GAAP financial measures presented in a registrant's guidance and other forward-looking information, "to the extent available without unreasonable efforts."

Based on additional guidance provided by the SEC staff in the C&DIs, if a registrant is relying on the "unreasonable efforts" exception for a forward-looking non-GAAP financial measure, it must disclose that fact and identify the information that is unavailable and its probable significance in a location of equal or greater prominence.

For recent SEC comments on this topic, see *Exhibit A (Recent SEC Comments for REITs – Failure to Include Reconciliation)*.

How do registrants comply with Regulation G for conference calls, webcasts or other oral presentations?

If a non-GAAP financial measure is conveyed orally, telephonically, by webcast or by similar means, then the affirmative disclosure requirements under Regulation G will be satisfied if:

- the required information is provided on the registrant's website at the time the non-GAAP financial measure is made public; and
- the location of the website is made public in the same presentation in which the non-GAAP financial measure is made public.

Is segment information required under ASC 280 a non-GAAP financial measure?

No. Financial measures that a registrant is required to disclose under GAAP, such as segment information regarding revenue, profit or loss and total assets under FASB Accounting Standards Topic 280 ("**ASC 280**"), are not considered non-GAAP financial measures and, therefore, are not subject to Regulation G or Item 10(e) of Regulation S-K.

However, segment measures that are not consistent with, or are presented in a context other than in accordance with, the requirements of ASC 280 are non-GAAP financial measures and, therefore, are subject to all applicable provisions of Regulation G and Item 10(e) of Regulation S-K. For example, the SEC staff has clarified in the C&DIs and comment letters that the presentation of a total segment profit or loss measure (e.g., segment NOI) in any context, other than the reconciliation in the notes to a registrant's financial statements required by ASC 280, is considered a non-GAAP financial measure that must comply with Regulation G and Item 10(e) of Regulation S-K.

Do Regulation G and Item 10(e) apply to proxy statements?

Generally, yes. However, there is a limited exception for target levels related to executive officer compensation that are included in a registrant's Compensation Disclosure and Analysis ("**CD&A**") pursuant to Item 402(b) of Regulation S-K. Pursuant to the instructions to Item 402(b), disclosure of target levels that are non-GAAP financial measures are not subject to Regulation G or Item 10(e) of Regulation S-K, but disclosure must be provided as to how the number is calculated from the registrant's audited financial statements.

In the C&DIs, the SEC staff reinforces that this is a limited exception and that disclosures of non-GAAP financial measures in CD&A or in any other part of the proxy statement for any other purpose (such as to explain the relationship between pay and performance or to justify certain levels or amounts of pay) are subject to Regulation G and Item 10(e) of Regulation S-K. In these pay-related circumstances, however, the SEC staff will not object:

- if a registrant includes the required GAAP reconciliation and other information in an annex to the proxy statement with a prominent cross-reference to such annex; or
- if the non-GAAP financial measures are the same as those included in the Form 10-K that is incorporating by reference the proxy statement's Item 402 disclosure as part of its Part III information, a registrant provides a prominent cross-reference to the pages in the Form 10-K containing the required GAAP reconciliation and other information.

Do Regulation G and Item 10(e) apply to disclosure relating to proposed business combinations?

There is a limited exception for disclosure relating to proposed business combinations. The requirements of Regulation G and Item 10(e) of Regulation S-K do not apply to non-GAAP financial measures included in disclosures relating to a proposed business combination, the entity resulting therefrom or an entity that is a party thereto, if the disclosure is contained in a communication that is subject to the SEC's communication rules applicable to business combination transactions (i.e., Rule 425 under the Securities Act of 1933, as amended, Rules 14a-12 and 14d-2(b)(2) under the Exchange Act of 1934, as amended (the "**Exchange Act**"), and Item 1015 of Regulation M-A).

The SEC staff has issued several C&DIs to clarify its position on the use of non-GAAP financial measures in disclosures related to business combinations, including the following:

- financial measures provided to a financial advisor are not subject to Regulation G or Item 10(e), if and to the extent:
    - the financial measures are included in forecasts provided to the financial advisor for the purpose of rendering an opinion that is materially related to the business combination transaction; and
    - the forecasts are being disclosed in order to comply with Item 1015 of Regulation M-A or requirements under state or foreign law, including case law, regarding disclosure of the financial advisor's analyses or substantive work;
- the exception described above applies if the same forecasts provided to the financial advisor are also provided to the registrant's board of directors or board committee; and
- if a registrant determines that forecasts exchanged between the parties in a business combination transaction are material and that disclosure of such forecasts is required to comply with the anti-fraud and other liability provisions of the federal securities laws, the financial measures included in those forecasts would be excluded from the definition of non-GAAP financial measures and, therefore, not subject to Regulation G and Item 10(e) of Regulation S-K.

ADDITIONAL GUIDANCE ON NON-GAAP FINANCIAL MEASURES

Can non-GAAP financial measures be presented on a per-share basis?

It depends. Registrants generally may present non-GAAP ***performance*** measures on a per-share basis and should reconcile those measures to GAAP earnings per share. Non-GAAP ***liquidity*** measures, however, cannot be presented on a per-share basis. Whether per-share data is prohibited depends on whether the non-GAAP financial measure can be used as a liquidity measure, even if management presents it solely as a performance measure.

In the C&DIs, the SEC staff provides that EBIT and EBITDA (and, by extension, EBITDAre) cannot be presented on a per-share basis, even when presented as a performance measure.

The SEC staff also provides in the C&DIs that it will not object to the presentation of Nareit-defined FFO on a per-share basis. Whether a registrant may present an alternative to Nareit-defined FFO (e.g., AFFO or core FFO) on a per-share basis depends on the nature of the adjustments and whether it could be used as a liquidity measure (for example, as a means to determine the REIT's ability to pay dividends, make distributions or service debt).

How does the SEC staff determine whether a non-GAAP financial measure is a performance or liquidity measure?

When analyzing whether a non-GAAP financial measure is a performance or liquidity measure, the SEC staff will focus on the substance of the non-GAAP financial measure and not management's characterization of the measure, which has been a frequent topic of SEC comment letters.

For REITs, this issue can arise when presenting variations of FFO (e.g., AFFO) that are intended to show a REIT's dividend coverage. If the SEC staff believes such non-GAAP financial measures are, in substance, liquidity measures, such measures may not be presented on a per-share basis. For example, the SEC staff commented that a REIT's presentation of AFFO on a per-share basis was improper because it appeared that the measure could be used as a liquidity measure due to the adjustments, including several non-cash adjustments and an adjustment for recurring capital expenditures, that had the effect of presenting a measure of the REIT's ability to fund dividends. This comment was ultimately resolved by the REIT addressing

the SEC's comment through changes to labeling of the measure.

For recent SEC comments on this topic, see *Exhibit A (Recent SEC Comments for REITs – Liquidity Measures on a Per-Share Basis)*.

What are some examples of potentially misleading practices regarding non-GAAP financial measures raised by the SEC staff?

As described above, Regulation G contains a general requirement that non-GAAP financial measures not be misleading. The SEC staff has noted the following as examples of potentially misleading practices that could violate Rule 100(b) of Regulation G:

- presenting a non-GAAP performance measure that excludes normal, recurring, cash operating expenses necessary to operate a registrant's business;
- presenting a non-GAAP financial measure inconsistently between periods (e.g., adjusting for a particular charge or gain in the current period when similar charges or gains were not adjusted for in prior periods, unless the change between periods is disclosed and the reasons for it explained—depending on the significance of the change, it may be necessary to recast prior periods);
- adjusting a non-GAAP financial measure only for non-recurring charges when there were non-recurring gains that occurred during the same period;
- substituting individually tailored recognition and measurement methods in place of GAAP requirements for revenue and other financial statement line items (often referred to as, "individually tailored accounting principles"); and
- using non-GAAP financial measures with titles or descriptions that are the same as, or confusingly similar to, GAAP measures.

In addition, the SEC staff specifically notes in the C&DIs that non-GAAP financial measures that are calculated differently than EBIT and EBITDA as commonly understood and, as described in Exchange Act Release No. 34-47226, should not be characterized as "EBIT" or "EBITDA," and their titles should be distinguished from EBIT and EBITDA by using titles such as "Adjusted EBITDA" or "Core EBITDA." The proper labeling of these non-GAAP financial measures also has been the subject of SEC comment letters.

For recent SEC comments on these issues, see *Exhibit A (Recent SEC Comments for REITs – Individually Tailored Accounting Principles and – Labeling)*.

Does Item 10(e) prohibit adjusting a non-GAAP performance measure for recurring charges or gains?

Not necessarily. Item 10(e)(1)(ii)(B) of Regulation S-K prohibits adjusting a non-GAAP performance measure to eliminate or smooth items ***identified as*** non-recurring, infrequent or unusual when the nature of the charge or gain is such that it is reasonably likely to recur within two years or there was a similar charge or gain within the preceding two years. The SEC staff has clarified in the C&DIs that this prohibition is based on the description of the charge or gain that is being adjusted, not the nature of the charge or gain.

A registrant can make adjustments for such charges or gains if they comply with the other provisions of Regulation G and Item 10(e), but they should not be labeled or described as non-recurring, infrequent or unusual unless they meet the criteria specified in Item 10(e)(1)(ii)(B) of Regulation S-K. For example, if a registrant adjusted a non-GAAP performance measure for non-operational (but potentially recurring) items that a registrant believed improved the comparability of its performance between periods, the registrant could describe such adjustments as "non-comparable," rather than "non-recurring."

What are some examples of equal-or-greater-prominence issues raised by the SEC staff?

While the SEC staff acknowledges that whether a non-GAAP financial measure is more prominent than its comparable GAAP measure generally depends on the facts and circumstances, it will consider the following types of disclosures of non-GAAP financial measures as more prominent than GAAP measures:

- omitting comparable GAAP measures from an earnings release headline or caption that includes non-GAAP financial measures;
- a non-GAAP financial measure that precedes the most directly comparable GAAP measure, including in an earnings release headline or caption (e.g., presenting FFO before net income);
- presenting a non-GAAP financial measure using a style of presentation (e.g., bold or larger font) that emphasizes the non-GAAP financial measure over the most directly comparable GAAP measure;
- providing discussion and analysis of a non-GAAP financial measure without a similar discussion and analysis of the most directly comparable GAAP measure in a location with equal or greater prominence;
- describing a non-GAAP financial measure as, for example, "record performance" or "exceptional" without at least an equally prominent descriptive characterization of the most directly comparable GAAP measure;
- excluding a quantitative reconciliation with respect to a forward-looking non-GAAP financial measure in reliance

on the unreasonable efforts exception without disclosing that fact and identifying the information that is unavailable and its probable significance in a location of equal or greater prominence (see *"Does the quantitative reconciliation requirement apply to a registrant's guidance and other forward-looking information?"* above);

- presenting a full income statement of non-GAAP financial measures or presenting a full non-GAAP income statement when reconciling to the most directly comparable GAAP measures;
- providing tabular disclosure of non-GAAP financial measures without preceding it with an equally prominent tabular disclosure of the comparable GAAP measures or including the comparable GAAP measures in the same table; and
- including remarks by an officer of the REIT in an earnings release that discuss non-GAAP financial measures with greater prominence than the corresponding GAAP measure.

For recent SEC comments on this topic, see *Exhibit A (Recent SEC Comments for REITs – Equal or Greater Prominence)*.

Should a reconciliation begin with the GAAP measure or the non-GAAP financial measure?

The SEC staff has stated in numerous comment letters that a reconciliation required under Regulation G and Item 10(e) of Regulation S-K should start with the GAAP measure and then be reconciled to the non-GAAP financial measure in order to ensure that the non-GAAP financial measure does not receive undue prominence.

Have there been any SEC enforcement actions related to non-GAAP financial measures?

Although the SEC most commonly addresses non-compliance with Regulation G and Item 10(e) through the SEC staff's comment letter process, there have been SEC enforcement actions for registrants' non-compliance with these rules.

In December 2018, the SEC instituted an enforcement action against a registrant for including non-GAAP financial measures in two earnings releases without providing equal or greater prominence to the comparable GAAP financial measures. This enforcement action is notable because it related solely to violations of the equal-or-greater prominence requirement of Item 10(e) of Regulation S-K and because the SEC staff had not issued comments to the registrant directly on this topic prior to commencing enforcement proceedings. The SEC order specifically noted that (i) the registrant presented a non-GAAP financial measure in the headline of the earnings release without mentioning the comparable GAAP measure and (ii) the bullet-point highlights section of the earnings release contained non-GAAP financial measures but did not include the comparable GAAP measures. The registrant settled the action by paying a $100,000 civil monetary penalty and agreeing to cease and desist from such practices.

In January 2017, the SEC instituted an enforcement action against a registrant for, among other reasons, improper use of non-GAAP financial measures. The registrant presented a non-GAAP financial measure that typically adjusted for two items; however, for a period of time, the registrant incorporated a third reconciling item into its calculation without disclosing the change. The SEC also noted that the registrant failed to give GAAP measures equal or greater prominence to non-GAAP financial measures in its earnings releases, despite repeated promises that it would do so. The registrant settled the action by paying a $1.5 million civil monetary penalty and agreeing to cease and desist from such practices.

What is the role of a company's board of directors with respect to a company's non-GAAP financial measures?

The audit committee of a company's board of directors should assist the board of directors in overseeing and monitoring a company's use of, and disclosures regarding, non-GAAP financial measures. Audit committees should confirm that disclosure controls and procedures are in place to ensure compliance with SEC rules regarding non-GAAP financial measures. In addition, audit committee members should question management regarding the company's non-GAAP financial measures, the related adjustments and how they compare to the presentations used by comparable companies.

EXHIBIT A

RECENT SEC COMMENTS FOR REITS

The following are examples of recent comments that REITs have received from the SEC staff regarding non-GAAP financial measures:

FAILURE TO INCLUDE RECONCILIATION

For Forward-Looking Non-GAAP Financial Measures

- We note you provide guidance for [your] share of Cash NOI and NOI. In future supplemental packages, please reconcile your non-GAAP guidance to the most directly comparable GAAP guidance. Please refer to Item 10(e)(1)(i)(B) of Regulation S-K and Question 102.10 of the updated Non-GAAP Compliance and Disclosure Interpretations issued on May 17, 2016.
- We note that unlike previous years, when providing FFO per share guidance in the current year, you have excluded reconciliation to forecasted earnings per share. Please clarify and/or revise future filings accordingly. To the extent you are relying on the "unreasonable efforts" exception in Item 10(e)(1)(i)(B), please revise future filings to disclose this fact and identify any information that is unavailable and its probable significance. Reference is made to Question 102.10 of the Division's Compliance and Disclosure Interpretations for Non-GAAP Financial Measures.
- Reference is made to the guidance you provide for AFFO for the upcoming year. We note that you provide projection guidance only on Non-GAAP information. Given the lack of similar GAAP information and quantitative reconciliation between the GAAP and Non-GAAP information, please clarify how your presentation satisfies the requirements outlined within Item 10(e)(1)(i)(A) of Regulation S-K. Reference is also made to Question 102.10 of the updated Non-GAAP Compliance and Disclosure Interpretations issued on May 17, 2016.

For Historical Non-GAAP Financial Measures

- We note your presentation of FFO per share and AFFO per share for the three and six months ended June 30, 2018, and 2017. In future earnings releases, please reconcile these non-GAAP per-share measures to GAAP earnings per share. Please refer to Question 102.05 of the updated Compliance and Disclosure Interpretations issued on May 17, 2016.
- We note that you present "Total assets, gross" and use this measure to calculate certain debt ratios. Since depreciation has been excluded from your asset base, "Total assets, gross" is a non-GAAP measure. Please revise your disclosure to include a reconciliation to the most directly comparable GAAP measure. Provide us with your proposed disclosure and tell us why you believe a measure calculated based on undepreciated real estate assets provides useful information to your investors.
- We note your presentation of net debt to book capitalization ratio, net debt to undepreciated book capitalization ratio, and net debt to market capitalization ratio. Please revise future filings to include a reconciliation of the inputs into these ratios. Please refer to Item 10(e) of Regulation S-K.
- We note that you present same-store property operating income on a cash basis, which is a non-GAAP measure. Please provide all disclosures required by Item 10(e)(1)(i) of Regulation S-K, including a reconciliation to the most directly comparable GAAP financial measure in future press releases, if presented. Provide us with your proposed disclosure.

LIQUIDITY MEASURES ON A PER-SHARE BASIS

- We note that you present Adjusted FFO on a per share basis. It appears that due to the adjustments, including several non-cash adjustments and an adjustment for recurring capital expenditures, this measure can be used as a liquidity measure. We also note your disclosure that AFFO is useful to investors as a tool to further evaluate the ability to fund dividends. Please explain to us why you believe it is appropriate to present this measure on a per share basis. See Question 102.05 of the updated Compliance and Disclosure Interpretations issued on May 17, 2016.
- We note that you present Core FFO and Adjusted FFO on a per-share basis. It appears that the adjustments are non-cash and both measures approximate operating cash flows and could be used as liquidity measures. Please explain to us why you believe it is appropriate to present these measures on a per-share basis. See Question 102.05 of the updated Non-GAAP Compliance and Disclosure Interpretations issued on May 17, 2016.
- We note you consider Adjusted funds from operations (AFFO) to be a measure of a REIT's ability to incur and service debt and to pay distributions to its shareholders. Based on such definition, it appears AFFO can be used as a liquidity measure.

Please clarify how you considered Question 102.05 of the updated Non-GAAP Compliance and Disclosure Interpretations issued on May 17, 2016, in determining that AFFO can be presented on a per-share basis.

- On page 12, you explain that excluding non-cash income and expense items from AFFO provides useful information regarding income and expense items that have no cash impact and do not provide liquidity to the company or require capital resources of the company. This strongly implies that AFFO is a liquidity measure. Please explain to us why you believe it is appropriate to present this measure on a per share basis. See Question 102.05 of the updated Non-GAAP Compliance and Disclosure Interpretations issued on May 17, 2016.

INDIVIDUALLY TAILORED ACCOUNTING PRINCIPLES

- We note that your measure of core earnings generally recognizes income earned from equity method investments as your initial capital investment amortized over the life of the project using a constant yield. We further note this methodology differs from the hypothetical liquidation at book value method used to calculate your share of earnings in your financial statements. Please tell us how you applied the guidance in question 100.04 in the C&DI related to Non-GAAP Financial Measures in determining your adjustments were appropriate.
- We note that your non-GAAP measures include a percentage rent adjustment, which appears to adjust net earnings to recognize percentage rent on a cash basis. Please explain to us how you considered the guidance in question 100.04 of the C&DI on Non-GAAP Financial Measures when determining the propriety of these adjustments. This comment also applies to your earnings release filed on a Form 8-K dated May 4, 2017.
- We have considered your response to our prior comment. We note that your non-GAAP percentage rent adjustment alters the timing of revenue recognition under GAAP. As such, we are unable to agree with your conclusion that it is an appropriate adjustment. Please revise your disclosure in future filings to eliminate the percentage rent adjustment. Reference is made to question 100.04 of the C&DI on Non-GAAP Financial Measures.
- We note your calculation of this measure includes development costs as incurred and excludes cost of sales - land under GAAP. Please explain how this does not represent a tailored accounting principle and how you considered Question 100.04 of the updated Non-GAAP Compliance and Disclosure Interpretations issued on May 17, 2016.
- We note that you exclude the component of premium amortization representing the quarter-over-quarter changes in estimated long-term constant prepayment rates. Please tell us why this should not be considered an individually tailored recognition or measurement method substituted for the one in GAAP. See Question 100.04 of the updated Non-GAAP Compliance and Disclosure Interpretations issued on May 17, 2016.

EQUAL OR GREATER PROMINENCE

- We note that your bolded operational highlights focus only on non-GAAP measures, which may result in undue prominence given to them. Please revise in future filings to disclose the most comparable GAAP measures with equal or greater prominence. Refer to Question 102.10 of the updated Non-GAAP Financial Measures Compliance and Disclosure Interpretations issued on May 17, 2016.
- In future periodic filings, please revise your presentation to begin your reconciliation of NOI with Net income (loss), ensuring such non-GAAP measure does not receive undue prominence. Refer to Question 102.10 of the updated Non-GAAP Financial Measures Compliance and Disclosure Interpretations issued on May 17, 2016.
- Please revise future press releases to ensure that you do not provide undue prominence to non-GAAP measures. For instance, we note that you discuss Normalized FFO per diluted share and Normalized FFO on pages 1 and 2. However, there is no discussion of actual GAAP revenues or earnings until page 3. You may refer to Question 102.10 of the updated Compliance and Disclosure Interpretations issued on May 17, 2016.
- We note that your financial highlights include FFO and AFFO per diluted Operating Partnership unit, without disclosure of the comparable GAAP per [unit] measure. Please revise your disclosure in future earnings releases to present GAAP measures with equal or greater prominence than non-GAAP measures. Refer to Question 102.10 of the updated Non-GAAP Financial Measures Compliance and Disclosure Interpretations issued on May 17, 2017.
- Please revise future filings to ensure that comments on your results begin with your GAAP results. For instance, we note that the remarks made by your President and CEO do not reference GAAP measures and appear to provide prominence to non-GAAP measures.

- Please revise future filings to ensure that GAAP measures receive equal prominence in all cases, particularly when describing non-GAAP measures. The use of superlatives such as exceptional and substantial when describing non-GAAP measures appears to provide them prominence not afforded your GAAP measures.

LABELING

- We note that you present Same-Store Net Operating Income on a "GAAP" basis on page 3. Net operating income is not a GAAP measure and should not be labeled as such. To the extent that this measure is presented in future filings, please include a reconciliation to the most directly comparable GAAP measure. Provide us with your proposed disclosure. Please note that this comment is applicable to all non-GAAP measures presented in Exhibits 99.1 and 99.2 that include "GAAP Basis" in their name.
- Additionally, remove your reference to GAAP in disclosing Property NOI or tell us how you determined this measure is not considered non-GAAP.
- We note that you reconcile funds from operations (FFO) from net income (loss) attributable to common stockholders and it appears FFO represents FFO attributable to common stockholders and unitholders. In future filings, please revise the label of this non-GAAP measure in your reconciliation to indicate that it is FFO attributable to common shareholders and unitholders. This comment is also applicable to the extent this measure is presented in your earnings release filed on Form 8-K.
- We note your calculation of EBITDA contains adjustments for items other than interest, taxes, depreciation and amortization. Please revise in future filings to ensure that measures calculated differently from EBITDA are not characterized as EBITDA and have titles that are distinguished from "EBITDA," such as "Adjusted EBITDA." Reference is made to Question 103.01 of the Compliance & Disclosure Interpretations for Non-GAAP Financial Measures.
- We note that you reconcile funds from operations (FFO) from net income attributable to common shareholders and it appears FFO represents FFO attributable to common shareholders. In future filings, please revise the label of this non-GAAP measure to indicate that it is FFO attributable to common shareholders. This comment is also applicable to the extent this measure is presented in your earnings release filed on Form 8-K.
- We note that your calculation of EBITDA contains adjustments for items other than interest, taxes, depreciation and amortization. Please revise future filings to ensure that measures calculated differently from EBITDA are not characterized as EBITDA. See Question 103.01 of the updated Compliance and Disclosure Interpretations issued on May 17, 2016.
- We note your definition of EBITDA. Please note that measures calculated differently from EBITDA (as described in Exchange Act Release No. 47226) should not be characterized as EBITDA, and their titles should be distinguished from EBITDA, such as Adjusted EBITDA. Reference is also made to Question 103.01 of the Compliance and Disclosure Interpretations on Non-GAAP Financial Measures.
- In arriving at Funds from operations-NAREIT, you start with net income (loss) attributable to common stockholders and make an adjustment for noncontrolling interests. As a result, it appears Funds from operations - NAREIT, and ultimately Normalized FFO, are attributable to common stockholders. Please clarify and/or revise the labeling of your non-GAAP financial measures in future earnings releases.
- We note your calculation of EBITDA contains adjustments for items other than interest, taxes, depreciation and amortization. Please revise in future filings to ensure that measures calculated differently from EBITDA are not characterized as EBITDA, and note that the exception from the prohibition in Item 10(e)(1)(ii)(A) will not apply to other measures. See Question 103.01 of the updated Compliance and Disclosure Interpretations issued on May 17, 2016.
- In arriving at FFO, you start with net income attributable to GGP Inc. and make adjustments for redeemable non-controlling interests and preferred stock dividends. As a result, it appears FFO, and ultimately Company FFO, are attributable to common shareholders and redeemable non-controlling interest holders. Please clarify and/or revise the labeling of your non-GAAP financial measures in future filings to adequately reflect what is being presented.

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Because of the generality of this document, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations.

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