

3 7A (c)(1)

May 4, 1993

Bureau of Competition, Room 303
Federal Trade Commission
Washington, DC 20580

Dear Ms. Epps:

This letter is to confirm our conversations last Wednesday. Attached is an outline of the transaction I described to you. You advised me that provided that the REIT is qualified under the Internal Revenue Code (the "I.R.C.") and the real property and improvements to be acquired are "income producing", the proposed acquisition described in the outline is exempt from premerger notification, pursuant to § 7A(c)(1), as an acquisition in the

investment trust under the I.R.C. is dependent upon operating results for complete taxable years. The REIT has received legal advice that it qualified for taxation as a real estate investment trust during past taxable years. An accurate statement of the REIT's status for its current taxable year (and any subsequent taxable year which has not ended) is (1) the REIT's

diversified investments and plan of operation will enable it to continue to meet the requirements for qualification as a REIT.

My understanding is that, for purposes of the § 7A(c)(1) exemption, "qualification" as a real estate investment trust under the I.R.C., in the sense you intended, means the status described in the preceding paragraph. Any other interpretation would mean the availability of the ordinary course of business

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Accordingly, I believe the REIT is "qualified" under the I.R.C. ~~in the same way intended. It would be helpful if the definition~~
of "qualified" in your rule-making proposal is clarified to encompass the interpretation in the preceding paragraph.

If I have misunderstood your advice or, in light of the foregoing, further clarification is necessary, please call me at [REDACTED]

Very truly yours,
[REDACTED]

[REDACTED]
I called [REDACTED] and explained to him that, with respect to the first paragraph

is generally exempt, regardless of the nature of the acquiring person. The advice I gave is that a qualified REIT that acquires income-producing property is not required to report the acquisition, which is pursuant to the OCB § 1A(c)(1) exemption.

OUTLINE OF PROPOSED TRANSACTION

estate investment trust (the "REIT").

The REIT is in the business of making investments in special purpose properties which can be used in the operation of certain businesses. In order to retain its qualification for taxation as a real estate investment trust under federal tax laws, the REIT may not operate these properties itself (except in limited circumstances following a default in an investment). Rather it must lease the properties to third parties, who operate the properties and pay rent for the privilege.

An insurance company ("Ins. Co.") is the ultimate parent of a company that currently owns certain real property (the "Owned Property") and that also has 50% interests in certain

Property"). The Owned Property and the Joint Venture Property

The Existing Operators operate [redacted] on each parcel of Owned Property and Joint Venture Property. The real property and the leases to the Existing Operators include related buildings and equipment on each parcel. The leases run for an [redacted] term and most give the Existing Operators

The REIT proposes to buy the Owned Property and either the Joint Venture Interests or the Joint Venture Property from the subsidiary of Ins. Co. (which may, by the time of the closing, have acquired a 100% interest in the Joint Venture Property). The leases with the Existing Operators will remain in place and

the proposed acquisition would be subject to the rights of the Existing Operators under the leases.

acquisition of such real property, building and equipment require