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December 10, 2018

**VIA ELECTRONIC MAIL** (IMshareholderproposals@sec.gov)

U.S. Securities and Exchange Commission
Office of the Chief Counsel
Division of Investment Management
100 F Street, N.E.
Washington, D.C. 20549

RE: RMR Real Estate Income Fund
Securities and Exchange Act of 1934
Omission of Shareholder Proposal Pursuant to Rule 14a-8

Ladies and Gentlemen:

We are writing on behalf of the RMR Real Estate Income Fund (the "*Fund*"), pursuant to Rule 14a-8(j) promulgated under the Securities and Exchange Act of 1934 (the "*Exchange Act*") to request that the staff (the "*Staff*") of the Securities and Exchange Commission (the "*Commission*") concur with the Fund's view that, for the reasons stated below, the shareholder proposal and supporting statement (collectively, the "*Proposal*") of Matisse Discounted Closed-End Fund Strategy (the "*Proponent*") may be properly omitted from the proxy materials (the "*Proxy Materials*") to be distributed by the Fund in connection with its 2019 annual meeting of shareholders.

In accordance with Staff Legal Bulletin No. 14D (Nov. 7, 2008), this letter and its attachments are being emailed to imshareholderproposals@sec.gov. In accordance with Rule 14a-8(j)(1), a copy of this letter and its attachments are being sent simultaneously to the

Proponent. We take this opportunity to inform the Proponent that if the Proponent elects to submit correspondence to the Commission or the Staff with respect to the Proposal or this letter, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Fund pursuant to Rule 14a-8(k) and Staff Legal Bulletin No. 14D. We request that such copy be emailed to us at michael.hoffman@skadden.com and kenneth.burdon@skadden.com.

The Fund advises that it intends to begin distribution of its definitive Proxy Materials on or after February 28, 2019. Accordingly, pursuant to Rule 14a-8(j), this letter is being submitted not less than 80 days before the Fund currently intends to file its definitive Proxy Materials with the Commission.

**BACKGROUND**

On November 8, 2018, the Fund received the Proposal, which was accompanied by a cover letter from the Proponent and a letter from UMB Bank (collectively, the "*Submission*"). A copy of the Submission is attached hereto as Exhibit A. In accordance with Rule 14a-8(f)(1), on November 20, 2018, the Fund sent a letter to the Proponent, pointing out certain procedural and eligibility deficiencies with the Submission (the "*Deficiency Letter*"). As suggested in Section G.3 of Staff Legal Bulletin No. 14 (July 13, 2001) ("*SLB No. 14*"), the Deficiency Letter included a copy of Rule 14a-8. The Deficiency Letter notified the Proponent that the Proposal failed to comply with Rule 14a-8(c) because the Proposal included two proposals. The Fund also pointed out that the Proposal failed to comply with Rule 14a-8(d) because the Proposal exceeded 500 words. The Fund additionally stated that the Submission failed to comply with Rule 14a-8(b)(1). The Fund requested that the Proponent correct these deficiencies and provide appropriate documentation by mail or electronic transmission to the Fund no later than 14 calendar days after the date the Proponent received the Deficiency Notice. A copy of the Deficiency Letter is attached hereto as Exhibit B.

In response to the Deficiency Notice, the Fund received two emails from the Proponent on November 20, 2018 (together, the "*November 20 Emails*"). In the November 20 Emails, the Proponent asserted that the Proposal, "per Microsoft Word count, is 496 words" and that the shareholder proposal consists of a single proposal. The Proponent also attached a revised letter from UMB Bank. Copies of the November 20 Emails are attached hereto as Exhibit C.

Although not required to do so, the Fund responded to the Proponent by email on November 27, 2018. The Fund confirmed that it would accept the revised UMB Bank letter and reasserted the Fund's position that the Proposal failed to comply with Rules 14a-8(c), 14a-8(d) and 14a-8(f)(1). The Proponent responded to the Fund via email the same day and also submitted a slightly revised Proposal, which failed to correct the remaining procedural and eligibility deficiencies. Copies of the November 27, 2018 email correspondence between the Fund and the Proponent (the "*November 27 Emails*") and the revised Proposal are attached hereto as Exhibit D. The Fund has received no further revisions to the Proposal.

## BASES FOR EXCLUSION

The Fund believes that the Proposal may be properly excluded from the Proxy Materials pursuant to:

- Rule 14a-8(d) and Rule 14a-8(f)(1) because the Proposal exceeds 500 words;
- Rule 14a-8(c) and Rule 14a-8(f)(1) because the Proposal includes two proposals;
- Rule 14a-8(i)(3) because the Proposal contains materially false and misleading statements; and
- Rule 14a-8(i)(8)(iii) because the Proposal questions the competence and business judgment of the Board of Trustees (the "*Board*," and each member a "*Trustee*"), two members of which will stand for election at the Fund's 2019 annual meeting of shareholders.

## ANALYSIS

**1. The Fund may exclude the Proposal pursuant to Rule 14a-8(d) and Rule 14a-8(f)(1) because the Proposal exceeds 500 words and the Proponent failed to correct this deficiency after proper notice.**

Rule 14a-8(d) provides that a proposal, including any supporting statement, may not exceed 500 words. The Staff has explained that "[a]ny statements that are, in effect, arguments in support of the proposal constitute part of the supporting statement" for purposes of the 500-word limitation. See SLB No. 14. On numerous occasions, the Staff has concurred that a company may exclude a proposal under Rule 14a-8(d) and Rule 14a-8(f)(1) because the proposal exceeds 500 words. See, e.g., *General Electric Company* (Dec. 30, 2014); *Danaher Corp.* (Jan. 19, 2010); *Procter & Gamble Co.* (July 29, 2008); *Amgen, Inc.* (Jan. 12, 2004) ("*Amgen 2004*") (in each instance concurring in the exclusion of a proposal that contained more than 500 words). See also *Amoco Corp.* (Jan. 22, 1997) (concurring in the exclusion of a proposal where the company argued that the proposal included 503 words and the proponent stated that the proposal included 501 words).

For purposes of calculating the number of words in a proposal, the Staff has indicated that hyphenated terms should be treated as multiple words. See *Minnesota Mining & Manufacturing Co.* (Feb. 27, 2000) (concurring in the exclusion of a proposal that contained 504 words, but would have contained 498 words if hyphenated terms and words separated by "/" were counted as one word). Similarly, the Staff has indicated that numbers and symbols should be treated as separate words. See *Intel Corp.* (Mar. 8, 2010) (stating that, in determining that the proposal appeared to exceed the 500-word limitation, "we have counted each percent symbol and dollar sign as a separate word"); Amgen 2004 (permitting the exclusion of a proposal where the company counted each number and letter used to enumerate paragraphs as separate words);

*Aetna Life and Casualty Co.* (Jan. 18, 1995) (permitting the exclusion of a proposal under the predecessor to Rules 14a-8(d) and 14a-8(f)(l) where the company argued that "each numeric entry should be counted as a word for purposes of applying the 500-word limitation").

Following the principles applied in the precedents described above, the Fund has determined that the Proposal contains 524 words. As part of its calculation:

- The Fund has counted "Resolved" because it is not used as a title or heading; instead, it is part of the first sentence of the Proposal.[1]

- The Fund has counted each symbol (including "+" and "%") as a separate word.

- The Fund has counted each number as a single word (although the Fund has not counted each digit within each number as a single word).

- The Fund has counted hyphenated words, such as "at-NAV," "long-suffering," "open-end" and "closed-end," as multiple words. Such treatment is further supported by the definition of "hyphenate". According to the Merriam-Webster's Collegiate Dictionary (the Eleventh Edition), "hyphenate" means "to connect (as two words) or divide (as a word at the end of a line of print) with a hyphen." In each of these four instances ("at-NAV," "long-suffering," "open-end" and "closed-end"), the hyphen was used to connect two words rather than to divide a word that is at the end of a line. As such, each of the above hyphenated words should count as multiple words rather than just one word.[2]

- The Fund has counted each date that references a day, a month and a year as three words. For example, the Fund has counted "6/30/18" as three words.

- The Fund has counted undefined acronyms and abbreviations, such as "NAV" and "CPA," as if such acronyms or abbreviations were spelled out. Just as a proponent would not be able to circumvent the 500-word limitation by using excessive hyphenation or slashes, a proponent should not be able to artificially circumvent the 500-word limitation by using excessive acronyms and abbreviations.

However, even if the word "Resolved" is ignored and the undefined acronyms "NAV" and "CPA" are each treated as a single word, the total number of words would be 513, in excess of the 500-word limit. Therefore, regardless of the treatment for the word "Resolved" and the undefined acronyms "NAV" and "CPA," the Fund believes that the Proposal already exceeds the 500-word limitation prescribed by Rule 14a-8(d).

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[1] The Fund has excluded the headings "Shareholder Proposal" and "Supporting Statement" from the word count.

[2] However, the Fund has counted the Proponent's phone number as one word.

Pursuant to Rule 14a-8(f)(1), if a proponent fails to follow one of the eligibility or procedural requirements prescribed in Rule 14a-8(a) through (d), the company may omit the proponent's proposal, so long as it has notified the proponent of the deficiency within 14 calendar days of receiving the proposal, and the proponent has failed adequately to correct such deficiency. As described above, the Fund duly notified the Proponent of the fact that the original Proposal, submitted on November 8, 2018, exceeded the 500-word limitation in the Deficiency Letter and reasserted the Fund's position in the November 27 Emails. The revised Proposal, submitted on November 27, 2018, also exceeded the 500-word limitation, and the Fund has received no further revisions to the Proposal. Accordingly, we respectfully request the Staff's concurrence with the Fund's view that the Proposal, as revised, may be excluded from the Proxy Materials because it exceeds the 500-word limitation contained in Rule 14a-8(d) and Rule 14a-8(f)(1).

**2. The Fund may exclude the Proposal pursuant to Rule 14a-8(c) and Rule 14a-8(f)(1) because the Proposal constitutes more than one proposal.**

Rule 14a-8(c) provides that "[e]ach shareholder may submit no more than one proposal to a company for a particular shareholders' meeting." In adopting the rule, the Commission in Exchange Act Release No. 12999 (Nov. 22, 1976) noted the possibility that some proponents may attempt to evade the rule's limitations through various maneuvers.[3] The one-proposal limitation applies not only to proponents who submit multiple proposals as separate submissions, but also to proponents who submit proposals that are comprised of multiple parts even though the parts may seemingly address one general concept. See, e.g., *Streamline Health Solutions, Inc.* (Mar. 23, 2010) (permitting exclusion of a multi-part proposal that the proponent claimed all related to the election of directors); and *American Electric Power Co., Inc.* (Jan. 2, 2001) (permitting exclusion of a multi-part proposal that the proponent claimed all related to "corporate governance"). The Staff also has concurred that proposals that require a "variety of corporate actions" may be excluded. See, e.g., *Morgan Stanley* (Feb. 4, 2009) (permitting exclusion of a proposal that requested stock ownership guidelines for director candidates, new conflict of interest disclosures for director nominees, and new limits on compensation of directors and nominees); and *General Motors Corporation* (April 9, 2007) (permitting exclusion of a proposal that included several separate and distinct steps to restructure the company).

The Fund believes that the Proposal violates Rule 14a-8(c) because the Proposal includes two separate and distinct proposals: (1) it resolves that all investment advisory and management agreements between the Fund and RMR Advisors LLC (the "*Advisor*") be terminated; and (2) it recommends that the Board propose a plan to liquidate or open-end the Fund. Either proposal could be implemented independently of the other. And, each proposal involves separate and distinct considerations and approvals by the Board and the Fund's shareholders. The Proponent specifically acknowledges the second proposal in the fifth

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[3] The predecessor to Rule 14a-8(c) initially provided that each proponent may submit two proposals; the rule was subsequently amended in 1983 to provide for the current one-proposal limitation.

paragraph of the supporting statement, which reads as follows: "In addition to voting for our proposal, we also hope that all RIF shareholders will join us in asking management for, and voting in favor of, a proposal to liquidate or open-end the Fund" (emphasis added). The Proposal is distinguishable from *Franklin Limited Duration Income Trust* (July 27, 2016) ("*Franklin 2016*"), in which the Staff was unable to concur with the exclusion of a proposal requesting that the board consider authorizing a tender offer.[4] In Franklin 2016, the second element of the proposal is dependent on the results of the first element; moreover, the proponent did not assert in its supporting statement that it was recommending a separate corporate transaction at the same annual meeting. Although the Proponent, in the November 27 Emails, claims that the Proposal is "one proposal which is a conditional proposal," the inclusion of the fifth paragraph is an attempt by the Proponent to advocate for a separate proposal in a manner designed to circumvent the requirements of Rule 14a-8(c). Therefore, the Proponent should not be able to recast the proposals as a "conditional proposal."

Pursuant to Rule 14a-8(f)(1), the Fund duly notified the Proponent that the Proposal, submitted on November 8, 2018, exceeded the one-proposal limitation in the Deficiency Letter. The revised Proposal, which contains no revisions to the supporting statement, also exceeds the one-proposal limitation, and the Fund has received no further revisions to the Proposal. Accordingly, we respectfully request the Staff's concurrence with the Fund's view that the Proposal may be excluded from the Proxy Materials because it exceeds the one-proposal limitation contained in Rule 14a-8(c) and Rule 14a-8(f)(1).

**3. The Fund may exclude the Proposal pursuant to Rule 14a-8(i)(3) in violation of Rule 14a-9 because the Proposal is materially false and misleading.**

Rule 14a-8(i)(3) permits a company to omit a shareholder proposal and related supporting statement from its proxy materials if "the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials." Note (b) to Rule 14a-9 specifies that a statement may be misleading if it "directly or indirectly impugns character, integrity or personal reputation, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation." The Staff has concurred that a company may properly exclude entire shareholder proposals and supporting statements where they contain false and misleading statements or omit material facts necessary to make such statements not false and misleading. See *Entergy Corp.* (Feb. 14, 2007) (permitting the exclusion of the entire proposal which contained false and misleading statements relating to management and the board); *The Swiss Helvetia Fund, Inc.* (April 3, 2001) (permitting exclusion of entire proposal

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[4] The proposal submitted to Franklin Limited Duration Income Trust reads: "BE IT RESOLVED, that the shareholders of Franklin Limited Duration Income Trust (the "Fund"), requests that the Board of Trustees (the "Board") consider authorizing a self-tender offer for all outstanding shares of the Fund at or close to net asset value ("NAV"). If more than 50% of the Fund's outstanding shares are submitted for tender, the tender offer should be cancelled and the Board should take the steps necessary to liquidate or convert the Fund into an open-end mutual fund."

due to unsupported statements insinuating that directors may have violated, or may choose to violate, their fiduciary duties); and *General Magic, Inc.* (May 1, 2000) (permitting exclusion of proposal relating to change of name of company which contained false and misleading statements). Additionally, Section B.4 of Staff Legal Bulletin No. 14B (CF) (Sept. 15, 2004) provides that the Staff "may find it appropriate for companies to exclude the entire proposal, supporting statement, or both as materially false or misleading if a proposal or supporting statement would require detailed and extensive editing in order to bring it into compliance with the proxy rules." As discussed below, the Fund believes that the entire Proposal should be excluded pursuant to Rule 14a-8(i)(3) as materially false and misleading in violation of Rule 14a-9.

The supporting statement is replete with statements and assertions that are materially false and misleading. For example, the first bullet point in the first paragraph of the supporting statement falsely claims that the Advisor receives the Fund's total net expense ratio: "[E]mployees and owners of RMR Advisors: Collect a 'total net expense ratio ranked in the fourth quartile within . . . the Morningstar Classification Group, exceeding . . . the Morningstar Classification Group median by 44 basis points', per the Board's analysis." To the contrary, the Fund's 2018 Semi-Annual Report (the "*Report*"), which the Proponent quotes from, clearly provides that the Advisor receives only the advisory fee.[5] To claim otherwise misleads the Fund's shareholders into believing the Fund's investment adviser receives compensation from the Fund well in excess of what it actually receives, and implies the Board has breached its fiduciary duties in approving the Fund's advisory contract. This mischaracterization of the Fund's expense structure, presented in the form of what appears to be intentional and selective editing of disclosure in the Report, is a desperate attempt to smear the Board and mislead the Fund's shareholders. Not only does this statement falsely claim that the Fund's investment adviser receives compensation beyond what it actually receives, the selective editing obfuscates and omits the Board's actual considerations regarding the compensation paid to the Fund's investment adviser, which was that the advisory fee was at the median relative to the Morningstar Classification Group and was within the range of advisory fees charged by comparable funds.

To take another example, the third bullet point in the first paragraph of the supporting statement also falsely claims that the "employees and owners of RMR Advisors: . . . Can cement their own position by voting their shares in favor of . . . the aforesaid rights offering." Shareholders of the Fund have no right under the Investment Company Act of 1940 (the "*1940 Act*") to vote on the Fund's determination to conduct a rights offering, and the Fund has been advised by its Maryland counsel that no such right exists under Maryland state law either. To claim otherwise misleads shareholders into believing that they were improperly disenfranchised in connection with the Fund's 2017 rights offering. Nothing could be further

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[5] Note B of the Notes to Financial Statements of the Report states the following: "RMR Advisors is compensated at an annual rate of 0.85% of the Fund's average daily managed assets. Managed assets means the total assets of the Fund less liabilities other than any indebtedness entered into for purposes of leverage."

from the truth. This again smacks of the Proponent's desperate attempt to smear the Board without any factual basis and mislead the Fund's shareholders.

The second paragraph of the supporting statement is also materially misleading because the Proponent uses non-standardized total return figures without providing (1) a source for the performance data, (2) a definition of what is meant by "total returns," and (3) accompanying "standardized" total return information (i.e., average annual total returns calculated in accordance with standards set forth by the Commission). The Proponent omitted references that would have enabled shareholders to verify and evaluate such information. The Proponent should have also provided accompanying standardized total returns in order to present shareholders with balanced performance information. Therefore, the non-standardized performance information provided by the Proponent is misleading and should be excluded pursuant to Rule 14a-8(i)(3).

Moreover, the fourth paragraph of the supporting statement is materially misleading because it impugns the character, integrity and reputation of the Trustees. For example, the fourth paragraph states: "[B]y allowing such a large discount to persist, by giving current management a "pass" despite poor performance, and by conducting a rights offering . . . the Board has ignored its fiduciary duty." The Proponent's assertion effectively alleges that the Trustees have failed to discharge their fiduciary duties in violation of the 1940 Act and Maryland state law. The Proponent has no factual basis from which to discover or evaluate such an assertion. Such an allegation of improper conduct is entirely conclusory, self-serving and is made without any factual support whatsoever. A determination regarding whether the Board has violated its fiduciary duty as a result of the Proponent's alleged grievances is a determination properly made by a court of competent jurisdiction, not the Proponent, and no such determination with respect to the Fund's Board has been made. The Proponent's assertion that the Trustees have violated their fiduciary duty does not make it a fact. This statement therefore is in direct violation of Note (b) to Rule 14a-9.

Furthermore, the fifth paragraph of the supporting statement is materially false and misleading because the Proponent fails to disclose that the Proponent, a registered open-end management investment company, cannot independently vote in support of any shareholder proposals, including its own shareholder proposals. The Proponent, however, states that it intends to vote in favor of its proposals, which would be in direct violation of Section 12(d)(1)(F) of the 1940 Act. As stated in the Proponent's prospectus filed on July 27, 2018 (the "*Prospectus*"), the Proponent invests in the securities of other investment companies pursuant to Section 12(d)(1)(F) of the 1940 Act. Compliance with Section 12(d)(1)(F) is required of the Proponent because more than 10% of the value of its total assets consists of other registered investment companies and the Fund represents more than 5% of the value of its total assets.[6] Section 12(d)(1)(F) requires that a registered investment company seeking to rely on its

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[6] See the Proponent's Form N-Q for the period ended June 30, 2018, filed on August 29, 2018 (File No. 811-22298); and https://matissefunds.com/wp-content/uploads/2018/11/MDCEX-Fact-Sheet-10.31.18.pdf.

provisions exercise its voting rights in an underlying registered fund in accordance with the provisions of Section 12(d)(1)(E) of the 1940 Act. Section 12(d)(1)(E)(iii) provides that an investing fund "either to seek instructions from its security holders with regard to the voting of all proxies with respect to such security and to vote such proxies only in accordance with such instructions, or to vote the shares held by it in the same proportion as the vote of all other holders of such security."

The Prospectus, including the proxy voting policy attached to the Statement of Additional Information incorporated by reference therein, contains no reference to the voting requirements of Section 12(d)(1)(F). Moreover, the aforementioned proxy voting policy appears to in fact violate Section 12(d)(1)(F) on its face, as it provides for voting shares of registered investment companies on a basis other than the required "mirror" or "pass through" voting. This pattern of illegal voting appears to be further borne out by the Proponent's proxy voting records filed on Form N-PX, which do not indicate that mirror or pass through voting was used for registered investment company proxies, and the fact that the Proponent inexplicably deleted disclosure in the Prospectus about Section 12(d)(1)(F)'s voting requirements and its policy to vote consistent therewith that appeared in its 2017 prospectus filed with the Commission on August 1, 2017.

Additionally, the fifth paragraph suggests that the Proponent is engaging in activities inconsistent with its fundamental investment restrictions. The Proponent fails to disclose that the Proponent is specifically prohibited, as a matter of fundamental policy, from making investments for the purpose of exercising control or management of any company.[7] The submission of the Proposal and the content of the fifth paragraph of the supporting statement are blatant violations of the Proponent's fundamental investment restrictions.

None of these restrictions and limitations on the Proponent's activities are disclosed in the Proposal. A reasonable shareholder desiring to support the Proposal would at least want to know that the Proponent itself cannot vote in favor of the Proposal and that, in fact, the Proponent may be legally required to cast more votes AGAINST the Proposal than FOR the Proposal as a result of Section 12(d)(1)(F) compliance. We note that the Proponent's total assets have declined precipitously over the past year and a half. The Proponent reported approximately $110 million in total assets as of March 31, 2017.[8] The Proponent reports $66.7 million in assets as of September 30, 2018 – a nearly 40% drawdown in under two years.[9] The Proposal may be an attempt to save a failing strategy that was and continues, at least according to the Prospectus, to be predicated upon a "proprietary research process that attempts to forecast whether the

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[7] The Prospectus states that as a fundamental investment policy, the Proponent may not "[m]ake investments for the purpose of exercising control or management over a portfolio company."

[8] See Proponent's annual shareholder report for fiscal year ended March 31, 2017, filed on Form N-CSR on June 19, 2017 (File No. 811-22298).

[9] See https://matissefunds.com/total-returns-for-period-ending-63014/47-2/.

market discount on a closed-end fund will increase or decrease" – not attempts to exercise control or management over a closed-end fund. In pursuing the Proposal, it appears that the Proponent is willing to not only mislead the Fund's shareholders, but also violate clear 1940 Act requirements and its own investment policies, presumably to the detriment of its own shareholders. The fifth paragraph directly violates Rule 14a-8(i)(3).

For the reasons discussed above, the Fund has concluded that the Proposal is excludable under Rule 14a-8(i)(3). The Fund believes that the sheer number of materially false and misleading statements renders the entire Proposal materially false and misleading to shareholders of the Fund.

**4. The Fund may exclude the Proposal pursuant to Rule 14a-8(i)(8)(iii) because the Proposal questions the competence and business judgment of the Board.**

Under Rule 14a-8(i)(8)(iii), a shareholder proposal may be excluded from a company's proxy materials if it "[q]uestions the competence, business judgment, or character of one or more nominees or directors." In 2010, the Commission adopted amendments to Rule 14a-8(i)(8) to codify prior Staff interpretations and expressly allow for the exclusion of a proposal that "[q]uestions the competence, business judgment, or character of one or more nominees or directors." Exchange Act Release No. 34-62764 (Aug. 25, 2010) (the "*2010 Release*"). As explained in the 2010 Release, the recent amendment to Rule 14a-8(i)(8) "was not intended to change the staff's prior interpretations or limit the application of the exclusion" but rather was intended to "codify certain prior staff interpretations with respect to the types of proposals that would continue to be excludable" and "provide more clarity to companies and shareholders regarding the application of the exclusion."

On a number of occasions, the Staff has permitted a company to exclude a proposal under Rule 14a-8(i)(8)(iii) where the proposal, together with the supporting statement, questions the competence, business judgment or character of directors. See *Rite Aid Corp*. (April 1, 2011) (concurring with the exclusion of a shareholder proposal to prohibit nomination of any non-executive board member who has "had any financial or business dealings . . . with any member of senior management or the Company" because the supporting statement "appear[ed] to question the business judgment of board members" expected to stand for reelection); *Marriott International, Inc*. (March 12, 2010) (shareholder proposal criticizing suitability of members of the board of directors to serve, and such members were expected to be nominated by the company for election at the upcoming annual meeting of shareholders); *Brocade Communication Systems, Inc*. (January 31, 2007) (shareholder proposal criticizing directors who ignore certain shareholder votes was excludable); *Exxon Mobil Corp*. (March 20, 2002) (shareholder proposal condemning the chief executive officer for causing "reputational harm" to the company and for "destroying shareholder value" was excludable); *AT&T Corp*. (February 13, 2001) (shareholder proposal criticizing the board chairman, who was the chief executive officer, for company performance was excludable); *Honeywell International Inc*. (March 2, 2000) (shareholder proposal making directors who fail to enact resolutions adopted by shareholders ineligible for election was excludable); *Black & Decker Corp*. (January 21, 1997) (allowing exclusion of a

proposal under the predecessor to Rule 14a-8(i)(8) that questioned the independence of board members where contentions in the supporting statement questioned the business judgment, competence and service of a chief executive officer standing for reelection to the board).

Like the proposals and supporting statements in the foregoing no-action letters, the supporting statement explicitly criticizes the business judgment, competence and service of the Trustees. The Proponent, without any factual foundation, accuses the Board of "ignor[ing] its fiduciary duty," in particular in connection with the Fund's discount, the Board's consideration of the Fund's investment advisory agreement and the Board's approval of the Fund's 2017 rights offering. Such an assertion clearly questions the competence, business judgment and service of the Trustees. Moreover, the Proponent's assertion is intended to cause shareholders to reconsider their support for the Fund's nominees to the Board at the Fund's 2019 annual meeting of shareholders. Accordingly, the Proposal is excludable from the Proxy Materials pursuant to Rule 14a-8(i)(8)(iii).

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## CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Fund excludes the Proposal from its Proxy Materials. Should the Staff disagree with the conclusions set forth in this letter, or should any additional information be desired in support of the Fund's position, we would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's response.

Please do not hesitate to contact the undersigned at (212) 735-3406 (Mr. Hoffman) or (617) 573-4836 (Mr. Burdon).

Very truly yours,

Michael K. Hoffman  Kenneth E. Burdon

cc: Jennifer Clark, Secretary, RMR Real Estate Income Fund

**Exhibit A**

(see attached)

**From:** Eric Boughton <eric@matissecap.com>
**Date:** November 8, 2018 at 5:29:17 PM EST
**To:** "info@rmrfunds.com" <info@rmrfunds.com>, "ir@rmrfunds.com" <ir@rmrfunds.com>, "mkleifges@bloomberg.net" <mkleifges@bloomberg.net>
**Subject: RIF 14a-8 shareholder proposal attached [EXTERNAL]**

Please find attached a 14a-8 shareholder proposal for inclusion on your proxy for the upcoming annual meeting of the RMR Real Estate Income Fund.

We will also mail a copy of this to Jennifer Clarks attention at Two Newton Place, 255 Washington Street, Suite 300, Newton, MA 02458, per the instructions in the Funds filings.

To simplify future communications, please:
-Let us know what is the best and proper single email address to which we may make official correspondence
-Reply to this email confirming that you have received it
-Indicate that (if?) you will accept emailed correspondence as official written correspondence

Congrats on the Red Sox! My Cubs were out a little too soon for my taste this year. Get em next year.

-Eric Boughton

**Attachments:**

image003.png
ATT00001.htm
image006.png
ATT00002.htm
image007.png
ATT00003.htm
image008.png
ATT00004.htm
RIF 11 8 18.docx
ATT00005.htm
Ownership Letter - Matisse RMR Real Estate Income Fd.pdf

ATT00006.htm

Matisse
CAPITAL

(O) 503.210.3006
(F) 503.210.3010
4949 Meadows Road, Suite 200
Lake Oswego, OR 97035

NOV 12 REC'D

November 8, 2018

Jennifer B. Clark, Secretary
RMR Real Estate Income Fund
Two Newton Place
255 Washington Street
Suite 300
Newton, MA 02458

Re: 14a-8 Shareholder Proposal for upcoming annual meeting

Dear Madam:

Matisse Discounted Closed-End Fund Strategy, a US open-end mutual fund (MDCEX, cusip 85520V434) is the beneficial owner of over 10,000 common shares of RMR Real Estate Income Fund. MDCEX has held these Shares continuously for over 12 months and intends to continue to hold the Shares through the date of the next meeting of shareholders. Evidence of this fact is in our public annual and semi-annual reports, as well as in the quarterly 13f filings of our investment adviser, Matisse Capital; and a letter of verification from our custodian, UMB Bank, verifying these statements, is enclosed.

We hereby submit the following proposal and supporting statement pursuant to Rule 14a-8 of the Securities Exchange Act of 1934, as amended, for inclusion in the company's proxy statement for the next Annual Meeting of shareholders (the one to be held in calendar 2019, presumably). Per last year's annual meeting materials, "Shareholder proposals intended to be presented pursuant to Rule 14a-8 under the Exchange Act at the Fund's 2019 annual meeting of shareholders must be received at the Fund's principal executive offices on or before November 13, 2018 in order to be considered for inclusion in the Fund's proxy statement for its 2019 annual meeting of shareholder". If the company believes this proposal is incomplete or otherwise deficient in any respect, please contact Eric Boughton, CFA, immediately so that we may promptly address any alleged deficiencies, at (503) 210-3005 or eric@matissecap.com.

Sincerely,

Matisse Discounted Closed-End Fund Strategy

E Boughton

Eric Boughton, CFA
Portfolio Manager

Matisse
CAPITAL

(O) 503.210.3006
(F) 503.210.3010
4949 Meadows Road, Suite 200
Lake Oswego, OR 97035

## Shareholder Proposal

**RESOLVED:** All investment advisory and management agreements between RMR Real Estate Income Fund and RMR Advisors LLC shall be terminated by the Fund, pursuant to the right of stockholders as embodied in Section 15(a)(3) of the Investment Company Act of 1940 and as required to be included in such agreements, at the earliest date the Fund is legally permitted to do so. If, however, the Board proposes, and shareholders approve, at this meeting, a plan to liquidate or open-end the Fund within one year, then the investment advisory and management agreements between RMR Real Estate Income Fund and RMR Advisors LLC shall remain in effect as long as necessary to implement these actions.

### Supporting Statement

RMR Real Estate Income Fund has traded at an extremely large discount to its NAV for years, effectively holding shareholders captive, since they can only exit their investment for substantially less than it is worth. Meanwhile, employees and owners of RMR Advisors:

- Collect a "total net expense ratio ranked in the fourth quartile within... the Morningstar Classification Group, exceeding... the Morningstar Classification Group median by 44 basis points", per the Board's analysis.
- Benefited from the expansion of the fund's assets in last year's coercive and dilutive rights offering.
- Can cement their own position by voting their shares in favor of a continued excessive management fee and in favor of the aforesaid rights offering.
- Have produced consistently poor performance.

The combination of the large and widening discount, and the poor at-NAV performance, has produced anemic returns for shareholders. For example, for the 5 year period ending 6/30/18, total returns are as follows:

| | |
|---|---|
| MSCI US REIT Index: | +49% |
| RIF at NAV | +38% |
| RIF at market price | +27% |

What stings even more is that this is the same advisor, with primarily the same portfolio managers, who, from 12/31/06-12/31/10, managed the RMR Real Estate Income Fund to a 49% (!) at-NAV loss, while the MSCI US REIT Index lost only 15%!

In our view, by allowing such a large discount to persist, by giving current management a "pass" despite poor performance, and by conducting a rights offering which forced retail investors to come up with fresh cash in order to prevent their investment from being diluted substantially,

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(F) 503.210.3010
4949 Meadows Road, Suite 200
Lake Oswego, OR 97035

the Board has ignored its fiduciary duty. Instead of being diluted, long-suffering shareholders deserve the opportunity to receive full value for their shares today.

In addition to voting for our proposal, we also hope that all RIF shareholders will join us in asking management for, and voting in favor of, a proposal to liquidate or open-end the Fund.

Who are we? We are an open-end mutual fund (Matisse Discounted Closed-End Fund Strategy, MDCEX) which has owned shares of RIF continuously for the past year. Our interests are aligned solely with that of all other shareholders, and the remedy we are suggesting would benefit all shareholders equally. Feel free to contact us about this matter; we are happy to discuss. Contact Eric Boughton, CFA, at (503) 210-3005.

November 8, 2018

Eric Boughton, CFA
Portfolio Manager
Matisse Capital
4949 Meadows Road, Suite 200
Lake Oswego, OR 97035

This letter is to confirm that as October 6, 2017, UMB Bank, N.A. 2450, a DTC participant, in its capacity as custodian, held 238,423 shares of RMR Real Estate Income Fd on behalf of the Matisse Discounted Closed End Fund. These shares are held in the Bank's position at the Depository Trust Company registered to the nominee name of Cede & Co.

Further, this is to confirm that the position in RMR Real Estate Income Fd held by the bank on behalf of the Matisse Discounted Closed-End Fund during the year ended November 8, 2018 did not loan out its shares and continuously exceeded 10,000 shares.

Sincerely,

Mandee Crawford

Mandee Crawford,
Assistant Vice President
UMB Bank, n.a.

**Exhibit B**

(see attached)

**RMR Funds**

Two Newton Place, 255 Washington Street, Newton, Massachusetts 02458-1634
(617) 332-9530 & (866) 790-8165 tel (617) 796-8376 fax www.rmrfunds.com

BY FEDERAL EXPRESS AND EMAIL

November 20, 2018

Matisse Discounted
Closed-End Fund Strategy
4949 Meadows Road, Suite 200
Lake Oswego, OR 97035

Attn: Eric Boughton, CFA
Portfolio Manager
eric@matissecap.com

Re: Shareholder Proposals Submitted to
RMR Real Estate Income Trust (the "Fund")

Dear Mr. Boughton:

The Fund confirms receipt on November 8, 2018 of the letter of Matisse Discounted Closed-End Fund Strategy (the "Proponent"), dated November 8, 2018, requesting the inclusion of two shareholder proposals in the Fund's proxy statement for its 2019 annual meeting of shareholders (the "Annual Meeting") pursuant to Rule 14a-8 promulgated under the Securities Exchange Act of 1934, as amended.

This letter is to notify you of deficiencies in the Proponent's submission under Rule 14a-8 that Rule 14a-8 requires us to bring to your attention. Specifically, Rule 14a-8(c) provides that a shareholder may submit no more than one proposal under Rule 14a-8 to a company for a particular shareholder meeting. The Proponent's submission includes two proposals: (1) it resolves that all investment advisory and management agreements between the Fund and RMR Advisors LLC be terminated; and (2) it recommends that the board propose a plan to liquidate or open-end the Fund. The supporting statement, in particular, states that the Proponent "hopes that all RIF shareholders will join us in asking management for, and voting in favor of, a proposal to liquidate or open-end the Fund." The Proponent can correct this deficiency by

indicating in a written response to the Fund which proposal it wishes to submit under Rule 14a-8 and which proposal it would like to withdraw.

In addition, Rule 14a-8(d)states that any shareholder proposal, including any accompanying supporting statement, may not exceed 500 words. The Proponent's proposals and supporting statement contain more than 500 words. To remedy this defect, the Proponent must revise the proposals and supporting statement so that they do not exceed 500 words.

Moreover, under Rule 14a-8(b), in order to be eligible to submit a shareholder proposal for the Annual Meeting, a proponent must submit sufficient documentary proof to the Fund of the proponent's continuous ownership of at least $2,000 in market value, or 1%, of the Fund's shares entitled to vote on such proposal for at least one year as of the date the proposal was submitted. The November 8, 2018 letter of UMB Bank, N.A., submitted by the Proponent to the Fund, fails to provide verification of the Proponent's continuous ownership of Fund shares as of November 8, 2018, the date the Proponent submitted its proposals to the Fund. It does not clearly state that as of November 8, 2018, the Proponent held, and has held continuously for at least one year, the requisite number of Fund shares entitled to vote on the proposals. Instead, the letter references the Proponent's ownership as of October 6, 2017 and notes that the "position in [the Fund]. . . during the year ended November 8, 2018 did not loan out its shares and continuously exceeded 10,000 shares." Pursuant to Rule 14a-8(b)(2), to remedy this defect, the Proponent must submit to the Fund a written statement from the "record" holder verifying that as of November 8, 2018, the date the Proponent submitted its proposals to the Fund, the Proponent held and has continuously held the requisite number of Fund shares entitled to vote on the proposals for at least one year. *See* Staff Legal Bulletin No. 14F, part C (October 18, 2011).

Rule 14a-8 requires that the Proponent's written response to this letter be mailed to the Fund and postmarked, or transmitted to the Fund electronically, no later than 14 calendar days from the date you receive this letter. Please note that this letter addresses only certain procedural aspects of the requirements for submitting a proposal and does not address or waive any of the Fund's rights or concerns regarding the Proponent's shareholder proposals or the Proponent's eligibility to have such proposals included in the Fund's proxy statement. The Fund reserves all rights to omit the Proponent's proposals from the Fund's proxy statement on any grounds.

Please address any response to this request and any future correspondence relating to the proposal to my attention at the address in the heading to this letter and to jclark@rmrgroupadvisors.com.

For your reference, I enclose a copy of Rule 14a-8.

Very truly yours,

Jennifer B. Clark
Secretary

Enclosures

# Federal Securities Law Reporter, Regulation, Reg. §240.14a-8., Securities and Exchange Commission, Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to "you" are to a shareholder seeking to submit the proposal.

**(a)** *Question 1: What is a proposal?*

A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

**(b)** *Question 2: Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?*

**(1)** In order to be eligible to submit a proposal, you must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

**(2)** If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

**(i)** The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

**(ii)** The second way to prove ownership applies only if you have filed a Schedule 13D (§ 240.13d-101), Schedule 13G (§ 240.13d-102), Form 3 (§ 249.103 of this chapter), Form 4 (§ 249.104 of this chapter) and/or Form 5 (§ 249.105 of this chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

**(A)** A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;

**(B)** Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and

**(C)** Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

**(c)** *Question 3: How many proposals may I submit?*

Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

**(d)** *Question 4: How long can my proposal be?*

The proposal, including any accompanying supporting statement, may not exceed 500 words.

**(e)** *Question 5: What is the deadline for submitting a proposal?*

**(1)** If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q (§ 249.308a of this chapter), or in shareholder reports of investment companies under § 270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

**(2)** The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

**(3)** If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

**(f)** *Question 6: What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section?*

**(1)** The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under § 240.14a-8 and provide you with a copy under Question 10 below, § 240.14a-8(j).

**(2)** If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

**(g)** *Question 7: Who has the burden of persuading the Commission or its staff that my proposal can be excluded?*

Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

**(h)** *Question 8: Must I appear personally at the shareholders' meeting to present the proposal?*

**(1)** Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

**(2)** If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

**(3)** If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

**(i)** *Question 9: If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal?*

**(1)** Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

NOTE TO PARAGRAPH (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

**(2)** *Violation of law:* If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

NOTE TO PARAGRAPH (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

**(3)** *Violation of proxy rules:* If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including § 240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

**(4)** *Personal grievance; special interest:* If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

**(5)** *Relevance:* If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

**(6)** *Absence of power/authority:* If the company would lack the power or authority to implement the proposal;

**(7)** *Management functions:* If the proposal deals with a matter relating to the company's ordinary business operations;

**(8)** *Director elections*: If the proposal:

**(i)** Would disqualify a nominee who is standing for election;

**(ii)** Would remove a director from office before his or her term expired;

**(iii)** Questions the competence, business judgment, or character of one or more nominees or directors;

**(iv)** Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

**(v)** Otherwise could affect the outcome of the upcoming election of directors.

**(9)** *Conflicts with company's proposal:* If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

NOTE TO PARAGRAPH (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

**(10)** *Substantially implemented:* If the company has already substantially implemented the proposal;

NOTE TO PARAGRAPH (i)(10): A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant to Item 402 of Regulation S-K (§ 229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by § 240.14a-21(b) of this chapter a single year (i.e., one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by § 240.14a-21(b) of this chapter.

**(11)** *Duplication:* If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

**(12)** *Resubmissions:* If the proposal deals with substantially the same subject matter as another proposal or proposals that has or have been previously included in the company's proxy materials within the preceding 5 calendar years, a company may exclude it from its proxy materials for any meeting held within 3 calendar years of the last time it was included if the proposal received:

**(i)** Less than 3% of the vote if proposed once within the preceding 5 calendar years;

**(ii)** Less than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5 calendar years; or

**(iii)** Less than 10% of the vote on its last submission to shareholders if proposed three times or more previously within the preceding 5 calendar years; and

**(13)** *Specific amount of dividends:* If the proposal relates to specific amounts of cash or stock dividends.

**(j)** *Question 10: What procedures must the company follow if it intends to exclude my proposal?*

**(1)** If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

**(2)** The company must file six paper copies of the following:

**(i)** The proposal;

**(ii)** An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

**(iii)** A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

**(k)** *Question 11: May I submit my own statement to the Commission responding to the company's arguments?*

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

**(l)** *Question 12: If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?*

**(1)** The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

**(2)** The company is not responsible for the contents of your proposal or supporting statement.

**(m)** *Question 13: What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?*

**(1)** The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may express your own point of view in your proposal's supporting statement.

**(2)** However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, § 240.14a-9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

**(3)** We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

**(i)** If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

**(ii)** In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under § 240.14a-6.

[Adopted in Release No. 34-3347, December 18, 1942, 7 F.R. 10659; amended in Release No. 34-1823, August 11, 1938; Release No. 34-4775, December 11, 1952, 17 F. R. 11431; Release No. 34-4979, February 6, 1954, 19 F. R. 247; Release No. 34-8206 (¶77,507), effective with respect to solicitations, consents or authorizations commenced after February 15, 1968, 32 F. R. 20964; Release No. 34-9784 (¶78,997), applicable to all proxy solicitations commenced on or after January 1, 1973, 37 F. R. 23179; Release No. 34, 12999, ( ¶80,812), November 22, 1976, effective February 1, 1977, 41 F. R. 53000; amended in Release No. 34-15384 (¶81,766), effective for fiscal years ending on or after December 25, 1978 for initial filings on or after January 15, 1979, 43 F. R. 58530; Release No. 34-16356 (¶82,358), effective December 31, 1979, 44 F. R. 68764; Release No. 34-16357, effective December 31, 1979, 44 F. R. 68456; Release No. 34-20091 (¶83,417), effective January 1, 1984 and July 1, 1984, 48 F. R. 38218; Release No. 34-22625 (¶83,937), effective November 22, 1985, 50 F. R. 48180; Release No. 34-23789 (¶84,044), effective January 20, 1987, 51 F. R. 42048; Release No. 34-25217 (¶84,211), effective February 1, 1988, 52 F. R. 48977; and Release No. 34-40018 (¶86,018), effective June 29, 1998, 63 F.R. 29106; Release No. 34-55146 (¶87,745), effective March 30, 2007, 72 F.R. 4147; Release No. 34-56914 (¶88,023), effective January 10, 2008, 72 F.R. 70450; Release No. 33-8876 (¶88,029), effective February 4, 2008, 73 F.R. 934; Release No. 33-9136 (¶89,091), effective November 15, 2010, 75 F.R. 56668; Release No. 33-9178 (¶89,291), effective April 4, 2011, 76 F.R. 6010.]

**Exhibit C**

(see attached)

**From:** Eric Boughton <eric@matissecap.com>

**Sent:** Tuesday, November 20, 2018 2:09 PM

**To:** Jennifer Clark (Advisors)

**Subject:** RE: RIF 14(a)(8) Letter [EXTERNAL]

Attached is a reworded ownership letter. Please confirm it now meets the “clarity” standards.

---

**From:** Jennifer Clark (Advisors) <JClark@RMRGroupAdvisors.com>

**Sent:** Tuesday, November 20, 2018 8:44 AM

**To:** Eric Boughton <eric@matissecap.com>

**Subject:** RIF 14(a)(8) Letter

Eric,

Please see the attached letter.

Regards,

Jennifer Clark

**JENNIFER B. CLARK** / Secretary

**The RMR Real Estate Income Fund**

T: 617-796-8183

Two Newton Place

255 Washington Street, Suite 300

Newton, Massachusetts 02458

**Attachments:**

Ownership Letter - Matisse RMR Real Estate Income Fd 2nd attempt.pdf

November 8, 2018

Eric Boughton, CFA
Portfolio Manager
Matisse Capital
4949 Meadows Road, Suite 200
Lake Oswego, OR 97035

This letter is to confirm that as October 6, 2017, UMB Bank, N.A. 2450, a DTC participant, in its capacity as custodian, held 238,423 shares of RMR Real Estate Income Fd on behalf of the Matisse Discounted Closed End Fund. These shares are held in the Bank's position at the Depository Trust Company registered to the nominee name of Cede & Co.

Further, this is to confirm that the position in RMR Real Estate Income Fd held by the bank on behalf of the Matisse Discounted Closed-End Fund during the year long period from October 6, 2017 to November 8, 2018 did not loan out its shares and continuously exceeded an ownership market value of $2,000.00.

Sincerely,

Mandee Crawford,
Assistant Vice President
UMB Bank, n.a.

**UMB Bank, n.a.**

928 Grand Boulevard
Kansas City, Missouri 64106

umb.com

**From:** Eric Boughton <eric@matissecap.com>
**Sent:** Tuesday, November 20, 2018 10:19 AM
**To:** Jennifer Clark (Advisors)
**Cc:** Scott, Patrick F.
**Subject:** RE: RIF 14(a)(8) Letter [EXTERNAL]

1. My custodian is re-crafting the ownership letter so that it is more clear. I think it's already clear enough, but I will send that in the next day or two.
2. My proposal and supporting statement, per Microsoft Word count, is 496 words. The entire document is 777 words including the letter to the board. The letter to the board is not properly part of the shareholder proposal or supporting statement (as it is not included in the proxy document), and therefore is not properly counted for the SEC's "500 word" purpose.
3. I made a single proposal. The proposal is in its essence a conditional proposal, an if-then statement. I can rephrase it to make it a single sentence by replacing the period with a semicolon and changing the following word "if" to the word "provided", and adding "that if" after "however". The words in the supporting statement do not cause my single proposal to become 2.

I am copying Patrick Scott, SEC (see below), on this communication, in case he, or someone else at the SEC, can provide a quick indication as to who is correct on these matters.

Jennifer, please reply to my communication indicating that you are withdrawing your objections on the "one or two proposals" and "word count" disagreements.

**PATRICK F. SCOTT**
Senior Counsel
US Securities and Exchange Commission
Division of Investment Management
100 F Street, NE
Washington, DC 20549
Phone|202-551-6763

**Eric Boughton, CFA**

Portfolio Manager, Chief Analyst at Matisse Capital

**Address** 4949 Meadows Rd. Ste. 200 Lake Oswego, OR 97035
**Phone** (503) 210-3005
**Email** eric@matissecap.com **Website** https://www.matissecap.com/

Matisse Capital is on LinkedIn, Facebook, and Instagram:



**From:** Jennifer Clark (Advisors) <JClark@RMRGroupAdvisors.com>
**Sent:** Tuesday, November 20, 2018 8:44 AM
**To:** Eric Boughton <eric@matissecap.com>
**Subject:** RIF 14(a)(8) Letter

Eric,

Please see the attached letter.

Regards,

Jennifer Clark

**JENNIFER B. CLARK** / Secretary

**The RMR Real Estate Income Fund**
T: 617-796-8183
Two Newton Place
255 Washington Street, Suite 300
Newton, Massachusetts 02458

**Attachments:**

image005.png
image006.png
image007.png
image008.png
RIF 11 8 18.docx
RIF company response 11 20 18.pdf

**Exhibit D**

(see attached)

**From:** Scott, Patrick F. <scottpa@sec.gov>

**Sent:** Wednesday, November 28, 2018 10:47 AM

**To:** Eric Boughton; Jennifer Clark (Advisors)

**Subject:** RE: RIF 14(a)(8) Letter [EXTERNAL]

As I have previously indicated, if you are intentionally including me on your emails, it is highly inappropriate. I have not been assigned to any matter to which this email pertains and I am not in any position to reply to nor comment on this.

If I continue to get the emails from you that are not pertinent to my purview, I will need to raise the issue to another office, to find out more formally how have this pattern desist.

Thank you for your attention,

**PATRICK F. SCOTT**

Senior Counsel

US Securities and Exchange Commission

Division of Investment Management

100 F Street, NE

Washington, DC 20549

Phone|202-551-6763

**From:** Eric Boughton [mailto:eric@matissecap.com]
**Sent:** Tuesday, November 27, 2018 6:35 PM
**To:** Jennifer Clark (Advisors)
**Cc:** Scott, Patrick F.
**Subject:** RE: RIF 14(a)(8) Letter [EXTERNAL]

Regarding the 500 words:
-Per https://www.sec.gov/interps/legal/cfslb14i.htm "Rule 14a-8(d) is intended to limit the amount of space a shareholder proposal may occupy in a company's proxy statement.*See* Release No. 34-12999 (Nov. 22, 1976)." Since the part of my letter that addresses the Board is NOT to go into the proxy statement, the words from that part shouldn't count, by common sense.
-"proposal, including any accompanying supporting statement, may not exceed 500 words." Is the plain text of Rule 14a-8. I have clearly labeled my communication to you with the portions "shareholder proposal" and "Supporting statement". A clear common-sense definition of the direct wording of 14a-8 lines up perfectly with the word count of my "proposal, including any accompanying supporting statement."
-Be thankful that I am not taking the SEC's allowance and sending you graphics!
-I need the 500 words to make my point with sufficient facts and documentation.
-SEC guidance says the HEADINGS are to count in the 500 words, not the letter to the Board portion.
-I reject your counsel's vague citation of "applicable no action letters". If they hold to this line, they'd better cite them exactly.
-As it stands, I refuse to reduce my words, and you'd better not exclude my proposal on these tenuous grounds!

Regarding the phantom "2 proposals":
Attached is a slight rephrasing of my single proposal, making it all one sentence and further clarifying its "one proposal which is a conditional proposal" nature. Once again, I am not going to alter my proposal any further based on the fact that your counsel doesn't understand conditional logic! Consider that in my supporting statement, I even call on shareholders to join in "asking management for, and voting in favor of, a proposal to liquidate or open-end the Fund." Obviously, my proposal can't itself be interpreted as proposing to open-end or liquidate the fund, when in support of it I urge

shareholders to ask for a separate proposal from management to accomplish those things! No, my proposal's words are clearly singular in their legal effect and purpose. I could just as easily have made a single proposal: "The management contract shall be terminated unless Jupiter collides with Mars in August", but I chose to make a single proposal: "The management contract shall be terminated unless the fund puts a liquidation or open-ending in process." If the former, would your counsel say I was making 2 proposals: 1) terminate the IMA, and 2) push 2 planets together? You need a new counsel.


**Eric Boughton, CFA**

Portfolio Manager, Chief Analyst at Matisse Capital

**Address** 4949 Meadows Rd. Ste. 200 Lake Oswego, OR 97035
**Phone** (503) 210-3005
**Email** eric@matissecap.com **Website** https://www.matissecap.com/


Matisse Capital is on LinkedIn, Facebook, and Instagram:





**From:** Jennifer Clark (Advisors) <JClark@RMRGroupAdvisors.com>

**Sent:** Tuesday, November 27, 2018 2:49 PM

**To:** Eric Boughton <eric@matissecap.com>

**Subject:** RE: RIF 14(a)(8) Letter [EXTERNAL]

Eric,

The revised ownership letter is in acceptable form.

Our counsel advises that the proposal exceeds 500 words based on the guidance in Rule 14(a)(8) and applicable no action letters. You may want to confer with your counsel to confirm. Likewise, we still think there are two proposals rather than one.

You have until December 4 to correct these deficiencies.

Jennifer

Sent from Mail for Windows 10

---

**From:** Eric Boughton

**Sent:** Tuesday, November 20, 2018 4:09 PM

**To:** Jennifer Clark (Advisors)

**Subject:** RE: RIF 14(a)(8) Letter [EXTERNAL]

Attached is a reworded ownership letter. Please confirm it now meets the “clarity” standards.

---

**From:** Jennifer Clark (Advisors) <JClark@RMRGroupAdvisors.com>

**Sent:** Tuesday, November 20, 2018 8:44 AM

**To:** Eric Boughton <eric@matissecap.com>

**Subject:** RIF 14(a)(8) Letter

Eric,

Please see the attached letter.

Regards,

Jennifer Clark

**JENNIFER B. CLARK** / Secretary

**The RMR Real Estate Income Fund**

T: 617-796-8183

Two Newton Place

255 Washington Street, Suite 300

Newton, Massachusetts 02458

**Attachments:**

image001.png
image002.png
image003.png
image004.png
image005.png

November 8, 2018

Jennifer B. Clark, Secretary
RMR Real Estate Income Fund
Two Newton Place
255 Washington Street
Suite 300
Newton, MA 02458

Re: 14a-8 Shareholder Proposal for upcoming annual meeting

Dear Madam:

Matisse Discounted Closed-End Fund Strategy, a US open-end mutual fund (MDCEX, cusip 85520V434) is the beneficial owner of over 10,000 common shares of RMR Real Estate Income Fund. MDCEX has held these Shares continuously for over 12 months and intends to continue to hold the Shares through the date of the next meeting of shareholders. Evidence of this fact is in our public annual and semi-annual reports, as well as in the quarterly 13f filings of our investment adviser, Matisse Capital; and a letter of verification from our custodian, UMB Bank, verifying these statements, is enclosed.

We hereby submit the following proposal and supporting statement pursuant to Rule 14a-8 of the Securities Exchange Act of 1934, as amended, for inclusion in the company's proxy statement for the next Annual Meeting of shareholders (the one to be held in calendar 2019, presumably). Per last year's annual meeting materials, "Shareholder proposals intended to be presented pursuant to Rule 14a-8 under the Exchange Act at the Fund's 2019 annual meeting of shareholders must be received at the Fund's principal executive offices on or before November 13, 2018 in order to be considered for inclusion in the Fund's proxy statement for its 2019 annual meeting of shareholder". If the company believes this proposal is incomplete or otherwise deficient in any respect, please contact Eric Boughton, CFA, immediately so that we may promptly address any alleged deficiencies, at (503) 210-3005 or eric@matissecap.com.

Sincerely,

Matisse Discounted Closed-End Fund Strategy

Eric Boughton, CFA
Portfolio Manager

## Shareholder Proposal

**RESOLVED:** All investment advisory and management agreements between RMR Real Estate Income Fund and RMR Advisors LLC shall be terminated by the Fund, pursuant to the right of stockholders as embodied in Section 15(a)(3) of the Investment Company Act of 1940 and as required to be included in such agreements, at the earliest date the Fund is legally permitted to do so; provided, however, that if the Board proposes, and shareholders approve, at this meeting, a plan to liquidate or open-end the Fund within one year, then the investment advisory and management agreements between RMR Real Estate Income Fund and RMR Advisors LLC shall remain in effect as long as necessary to implement these actions.

### Supporting Statement

RMR Real Estate Income Fund has traded at an extremely large discount to its NAV for years, effectively holding shareholders captive, since they can only exit their investment for substantially less than it is worth. Meanwhile, employees and owners of RMR Advisors:

- Collect a "total net expense ratio ranked in the fourth quartile within… the Morningstar Classification Group, exceeding… the Morningstar Classification Group median by 44 basis points", per the Board's analysis.
- Benefited from the expansion of the fund's assets in last year's coercive and dilutive rights offering.
- Can cement their own position by voting their shares in favor of a continued excessive management fee and in favor of the aforesaid rights offering.
- Have produced consistently poor performance.

The combination of the large and widening discount, and the poor at-NAV performance, has produced anemic returns for shareholders. For example, for the 5 year period ending 6/30/18, total returns are as follows:

| | |
|---|---|
| MSCI US REIT Index: | +49% |
| RIF at NAV | +38% |
| RIF at market price | +27% |

What stings even more is that this is the same advisor, with primarily the same portfolio managers, who, from 12/31/06-12/31/10, managed the RMR Real Estate Income Fund to a 49% (!) at-NAV loss, while the MSCI US REIT Index lost only 15%!

In our view, by allowing such a large discount to persist, by giving current management a "pass" despite poor performance, and by conducting a rights offering which forced retail investors to come up with fresh cash in order to prevent their investment from being diluted substantially,

the Board has ignored its fiduciary duty. Instead of being diluted, long-suffering shareholders deserve the opportunity to receive full value for their shares today.

In addition to voting for our proposal, we also hope that all RIF shareholders will join us in asking management for, and voting in favor of, a proposal to liquidate or open-end the Fund.

Who are we? We are an open-end mutual fund (Matisse Discounted Closed-End Fund Strategy, MDCEX) which has owned shares of RIF continuously for the past year. Our interests are aligned solely with that of all other shareholders, and the remedy we are suggesting would benefit all shareholders equally. Feel free to contact us about this matter; we are happy to discuss. Contact Eric Boughton, CFA, at (503) 210-3005.

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
FOUR TIMES SQUARE
NEW YORK 10036-6522

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FAX: (212) 735-2000
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DIRECT FAX
917-777-3406
617-305-4836
EMAIL ADDRESS
MICHAEL.HOFFMAN@SKADDEN.COM
KENNETH.BURDON@SKADDEN.COM

December 13, 2018

**VIA ELECTRONIC MAIL** (IMshareholderproposals@sec.gov)

U.S. Securities and Exchange Commission
Office of the Chief Counsel
Division of Investment Management
100 F Street, N.E.
Washington, D.C. 20549

RE: RMR Real Estate Income Fund
Securities and Exchange Act of 1934
Omission of Shareholder Proposal Pursuant to Rule 14a-8

Ladies and Gentlemen:

We refer to our letter dated December 10, 2018 (the "*No Action Request*"), pursuant to which we requested that the staff (the "*Staff*") of the Securities and Exchange Commission (the "*Commission*") concur with our view that the RMR Real Estate Income Fund (the "*Fund*") may exclude the shareholder proposal and supporting statement (together, the "*Proposal*") submitted by Matisse Discounted Closed-End Fund Strategy (the "*Proponent*") from the proxy materials (the "*Proxy Materials*") to be distributed by the Fund in connection with its 2019 annual meeting of shareholders. This letter supplements our No Action Request.

This letter is to inform you that the Fund received an email, dated December 10, 2018, from the Proponent with respect to the No Action Request, which included as an attachment additional revisions to the Proposal (the "*Late Proposal*"). A copy of the December 10, 2018 email and the Late Proposal are attached hereto as Exhibit A.

In accordance with Staff Legal Bulletin No. 14D (Nov. 7, 2008), this letter and its attachment are being emailed to imshareholderproposals@sec.gov. In accordance with Rule 14a-8(j)(1), a copy of this letter and its attachments are being sent simultaneously to the Proponent. As noted in our prior correspondence, if the Proponent elects to submit further correspondence to the Commission or the Staff with respect to the Proposal, the Late Proposal and/or this letter, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Fund pursuant to Rule 14a-8(k) and Staff Legal Bulletin No. 14D.

## THE LATE PROPOSAL

On December 10, 2018, the Fund received an email from the Proponent that included as an attachment the Late Proposal. In the email, the Proponent stated that he has "revised the proposal yet one more time to address some of the valid points [the Fund has] raised" and indicated the Proponent's intent that the Late Proposal amend and replace the Proposal.

## BASIS FOR EXCLUSION

The Fund believes that the Late Proposal may be properly excluded from the Proxy Materials pursuant to Rule 14a-8(e)(2) because the Fund received the Late Proposal after the deadline for submitting shareholder proposals.

Rule 14a-8(e)(2) provides that a shareholder proposal submitted with respect to a company's regularly scheduled annual meeting must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. The Fund's proxy statement for its 2018 annual meeting was dated and released on March 13, 2018. Pursuant to Rule 14a-8(e)(1), the Fund disclosed in its 2018 proxy statement the deadline for submitting shareholder proposals, as well as the method for submitting such proposals, for the Fund's 2019 annual meeting of shareholders. Specifically, page 16 of the 2018 proxy statement clearly states:

> Shareholder proposals intended to be presented pursuant to Rule 14a-8 under the Exchange Act at the Fund's 2019 annual meeting of shareholders must be received at the Fund's principal executive offices on or before November 13, 2018 in order to be considered for inclusion in the Fund's proxy statement for its 2019 annual meeting of shareholders, provided that if the Fund holds its 2019 annual meeting on a date that is more than 30 days before or after April 25, 2019, shareholders must submit proposals for inclusion in the Fund's 2019 proxy statement within a reasonable time before the Fund begins to print and send proxy materials. Under Rule 14a-8, the Fund is not required to include shareholder proposals in the proxy materials unless conditions specified in the rule are met.

Here, the Fund received the Late Proposal by email on December 10, 2018, 27 calendar days after the November 13, 2018 deadline and 20 calendar days after the Proponent first received notice of the Proposal's deficiencies from the Fund.

The Staff has consistently permitted exclusion under Rule 14a-8(e)(2) of a proposal that was received at the company's principal executive offices after the deadline for submitting shareholder proposals. See, e.g, *salesforce.com, inc.* (Mar. 24, 2017) (permitting exclusion of a proposal received 70 days after the company's deadline); *Wal-Mart Stores, Inc.* (Feb. 13, 2017) (permitting exclusion of a proposal received six days after the company's deadline); *International Business Machines Corp.* (Feb. 19, 2016) (permitting exclusion of a proposal received two and a half months after the company's deadline); and *Chevron Corp.* (Mar. 4, 2015) (permitting exclusion of a proposal received one day after the company's deadline). Moreover, in Staff Legal Bulletin No. 14 (July 13, 2001), the Staff noted that "[f]ailure to cure the defect(s) or respond in a timely manner may result in exclusion of the proposal." The Staff has consistently permitted exclusion of a proposal where a shareholder proponent failed to correct deficiencies within the 14-day timeframe established by Rule 14a-8(f)(1). See, e.g., *PepsiCo, Inc*. (Jan. 20, 2016) (permitting exclusion of a proposal under Rule 14a-8(f)).

In addition, there is no provision in Rule 14a-8 that allows a shareholder to revise his or her proposal once submitted to a company. The Staff provides applicable guidance in Staff Legal Bulletin No. 14F (Oct. 18, 2011) ("*SLB. 14F*"):

> If a shareholder submits revisions to a proposal after the deadline for receiving proposals under Rule 14a-8(e), the company is not required to accept the revisions. However, if the company does not accept the revisions, it must treat the revised proposal as a second proposal and submit a notice stating its intention to exclude the revised proposal, as required by Rule 14a-8(j). The company's notice may cite Rule 14a-8(e) as the reason for excluding the revised proposal. If the company does not accept the revisions and intends to exclude the initial proposal, it would also need to submit its reasons for excluding the initial proposal.

In accordance with SLB. 14F, the Staff has consistently permitted exclusion of a revised proposal under Rule 14a-8(e)(2) that was received at the company's principal executive offices after the deadline for submitting shareholder proposals following the proponent's submission of a timely proposal. See, e.g., *Huron Consulting Group Inc*. (Jan. 4, 2017) (permitting exclusion of a "second proposal under Rule 14a-8(e)(2) because [the company] received it after the deadline for submitting proposals"); *Community Health Systems, Inc*. (Mar. 7, 2014) (same); *General Electric Co*. (Jan. 30, 2013) (same); and *Costco Wholesale Corp*. (Nov. 20, 2012) (same).

In this instance, the Fund received the Late Proposal by email on December 10, 2018. The November 13, 2018 submission deadline was clearly acknowledged by the Proponent in the Proponent's November 8, 2018 cover letter to the Fund. See Exhibit A of the No Action

Request. In addition, in the Fund's November 20, 2018 letter and November 27, 2018 email to the Proponent, the Fund informed the Proponent that it had until December 4, 2018 to correct the deficiencies identified in the Fund's November 20, 2018 letter. See Exhibits B and D of the No Action Request. As discussed at length in the No Action Request, although the Proponent made some changes to the Proposal and addressed some deficiencies, the Proponent did not correct all of the Proposal's deficiencies within the time frame required by Rule 14a-8(f)(1).

While the Fund provided the Proponent with the requisite 14-day deficiency notice described in Rule 14a-8(f)(1) with respect to the Proposal, the Fund did not and does not plan to provide the Proponent with the 14-day deficiency notice described in Rule 14a-8(f)(1) with respect to the Late Proposal because a notice is not required if a proposal's defect cannot be cured. As the Staff explained in Staff Legal Bulletin No. 14 (July 13, 2001), "[t]he company does not need to provide the shareholder with a notice of defect(s) if the defect(s) cannot be remedied . . . for example, if . . . the shareholder failed to submit a proposal by the company's properly determined deadline." Therefore, the Fund is not required to send a notice under Rule 14a-8(f)(1) in order for the Late Proposal to be excluded under Rule 14a-8(e)(2).

Accordingly, consistent with the precedent described above, the Fund believes that the Late Proposal may be excluded pursuant to Rule 14a-8(e)(2) because it is a new proposal that was submitted after the November 13, 2018 deadline.

The Fund separately notes that it still intends to exclude the Proposal from its Proxy Materials for the reasons set forth in the No Action Request. The Fund further notes that, in the Proponent's email accompanying the Late Proposal, the Proponent effectively concedes that the Fund may properly exclude the Proposal from the Proxy Materials pursuant to Rule 14a-8(d) and Rule 14a-8(f)(1) because the Proposal exceeds 500 words.

The Fund further wishes to note that it is unaware of any factual or legal basis for the Proponent's assertion that it is not required to comply with the blackletter voting requirements of Section 12(d)(1)(F) of the Investment Company Act of 1940 (the "*1940 Act*") with respect to the Fund. The Commission has clearly and unequivocally expressed its view that Section 12(d)(1)(F) means what it says, particularly with respect to the requirement for "mirror" or "pass through" voting.[1] In particular, this is because the "conditions of Section 12(d)(1)(F) were intended primarily to protect the underlying fund from control or influence by the acquiring fund and its affiliates, including the acquiring fund's investment adviser. . . . Mirror Voting guard[s] against influence by the acquiring fund's adviser by placing the voting discretion . . . in the hands of someone else."[2] The Proponent's position turns Section 12(d)(1)(F) on its head because it seeks to grant the Proponent's investment adviser the type of broad voting discretion and influence over the Fund that Section 12(d)(1)(F) expressly seeks to eliminate. In light of the Proponent's assertion in its December 10, 2018 email that it intends to violate Section

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[1] See In the Matter of Special Opportunities Fund, Inc., 1940 Act Rel. No. 31213 (Aug. 15, 2014).

[2] *Id.*

12(d)(1)(F) and vote its shares of the Fund illegally, the Fund wishes to note that it reserves the right to pursue all rights and remedies available under federal and/or state law to ensure that its shareholders are not harmed by the Proponent's expressed intention to violate the 1940 Act through illegal voting.

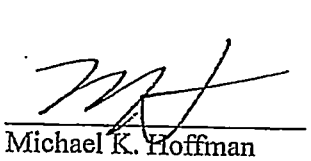
***

## CONCLUSION

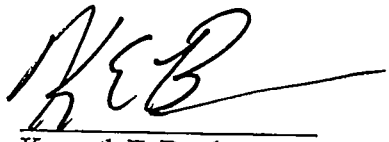
Based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Fund excludes the Late Proposal from its Proxy Materials. Should the Staff disagree with the conclusions set forth in this letter or in the No Action Request, or should any additional information be desired in support of the Fund's position, we would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's response.

Please do not hesitate to contact the undersigned at (212) 735-3406 (Mr. Hoffman) or (617) 573-4836 (Mr. Burdon).

Very truly yours,



Michael K. Hoffman



Kenneth E. Burdon

cc: Jennifer Clark, Secretary, RMR Real Estate Income Fund

**Exhibit A**

(see attached)

**From:** Eric Boughton <eric@matissecap.com>
**Date:** December 10, 2018 at 5:52:03 PM EST
**To:** "Burdon, Kenneth E" <Kenneth.Burdon@skadden.com>, "'IMshareholderproposals@sec.gov'" <IMshareholderproposals@sec.gov>
**Cc:** "Hoffman, Michael K" <Michael.Hoffman@skadden.com>, "Jennifer Clark (Advisors)" <JClark@RMRGroupAdvisors.com>
**Subject: [Ext] RE: RMR Real Estate Income Fund 14a-8 No-Action Request**

Thanks for your feedback. Ive revised the proposal yet one more time to address some of the valid points youve raised. It is attached.

It is certainly not my intention to impugn anyones character, but it is my conclusion (based on the facts I know, which I attempt to lay out in under 500 words) that the Board has collectively acted against minority shareholder interests, and for the benefit of the Advisor, insiders, and itself (board fees). From the fruit, you get some sense of the tree.

A point-by-point reply to the issues youve raised is below.

1. **The Fund may exclude the Proposal pursuant to Rule 14a-8(d) and Rule 14a-8(f)(1) because the Proposal exceeds 500 words and the Proponent failed to correct this deficiency after proper notice.**

I have modified the proposal so that its Microsoft Word count is 450 words in the attached.

**2. The Fund may exclude the Proposal pursuant to Rule 14a-8(c) and Rule 14a-8(f)(1) because the Proposal constitutes more than one proposal.**

I have already stated my belief that a conditional proposal, as this is, should not be interpreted as being two proposals simply because it contains a condition. In plain English, I wish the management contract to be terminated UNLESS an open-ending or liquidation makes such a termination ill-advised. For the avoidance of doubt, I have eliminated the all RIF shareholders will join us paragraph.

**3. The Fund may exclude the Proposal pursuant to Rule 14a-8(i)(3) in violation of Rule 14a-9 because the Proposal is materially false and misleading.**

-I have rewritten the first bullet point about the funds total net expense ratio to make clear that RMR Advisors does not collect that full amount.
-I have eliminated the reference to voting in favor of the rights offering. Keep in mind, however, that this proves my point even further. Minority shareholders can not even vote to prevent a coercive and dilutive rights offering! Meanwhile insiders can use their voting power to pressure directors in their consideration of rights offerings. (I of course have no evidence they have done so, which is why I am simply eliminating this from the proposal, since I dont wish to mislead.)

-I have defined total returns and cited my sources. Citing the same index the fund cites could hardly be called misleading.
-Our view that the Board has ignored its fiduciary duty is clearly stated as our view. Much of our argument that shareholders should resolve to terminate the management agreements rests on this view. If shareholders believe the Board is exercising proper fiduciary duty, then there is probably not enough other reason to terminate the management agreements. So the paragraph is a proper and important argument in favor of (supporting) our proposal, and is stated as opinion, not fact. Is there a reasonable basis to conclude that the Board is ignoring its fiduciary duty? Sure. Any independent outsider would agree such a conclusion could at least be argued for. If we knew facts about the Boards deliberations, which Board members voted for what, what the Boards process was, etc., then we would be able to present a clearer case. But in the absence of this, all we can do is take the EVIDENCE of a highly dilutive rights offering and offer our concluding opinion based on it.
-With regard to the general question of whether MDCEX can even vote for its own proposal, Ive eliminated the direct reference to our own voting (join us..). And if I had more than 500 words I could offer more discussion of the details of this. However, for the Boards and the SECs understanding, we DO believe that MDCEX is allowed by current SEC regulations (including recent no-action letters) to vote its shares of RIF FOR our own proposal. And we of course intend to do so. We dont own more than 5% of RIFs outstanding shares. And by this proposal we are not seeking control or management of any company. We will not be mirror voting our shares of RIF. Suffice it to say that, for the purposes of the admissibility and proper construction of THIS proposal, given the elimination of the join us paragraph certainly, our decision about how to vote our own proxy is not relevant in any case.

**4. The Fund may exclude the Proposal pursuant to Rule 14a-8(i)(8)(iii) because the Proposal questions the competence and business judgment of the Board.**
-The sole alleged deficiency in my proposal for this purpose is that I state, In our view the Board has ignored its fiduciary duty. As stated above, I have every reason to come to this conclusion, and my specific reasons are stated in the same sentence. I dont know which Board member(s) are to blame, or how they came to collectively follow a path I opine to be one of ignoring fiduciary duty. But it is pretty clear to me they have ignored that duty! I dont know whether this is because of incompetence by any individual Board members (nor do I assert it is). I dont know whether any individual Board members have misjudged their business (nor do I assert they have). I dont know whether any individual Board members have been improperly influenced (nor do I assert they have).

In conclusion, we humbly request that the SEC will not grant the companys request to exclude our proposal from RIFs proxy.

<image001.png>

**Eric Boughton, CFA**
Portfolio Manager, Chief Analyst at Matisse Capital

**Address** 4949 Meadows Rd. Ste. 200 Lake Oswego, OR 97035
**Phone** (503) 210-3005
**Email** eric@matissecap.com **Website** https://www.matissecap.com/

Matisse Capital is on LinkedIn, Facebook, and Instagram:

<image002.png>

<image003.png>



**From:** Burdon, Kenneth E <Kenneth.Burdon@skadden.com>
**Sent:** Monday, December 10, 2018 1:32 PM
**To:** Eric Boughton <eric@matissecap.com>
**Cc:** Hoffman, Michael K <Michael.Hoffman@skadden.com>; Jennifer Clark (Advisors) <JClark@RMRGroupAdvisors.com>
**Subject:** Fwd: RMR Real Estate Income Fund 14a-8 No-Action Request

Eric,

Good afternoon. My firm represents RMR Real Estate Income Fund (RIF). Below and attached please find a no action request letter we submitted to the SEC staff this afternoon on behalf of RIF regarding your Rule 14a-8 proposals made for RIFs 2019 annual meeting. This correspondence is being provided to you in accordance with the requirements of Rule 14a-8(j).

Best Regards,
Ken Burdon

Kenneth E. Burdon
Skadden, Arps
617-573-4836
kenneth.burdon@skadden.com

Begin forwarded message:

**From:** "Burdon, Kenneth E (BOS)" <Kenneth.Burdon@skadden.com>
**To:** "IMshareholderproposals@sec.gov" <IMshareholderproposals@sec.gov>
**Cc:** "Hoffman, Michael K (NYC)" <Michael.Hoffman@skadden.com>
**Subject: RMR Real Estate Income Fund 14a-8 No-Action Request**

Ladies and Gentlemen:

Attached please find a Rule 14a-8 no-action request on behalf of RMR Real Estate Income Fund. Please direct any questions or comments to me or Mike Hoffman.

Best Regards,
Ken Burdon

---



==========

<RIF 11 8 18 revised 12 10 18.docx>

## Shareholder Proposal

**RESOLVED:** All investment advisory and management agreements between RMR Real Estate Income Fund and RMR Advisors LLC shall be terminated by the Fund, pursuant to the right of stockholders as embodied in Section 15(a)(3) of the Investment Company Act of 1940 and as required to be included in such agreements, at the earliest date the Fund is legally permitted to do so; provided, however, that if the Board proposes, and shareholders approve, at this meeting, a plan to liquidate or open-end the Fund within one year, then the investment advisory and management agreements between RMR Real Estate Income Fund and RMR Advisors LLC shall remain in effect as long as necessary to implement these actions.

## Supporting Statement

RMR Real Estate Income Fund has traded at an extremely large discount to its NAV for years, effectively holding shareholders captive, since they can only exit their investment for substantially less than it is worth. Meanwhile:

- The fund carries a "total net expense ratio ranked in the fourth quartile within… the Morningstar Classification Group, exceeding… the Morningstar Classification Group median by 44 basis points", per the Board's analysis.
- RMR Advisors benefited from the expansion of the fund's assets in last year's coercive and dilutive rights offering.
- The fund's performance (in our analysis) has been poor.

The combination of the large and widening discount, and the poor at-NAV performance, has produced anemic returns for shareholders. For example, for the 5-year period ending 6/30/18, total returns (dividends reinvested) are as follows:

| | |
|---|---|
| MSCI US REIT Index*: | +49% |
| RIF at NAV**: | +38% |
| RIF at market price**: | +27% |

What stings even more is that this is the same advisor, with primarily the same portfolio managers, who, from 12/31/06-12/31/10, managed the RMR Real Estate Income Fund to a 49%** (!) at-NAV loss, while the MSCI US REIT Index lost only 15%*!

*Source: Bloomberg
**Source: RIF's annual and semi-annual reports

In our view, by allowing such a large discount to persist, by giving current management a "pass" despite poor performance, and by conducting a rights offering which forced retail investors to come up with fresh cash in order to prevent their investment from being diluted substantially, the Board has ignored its fiduciary duty. Instead of being diluted, all shareholders deserve the opportunity to receive full value for their shares today.

Who are we? We are an open-end mutual fund (Matisse Discounted Closed-End Fund Strategy, MDCEX) which has owned shares of RIF continuously for the past year. Our interests are aligned solely with that of all other shareholders, and the remedy we are suggesting would benefit all shareholders equally. Feel free to contact us about this matter; we are happy to discuss. Contact Eric Boughton, CFA, at (503) 210-3005.