FIRST INDUSTRIAL REALTY TRUST INC
Form DEF 14A
April 11, 2013

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the Securities

Exchange Act of 1934

Filed by the Registrant x

Filed by a Party other than the Registrant ¨

Check the appropriate box:

¨ Preliminary Proxy Statement
¨ **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
x Definitive Proxy Statement
¨ Definitive Additional Materials
¨ Soliciting Material Pursuant to §240.14a-12

FIRST INDUSTRIAL REALTY TRUST, INC.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

x No fee required.
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1) Title of each class of securities to which transaction applies:

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3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

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1) Amount Previously Paid:

2) Form, Schedule or Registration Statement No.:

3) Filing Party:

4) Date Filed:

FIRST INDUSTRIAL REALTY TRUST, INC.

311 South Wacker Drive

Suite 3900

Chicago, Illinois 60606

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

To Be Held on May 9, 2013

NOTICE IS HEREBY GIVEN that the 2013 Annual Meeting of Stockholders (the Annual Meeting) of First Industrial Realty Trust, Inc. (the Company) will be held on Thursday, May 9, 2013 at 9:00 a.m. at the 10th Floor Conference Room, 311 South Wacker Drive, Chicago, Illinois 60606 for the following purposes:

1. To consider and act upon a Company proposal to amend the Company s charter:

A. to declassify the Company s Board of Directors;

B. to provide that, consistent with the Company s current director removal standard, directors may be removed by the stockholders of the Company only for cause;

C. to provide more complete and modern ownership and transfer restrictions, designed to, among other things, assist us in complying with requirements related to our qualification as a REIT;

D. to delete the current definition of Independent Director so as to ensure consistency with NYSE standards; and

E. to remove an existing exception from the Company s election to be governed by the provisions of the Maryland Business Combination Act;

2. If each of the Charter Proposals (as defined below) is approved, to elect six directors to the Board of Directors to serve until the 2014 Annual Meeting of Stockholders, and until their successors are duly elected and qualify;

3. If any of the Charter Proposals is not approved, to elect two Class I Directors of the Company to serve until the 2016 Annual Meeting of Stockholders and one Class II Director of the Company to serve until the 2014 Annual Meeting of Stockholders, and in each case until their successors are duly elected and qualify;

4. To approve, on an advisory (i.e. non-binding) basis, the compensation of the Company s named executive officers as disclosed in the Proxy Statement for this meeting;

5. To ratify the appointment of PricewaterhouseCoopers LLP as the Company s independent registered public accounting firm for the fiscal year ending December 31, 2013; and

6. To consider and act upon any other matters that may properly be brought before the Annual Meeting and at any adjournments or postponements thereof.

The implementation of any of Proposals 1A, 1B, 1C, 1D and 1E (each, a Charter Proposal and, collectively, the Charter Proposals) is conditioned on the approval of all such Charter Proposals. **Thus, none of the Charter Proposals will be implemented unless all of the Charter Proposals are approved by the applicable required shareholder vote.**

Any action may be taken on the foregoing matters at the Annual Meeting on the date specified above, or on any date or dates to which, by original or later adjournment, the Annual Meeting may be adjourned, or to which the Annual Meeting may be postponed.

The Board of Directors has fixed the close of business on March 19, 2013 as the record date for the Annual Meeting. Only stockholders of record of the Company s Common Stock at the close of business on that date will be entitled to notice of and to vote at the Annual Meeting and at any adjournments or postponements thereof.

You are requested to fill in and sign the enclosed Proxy Card, which is being solicited by the Board of Directors, and to mail it promptly in the enclosed postage-prepaid envelope. Any proxy may be revoked by delivery of a later dated proxy. Stockholders of record who attend the Annual Meeting may vote in person, even if they have previously delivered a signed proxy. Street name stockholders who wish to vote in person will need to obtain a duly executed proxy form from the institution that holds their shares prior to the Annual Meeting.

By Order of the Board of Directors

W. Ed Tyler *Chairman of the Board*	Bruce W. Duncan *President and CEO*

Chicago, Illinois
April 11, 2013

WHETHER OR NOT YOU PLAN TO ATTEND THE MEETING, PLEASE COMPLETE, SIGN, DATE AND PROMPTLY RETURN THE ENCLOSED PROXY CARD IN THE POSTAGE-PREPAID ENVELOPE PROVIDED.

FIRST INDUSTRIAL REALTY TRUST, INC.

311 South Wacker Drive

Suite 3900

Chicago, Illinois 60606

PROXY STATEMENT

FOR THE 2013 ANNUAL MEETING OF STOCKHOLDERS

To Be Held on May 9, 2013

This Proxy Statement is furnished in connection with the solicitation of proxies by the Board of Directors of First Industrial Realty Trust, Inc. (First Industrial or the Company) for use at the 2013 Annual Meeting of Stockholders of the Company to be held on Thursday, May 9, 2013, and at any adjournments or postponements thereof (the Annual Meeting). At the Annual Meeting, stockholders will be asked to vote (i) upon a Company proposal to approve Articles of Amendment to the Company s articles of incorporation (as amended to date, the Charter) (a) to declassify the Board of Directors; (b) to provide that, consistent with the Company s current director removal standard, directors may be removed by the stockholders of the Company only for cause; (c) to provide more complete and modern ownership and transfer restrictions, designed to, among other things, assist us in complying with requirements related to our qualification as a REIT; (d) to delete the current definition of Independent Director so as to ensure consistency with NYSE standards; and (e) to remove an existing exception from the Company s election to be governed by the provisions of the Maryland Business Combination Act (each, a Charter Proposal and, collectively, the Charter Proposals), (ii) if each of the Charter Proposals is approved, to elect six directors to the Board of Directors to serve until the 2014 Annual Meeting of Stockholders, and until their successors are duly elected and qualify, (iii) if any of the Charter Proposals is not approved, to elect two Class I Directors of the Company to serve until the 2016 Annual Meeting of Stockholders and one Class II Director of the Company to serve until the 2014 Annual Meeting of Stockholders, and in each case until their successors are duly elected and qualify, (iv) to approve, on an advisory (i.e. non-binding) basis, the compensation of the Company s named executive officers as disclosed in this Proxy Statement, (v) to ratify the appointment of PricewaterhouseCoopers LLP as the Company s independent registered public accounting firm for the current fiscal year and (vi) to act on any other matters properly brought before them.

This Proxy Statement and the accompanying Notice of Annual Meeting and Proxy Card are first being sent to stockholders on or about April 11, 2013. The Board of Directors has fixed the close of business on March 19, 2013 as the record date for the Annual Meeting (the Record Date). Only stockholders of record of Common Stock at the close of business on the Record Date will be entitled to notice of and to vote at the Annual Meeting. As of the Record Date, there were 107,485,907 shares of Common Stock outstanding and entitled to vote at the Annual Meeting. Holders of Common Stock outstanding as of the close of business on the Record Date will be entitled to one vote for each share held by them on each matter presented to the stockholders at the Annual Meeting.

Stockholders of the Company are requested to complete, sign, date and promptly return the accompanying Proxy Card in the enclosed postage-prepaid envelope. Shares represented by a properly executed Proxy Card received prior to the vote at the Annual Meeting and not revoked will be voted at the Annual Meeting as directed on the Proxy Card. If a properly executed Proxy Card is submitted and no instructions are given, the persons designated as proxy holders on the Proxy Card will vote (i) FOR the approval of each of the Charter Proposals, (ii) FOR the election of the six nominees for director named in this Proxy Statement if each of the Charter Proposals is approved, (iii) FOR the election of the two nominees for Class I Directors and one nominee for Class II Director named in this Proxy Statement if any of the Charter Proposals is not approved, (iv) FOR the approval, on an advisory basis, of the compensation of our named executive officers, (v) FOR the ratification of the appointment of PricewaterhouseCoopers LLP as the Company s independent registered public accounting firm for the current fiscal year and (vi) in their own discretion with respect to any other business that may properly come before the stockholders at the Annual Meeting or at any adjournments or postponements thereof. It is not anticipated that any matters other than those set forth in the Proxy Statement will be presented at the Annual Meeting.

The presence, in person or by proxy, of holders of at least a majority of the total number of outstanding shares of Common Stock entitled to vote is necessary to constitute a quorum for the transaction of business at the Annual Meeting. The affirmative vote of the holders of two-thirds of the votes entitled to be cast with a quorum present at the Annual Meeting is required for the approval of each of the Charter Proposals. The affirmative vote of the holders of a majority of the votes cast with a quorum present at the Annual Meeting is required (i) for the election of directors, (ii) for the approval, on an advisory basis, of the compensation of our named executive officers and (iii) for the ratification of the appointment of the Company s independent registered public accounting firm. With respect to the Charter Proposals, abstentions will not be counted as votes cast but will be counted as entitled to vote, and, accordingly, will effectively be treated as votes against the Charter Proposals. **The Board of Directors has determined that the implementation of each of the Charter Proposals is conditioned on the approval of all of the Charter Proposals. Thus, none of the Charter Proposals will be implemented unless all of the Charter Proposals are approved by the applicable required shareholder vote.**

A stockholder of record may revoke a proxy at any time before it has been exercised by filing a written revocation with the Secretary of the Company at the address of the Company set forth above, by filing a duly executed proxy bearing a later date, or by appearing in person and voting by ballot at the Annual Meeting. Any stockholder of record as of the Record Date attending the Annual Meeting may vote in person whether or not a proxy has been previously given, but the presence (without further action) of a stockholder at the Annual Meeting will not constitute revocation of a previously given proxy. Street name stockholders who wish to vote in person will need to obtain a duly executed proxy form from the institution that holds their shares prior to the Annual Meeting.

Appendix C to this Proxy Statement contains the Company s 2012 Annual Report, including the Company s financial statements for the fiscal year ended December 31, 2012 and certain other information required by the rules and regulations of the Securities and Exchange Commission (the SEC). The Company s 2012 Annual Report, however, is not part of the proxy solicitation material. See Other Matters Incorporation by Reference herein.

BROKER NON-VOTES

Stockholders of the Company who have received this Proxy Statement from their broker or other fiduciary should have received instructions for directing how that broker or fiduciary should vote the stockholder s shares. It will be the broker s or fiduciary s responsibility to vote the stockholder s shares for the stockholder in the manner directed. The stockholder must complete, execute and return the voting instruction form in the envelope provided by the broker.

Under the rules of the New York Stock Exchange (the NYSE), brokers generally may vote on routine matters, such as the ratification of an independent public accounting firm, but may not vote on non-routine matters unless they have received voting instructions from the person for whom they are holding shares. If there is a non-routine matter presented to stockholders at a meeting and the stockholder s broker or fiduciary does not receive instructions from the stockholder on how to vote on that matter, the broker or fiduciary will return the proxy card to the Company, indicating that he or she does not have the authority to vote on that matter. This is generally referred to as a broker non-vote and may affect the outcome of the voting on those matters, as discussed below.

The proposal described in this Proxy Statement for the ratification of the appointment of PricewaterhouseCoopers LLP as the Company s independent registered public accounting firm for 2013 is considered a routine matter under the NYSE rules. Each of the other proposals is considered a non-routine matter under NYSE rules and could result in broker non-votes. With respect to the Charter Proposals, broker non-votes will not be counted as votes cast but will be counted as entitled to vote, and accordingly, will effectively be treated as votes against the Charter Proposals. With respect to each of the proposals other than the Charter Proposals, broker non-votes will not be counted as votes cast and, accordingly, will have no effect on the result of the vote, although they will be counted for quorum purposes. We therefore encourage stockholders to provide directions to their broker as to how the stockholder wants their shares voted on all matters to be brought before the Annual Meeting. The stockholder should do this by carefully following the instructions the broker gives the stockholder concerning its procedures. This ensures that the stockholder s shares will be voted at the meeting.

PROXY STATEMENT

PROPOSAL 1

AMENDMENTS TO THE COMPANY S CHARTER

BACKGROUND OF THE PROPOSALS

Our Board of Directors is committed to strong and effective corporate governance and monitors regularly our corporate governance policies and practices to ensure we meet or exceed the requirements of applicable laws, regulations and rules, and the NYSE s listing standards. As part of its continuing review of corporate governance matters, the Company s Nominating/Corporate Governance Committee determined that a declassified board of directors has become a corporate governance best practice, particularly among real estate investment trusts (REITs). As such, the Nominating/Corporate Governance Committee elected to present for the consideration of the Board of Directors a proposal to approve and recommend an amendment to the Company s Charter to provide for declassification of the Board of Directors.

In connection with this analysis, the Nominating/Corporate Governance Committee also initiated a comprehensive review of our Charter and our Amended and Restated Bylaws (the Existing Bylaws), and engaged our internal staff and external advisors to make recommendations regarding any necessary or desirable amendments to the Charter and Existing Bylaws. During the course of this review, we identified certain elements of the Company s corporate governance infrastructure in need of updating in light of the proposed declassification amendment, current market practices, changes in the Company s ownership structure and changes in corporate governance best practices since the principal provisions of the Company s Charter and Existing Bylaws were initially drafted and implemented in 1994. After the completion of its review, the Nominating/Corporate Governance Committee recommended certain proposed modifications for consideration by the Board of Directors. Each of these proposed modifications are described below, though the Company s stockholders are only being asked to vote on modifications to be effected through an amendment to the Company s Charter.

Upon the recommendation of the Nominating/Corporate Governance Committee, after careful consideration, the Board of Directors has approved, and recommends to our stockholders that they approve, amendments to our Charter (a) to declassify the Board of Directors; (b) to provide that, consistent with the Company s current director removal standard, directors may be removed by the stockholders of the Company only for cause; (c) to provide more complete and modern ownership and transfer restrictions, designed, among other things, to assist us in complying with requirements related to our qualification as a REIT; (d) to delete the current definition of Independent Director so as to ensure consistency with NYSE standards; and (e) to remove an existing exception from the Company s election to be governed by the provisions of the Maryland Business Combination Act. The general description of these proposed amendments is qualified in its entirety by reference to the complete text of the proposed Articles of Amendment, which are attached as Appendix A to this Proxy Statement.

In addition, the Board of Directors, upon recommendation from the Nominating/Corporate Governance Committee, has provisionally approved an amendment and restatement of our Existing Bylaws to implement the declassification of our Board of Directors and other Charter Proposals, and to make other changes to reflect current market practices and corporate governance best practices. The modifications to our Existing Bylaws are described below. See Amendment and Restatement of the Company s Bylaws. The general description of these proposed modifications is qualified in its entirety by reference to the complete text of the Second Amended and Restated Bylaws (the Amended Bylaws), which are attached as Appendix B to this Proxy Statement. Additions to the Existing Bylaws are indicated by underlined text and deletions from the Existing Bylaws are indicated by strike-through text. The Company s stockholders are not required to approve, and are not being asked to vote to approve, the Amended Bylaws. Our Board of Directors also has approved amendments to our Corporate Governance Guidelines to add a director resignation policy consistent with the majority vote standard applicable to uncontested elections. The amended Corporate Governance Guidelines will require each incumbent nominee to submit an irrevocable contingent resignation letter prior to the mailing of the proxy statement for an annual meeting at which the nominee s candidacy will be considered. If the nominee does not receive more votes cast For than Against his or her election, our Nominating/Corporate Governance Committee will recommend to the Board of Directors that it accept the nominee s contingent resignation, unless the Board determines that acceptance of the resignation would not be in the Company s best interests.

Approval of each of the Charter Proposals requires the affirmative vote of at least two-thirds of all votes entitled to be cast by our stockholders on the matter. Because the Board of Directors believes that the proposed modifications to the Company s Charter, Existing Bylaws and Corporate Governance Guidelines cumulatively provide for an appropriate and effective updating of the corporate governance infrastructure, the Board of Directors has determined that the implementation of each of these modifications is to be conditioned on the approval of all of such modifications. Thus, none of the Charter amendments described in the Charter Proposals, nor any of the amendments to the Existing Bylaws described below, will be implemented unless all of the Charter Proposals are approved by the applicable required shareholder vote.

If each of the Charter Proposals is approved, we will temporarily recess the Annual Meeting to file an Articles of Amendment setting forth the aforesaid amendments to our Charter. The amendments will become effective upon acceptance for record of the Articles of Amendment setting forth these amendments by the State Department of Assessments and Taxation of Maryland.

PROPOSAL 1A

DECLASSIFICATION

Our Charter currently provides that the Board of Directors be divided into three classes, with each class elected every three years. After careful consideration, our Board of Directors has unanimously approved, and recommends that all stockholders approve, an amendment to our Charter eliminating the classified structure of the Board effective at the Annual Meeting. This will allow our stockholders to vote on the election of our entire Board of Directors each year, rather than on a staggered basis as provided under our current classified board structure. We urge you to review carefully this proposed amendment to Article VI, Section 6.2 of the Charter, as set forth in Appendix A, in its entirety, because this summary may not contain all of the information concerning this amendment that is important to you.

BACKGROUND

In determining whether to propose declassification to our stockholders, the Board of Directors considered the advantages and disadvantages of maintaining the classified board structure as compared to providing for an annual election of all directors.

The Board of Directors recognizes that classified boards have a long history in corporate law, and have many advantages. A classified board may promote board continuity, and is considered by some to provide stability in the management of the business and affairs of a company because a majority of directors will have prior experience as directors of a company. Classified boards also encourage directors to take a long-term perspective and may, in some circumstances, enhance stockholder value by forcing an entity seeking control of a company to initiate discussions at arms -length with the board of the company, because the entity cannot replace the entire board in a single election.

However, the Board of Directors also considered that classified boards are sometimes seen to reduce the accountability of directors to stockholders, because stockholders are unable to evaluate and elect all directors on an annual basis. Director elections provide stockholders with an opportunity to express their views on the performance of individual directors, and many institutional investors believe that the election of directors is the primary means for stockholders to influence corporate governance policies and to hold management accountable for implementing these policies. A classified board structure affords stockholders this opportunity only once every three years for any particular director.

After deliberating over the considerations noted above, the Board of Directors unanimously determined that it is in the best interests of the Company and its stockholders to eliminate the classified Board structure, as proposed. As such, the Board of Directors has decided to submit this proposal to eliminate the classified Board structure.

IMPLEMENTATION OF THE PROPOSAL

If our stockholders approve this Proposal 1A (as well as the other Charter Proposals), then effective upon acceptance for record of the Articles of Amendment setting forth the aforesaid amendments by the State

Department of Assessments and Taxation of Maryland, and in connection with Proposal 2, all of our directors whose terms do not expire at this Annual Meeting will resign and have been nominated to stand for election to a one-year term expiring at the 2014 Annual Meeting of Stockholders, and the three directors whose terms expire at this Annual Meeting have also been nominated to stand for election to a one-year term expiring at the 2014 Annual Meeting of Stockholders. Thereafter, all of our directors would be subject to annual elections to serve until the next annual meeting of stockholders and until their successors were duly elected and qualify.

If our stockholders fail to approve any of the Charter Proposals, the Board of Directors will continue to be divided into three classes of directors elected for three-year terms, and the stockholders will vote on Proposal 3 for the election of the three directors whose terms expire at this Annual Meeting and have been nominated to stand for election. In such event, the directors whose terms do not expire at this meeting will not resign and will continue to serve for the remainder of the terms for which they were elected.

The Board of Directors recommends a vote FOR this proposal to approve the amendment to our Charter to declassify the Board of Directors.

PROPOSAL 1B

REMOVAL OF DIRECTORS

In addition to the Charter amendment described above, a second proposed amendment to the Charter provides that the stockholders may remove any director or the entire Board of Directors only for cause.

The Existing Bylaws currently provide that a director may only be removed by the stockholders for cause. The Maryland General Corporation Law (the MGCL) provides that, absent a provision in a company s charter to the contrary, a member of a board of directors that is not classified may be removed by a majority vote of the stockholders, with or without cause. Thus, if our Board of Directors were declassified, our directors would be subject to removal as provided in the MGCL unless our Charter were amended to include the director removal standard currently provided in our Existing Bylaws. After deliberation, the Board of Directors has unanimously determined that, because declassification of the Board of Directors will afford stockholders the opportunity to evaluate and elect all directors on an annual basis, the Company s existing standard permitting the interim removal of directors only for cause remains appropriate and in the best interests of the Company. As such, the Board of Directors has decided to submit this proposal to amend the Company s Charter to maintain the Company s existing standard of providing for the removal of directors only for cause.

If our stockholders approve this Proposal 1B (as well as the other Charter Proposals), Article VI, Section 6.2 of the Charter will be amended to provide that directors may be removed from office only for cause and only upon the majority vote of the stockholders. We urge you to review carefully this proposed amendment to Article VI, Section 6.2 of the Charter, as set forth in Appendix A, in its entirety, as well as the potential anti-takeover effects discussed in Anti-Takeover Effects , because this summary may not contain all of the information concerning this amendment that is important to you. In addition, because the director removal provision in the Existing Bylaws will have no legal effect following the declassification of the Board of Directors, Section 2.13 of the Existing Bylaws will be amended to provide that directors of the Corporation may be removed only as provided in the Company s Charter.

The Board of Directors recommends a vote FOR this proposal to approve the amendment to our Charter to retain our existing director removal standard.

PROPOSAL 1C

REIT OWNERSHIP AND TRANSFER RESTRICTIONS

The Company is a REIT, subject to Sections 856 through 860 of the Internal Revenue Code of 1986, as amended (the Code). For the Company to qualify as a REIT under the Code, among other things, not more than

50% in value of its outstanding capital stock may be owned, actually or by attribution, by five or fewer individuals (as defined in the Code to include certain entities) during the last half of a taxable year. Our capital stock must also be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months or during a proportionate part of a shorter tax year. For various purposes, including ensuring that we remain a qualified REIT, Article IX of our Charter, subject to certain exceptions, currently provides that no holder may own, or be deemed to own by virtue of the attribution provisions of the Code, more than an aggregate of 9.9% in value of our capital stock.

Since the original drafting and implementation of these provisions in 1994, significant changes in REIT industry practice have occurred with respect to transfer restrictions designed to ensure REIT compliance. Accordingly, in connection with its review of the Company s corporate governance infrastructure, the Board of Directors is recommending a comprehensive revision of the provisions of Article IX of our Charter to bring these provisions in line with current practice. The Board of Directors has thus adopted, and recommends that the stockholders approve, a complete amendment of Article IX of the Charter in the form included in Appendix A to this Proxy Statement. In addition, the Board of Directors has adopted, and recommends that the stockholders approve, certain conforming amendments to Section 7.3 of the Charter.

The provisions of Article IX, as it is proposed to be amended pursuant to this Proposal 1C, are summarized below. We urge you to review carefully these proposed amendments to Section 7.3 and Article IX of the Charter, as set forth in Appendix A, as well as the potential anti-takeover effects discussed in Anti-Takeover Effects , in their entirety because this summary may not contain all of the information concerning these amendments that is important to you.

Article IX of our Charter currently provides that, subject to certain exceptions, no person may own or be deemed to own by virtue of the attribution provisions of the Code, more than an aggregate of 9.9% in value of our capital stock. As amended, Article IX would modify and expand this ownership restriction such that no person (or group , as defined in Section 13(d) of the Securities Exchange Act) may own or be deemed to own more than an aggregate of 9.8% of our total capital stock, or more than 9.8% of either our Common Stock or our preferred stock, as a class. Article IX will continue to provide that any transfer of capital stock or any security convertible into capital stock that would create a direct or indirect ownership of capital stock in excess of the ownership limit or that would result in our disqualification as a REIT, including any transfer that results in the capital stock being owned by fewer than 100 persons or results in us being closely held within the meaning of Section 856(h) of the Code, will be null and void, and the intended transferee will acquire no rights to the capital stock.

Capital stock owned, or deemed to be owned, or transferred to a stockholder in excess of the ownership limit will automatically constitute shares of excess stock, as defined in our Charter, that will be transferred, by operation of law, to a trust for the exclusive benefit of one or more charitable organizations selected by the Board. Under amended Article IX, the trustee of the charitable trust will have the right to vote the shares while the excess stock is held in trust instead of the voting rights being lost as under the existing provisions. While, under the existing provisions of Article IX, excess stock would not be entitled to participate in the accumulation or payment of dividends or other distributions, the proposed amendments to Article IX would provide that any dividend or distribution be paid to the trustee of the charitable trust.

In addition, Article IX, as amended, provides that we will have the right, for a period of 90 days after the later of the date of any event that resulted in excess stock or the date on which the Board determines that such an event has occurred, to purchase all or any portion of the excess stock from the original stockholder at the lesser of the price paid for the capital stock by the original stockholder (or, in the case of a transfer without value or an event other than a transfer that results in excess stock, the market price on the date of such event) and the market price of the capital stock on the date we exercise our option to purchase, as determined in the manner set forth in our Charter. The 90-day period begins on the date of the violative event if the original stockholder gives notice to us of the event or, if no such notice is given, the date the Board determines that a violative event has occurred. We may also direct the trustee to transfer the shares to a third party whose ownership would not violate Article IX. For this transfer, proceeds would be distributed in a manner comparable to the distribution of proceeds from a Company purchase.

The Board of Directors recommends a vote FOR this proposal to approve the amendment to Article IX of our Charter and the conforming amendment to Section 7.3 of our Charter to provide for more complete and modern ownership and transfer restrictions, designed to, among other things, assist us in complying with requirements related to our qualification as a REIT.

PROPOSAL 1D

DELETION OF DEFINITION OF INDEPENDENT DIRECTOR

Article VI, Section 6.1 of our Charter currently provides, among other things, that a majority of the Company s directors shall be Independent Directors, which term is defined to require that he or she be neither an employee of the Company nor a member of The Shidler Group, an affiliate of the Company s founder and former Chairman of the Board of Directors, Jay Shidler. In addition, as discussed in Proposal 2 of this Proxy Statement, in determining the independence of its members, the Board of Directors also applies the following standards, consistent with the Company s Corporate Governance Guidelines:

1) After taking into account all relevant facts and circumstances, the Board of Directors must determine that the member has no material relationships with the Company (either directly or as a partner, shareholder or officer of an organization that has a relationship with the Company). Relationships to be considered include commercial, industrial, banking, consulting, legal, accounting, charitable and familial relationships.

2) The member must satisfy the independence tests set forth in Section 303A.02(b) of the Listed Company Manual of the NYSE.

The Board of Directors believes that the definition of Independent Director set forth in Article VI, Section 6.1 of the Charter is no longer meaningful in analyzing the independence of a director. Mr. Shidler resigned from the Board of Directors on February 1, 2010, and since that time has not participated in the management of the Company. In light of Mr. Shidler s resignation, and considering that no member of The Shidler Group has served as a director of the Company since such resignation, the Board of Directors believes that the express reference to The Shidler Group in the Company s Charter is no longer necessary. Moreover, because the Board of Directors is required by the independence tests established by the NYSE to consider all material relationships that a director has with the Company in analyzing the director s independence, any reference in the Charter to one specific potential relationship that must be considered is not appropriate. The Board of Directors has thus determined that it is in the best interests of the Company to amend Article VI, Section 6.1 of the Charter to delete the definition of Independent Director . We urge you to review carefully this proposed amendment to Article VI, Section 6.1 of the Charter, as set forth in Appendix A, in its entirety because this summary may not contain all the information about this amendment that is important to you.

The Board of Directors recommends a vote FOR this proposal to approve the amendment to Article VI, Section 6.1 of our Charter to delete the definition of Independent Director so as to ensure consistency with NYSE standards.

PROPOSAL 1E

DELETION OF EXEMPTION FROM MARYLAND BUSINESS COMBINATION ACT

Under the Maryland Business Combination Act, certain business combinations (as defined in the MGCL) between a Maryland corporation and an interested stockholder are prohibited for five years after the most recent date on which the interested stockholder became an interested stockholder. Under the MGCL, an interested stockholder includes a person who is:

- the beneficial owner, directly or indirectly, of 10 percent or more of the voting power of the outstanding voting stock of the corporation; or

an affiliate or associate of the corporation and was the beneficial owner, directly or indirectly, of 10 percent or more of the voting power of the then outstanding stock of the corporation at any time within the two-year period immediately prior to the date in question.

Business combinations for the purposes of the preceding paragraph are defined by the MGCL to include certain mergers, consolidations, share exchanges and asset transfers, some issuances and reclassifications of equity securities, the adoption of a plan of liquidation or dissolution or the receipt by an interested stockholder or its affiliate of any loan advance, guarantee, pledge or other financial assistance or tax advantage provided by the Company.

Article XIII of the Charter currently provides that, pursuant to Section 3-603(e)(1)(iii) of the MGCL, the Company expressly elects not to be governed by the Maryland Business Combination Act with respect to any business combination in which the only interested stockholder is Jay Shidler.

As discussed in Proposal 1D, Mr. Shidler, the Company s founder and former Chairman of the Board of Directors, stepped down as Chairman and resigned from the Board of Directors on February 1, 2010, and since that time has not participated in the management of the Company. Moreover, according to reports filed with the SEC, Mr. Shidler is currently the beneficial owner of approximately 1.7% of the Company s Common Stock, and has not in the past 2 years beneficially owned in excess of 6.9% of the Company s Common Stock. As such, Mr. Shidler is not currently an interested stockholder for purposes of the Maryland Business Combination Act.

In light of Mr. Shidler s reduced ownership of the Company, and the cessation of his involvement in the management of the Company, the Board of Directors has determined that it is no longer appropriate for the Charter to include an express exemption from the Maryland Business Combination Act for transactions in which Mr. Shidler is the only interested stockholder. As such, and with the express intention the Maryland Business Combination Act shall apply to the Company and to each and all of its stockholders, the Board of Directors has unanimously approved, and recommends that all stockholders approve, an amendment to the Charter to delete Article XIII in its entirety.

The Board of Directors recommends a vote FOR this proposal to approve the amendment to our Charter to delete Article XIII in its entirety.

AMENDMENT AND RESTATEMENT OF THE COMPANY S BYLAWS

The Board of Directors has approved, subject to stockholder approval of each of the Charter Proposals, the Amended Bylaws, in order to modify our Existing Bylaws so as to conform with the Charter amendments and/or comply with current market practices and corporate governance best-practices. The modifications to our Existing Bylaws do not require stockholder action. These Amended Bylaws will only take effect if each of the Charter Proposals is approved by our stockholders. The general description of these proposed modifications presented below is qualified in its entirety by reference to the complete text of the Amended Bylaws, which are attached as Appendix B to this Proxy Statement. Additions to the Existing Bylaws are indicated by underlined text and deletions from the Existing Bylaws are indicated by strike-through text.

Deletion of Director Removal Standard

As discussed in Proposal 1B, the Existing Bylaws currently provide that a director may only be removed by the stockholders for cause. The MGCL provides that, absent a provision in a company s charter to the contrary, a member of a board of directors that is not classified may be removed by a majority vote of the stockholders, with or without cause. As such, if each of the Charter Proposals were approved, the director removal standard currently set forth in the Existing Bylaws would have no legal effect and could potentially be misleading. The Board of Directors has thus approved an amendment to Section 2.13 of the Existing Bylaws to provide that directors of the Company may be removed only as provided in the Company s Charter. We urge you to review carefully this modification to Section 2.13 of the Existing Bylaws, as set forth in Appendix B, in its entirety because this summary may not contain all of the information concerning this modification that is important to you.

Modification of Advance Notice Bylaw

Our Existing Bylaws provide that any stockholder of record wishing to nominate a director or have a stockholder proposal considered at an annual meeting must provide written notice and certain supporting documentation to the Company relating to the nomination or proposal not less than 75 days nor more than 180 days prior to the anniversary date of the prior year s annual meeting or special meeting in lieu thereof. The Board of Directors has determined that, since the adoption of this advance notice bylaw by the Company, market practices have changed such that many advance notice bylaws now require that written notice relating to a nomination or proposal be submitted by stockholders not less than 120 days nor more than 150 days before the anniversary date of the mailing date of the proxy statement for the prior year s annual meeting (the Mailing Date Anniversary). The Board of Directors has thus approved modifications to Section 1.3 and Section 2.4 of the Existing Bylaws to provide that any stockholder of record wishing to nominate a director or have a stockholder proposal considered at an annual meeting must provide written notice and certain supporting documentation to the Company relating to the nomination or proposal not less than 120 days nor more than 150 days prior to the Mailing Date Anniversary. We urge you to review carefully these amendments to Section 1.3 and Section 2.4 of the Existing Bylaws, as set forth in Appendix B, in its entirety because this summary may not contain all of the information concerning this amendment that is important to you. Additionally, we urge you to review the potential anti-takeover effects of our advance notice provision discussed in Anti-Takeover Effects .

Plurality Vote Standard in Contested Elections of Directors

Our Existing Bylaws currently provide that a majority of the votes cast at a meeting of our stockholders duly called and at which a quorum is present shall be sufficient to take or authorize action upon any matter which is properly brought before the meeting, unless more than a majority of the votes cast is specifically required by statute, the Charter or the Existing Bylaws. As such, our directors are elected by a majority of the votes cast in the election of directors.

As a part of its review of our corporate governance, our Board of Directors determined that it is in the best interests of the Company and our stockholders to retain a majority vote standard in uncontested director elections. The Board of Directors concluded that the retention of a majority vote standard will reinforce the Board s accountability to our stockholders, by requiring that a nominee must obtain more For than Against votes in order to be elected.

The Board of Directors believes, however, that a plurality vote standard should be implemented in contested director elections. Under this plurality vote standard, the director nominees who receive the highest number of affirmative votes cast for each seat on the Board are elected as directors. Accordingly, a director may be elected without receiving a majority of votes cast For his or her election and even if the number of Withheld votes exceeds the number of For votes. If a majority vote standard is used in a contested election, fewer candidates could be elected to the board than the number of authorized board seats.

Additionally, because the Company is incorporated in Maryland, our Board of Directors also has approved amendments to our Corporate Governance Guidelines so as to add a director resignation policy consistent with the majority vote standard in uncontested elections. Under the MGCL, even if an incumbent director does not receive the vote required for re-election, that director will continue to serve as a holdover director until a successor is elected and qualified. The amended Corporate Governance Guidelines will require each incumbent nominee to submit an irrevocable contingent resignation letter prior to the mailing of the proxy statement for an annual meeting at which the nominee s candidacy will be considered. If the nominee does not receive more votes cast For than Against their election, our Nominating/Corporate Governance Committee will recommend to the Board of Directors that it accept the nominee s contingent resignation, unless it determines that acceptance of the resignation would not be in the Company s best interests. The Board of Directors will decide whether to accept or reject the contingent resignation offer at its next regularly scheduled meeting, but in no event later than 120 days following certification of the election results. The Board s decision and its reasons will be promptly disclosed in a periodic or current report filed with the SEC.

We urge you to review carefully this amendment to Section 1.8 of the Existing Bylaws, as set forth in Appendix B, in its entirety because this summary may not contain all of the information concerning this amendment that is important to you.

General Updating Amendments

In addition to the modifications described above, the Board of Directors has approved various modifications to the Existing Bylaws to make conforming changes consistent with the Charter Proposals, to fix typographical errors, to delete or modify outdated provisions and to update notice provisions and provisions relating to the conduct of annual and special meetings to conform with current industry and market standards.

Anti-Takeover Effects

Our Board of Directors unanimously recommends that the Charter amendments be approved for the reasons set forth in this Proxy Statement. You should be aware, however, that certain of the proposed Charter amendments, in particular amending the Charter (a) to provide that, consistent with the Company s current director removal standard, directors may be removed by the stockholders of the Company only for cause and (b) to modify Article IX of the Charter as described in Proposal 1C, may have anti-takeover effects in that such amendments may impede the removal of incumbent directors and restrict the ability of a stockholder to accumulate substantial holdings of our Common Stock, respectively. Proposals 1B and 1C have not been made in response to, and are not being presented to deter, any effort to obtain control of the Company and are not being proposed as anti-takeover measures. Nevertheless, these Charter amendments may have the effect of impeding the removal of incumbent directors and management, even if such removal may be beneficial to all of our stockholders. In addition, these Charter amendments may impede or discourage an acquisition of our Common Stock, tender offer or other transaction, even if such a transaction may be favorable to the interests of some or all of our stockholders. This might prevent our common stockholders from realizing an opportunity to sell all or a portion of their shares of our stock at higher than market prices. For these reasons, our incumbent directors and executive officers may have an interest in the approval of the Charter amendments that other stockholders of our Company may not share.

The anti-takeover effect of Proposals 1B and 1C should also be considered in light of other existing circumstances applicable to us, which could also have the effect of preventing a change of control. For example, if each of the Charter Proposals is approved by our stockholders, certain provisions of our Charter and our Amended Bylaws could have the effect of discouraging, delaying or preventing transactions that involve an actual or threatened change in control of our Company. These provisions include the following:

- *Preferred Stock*. Under our Charter, our Board of Directors has the power to issue preferred stock from time to time in one or more series and to establish the terms, preferences and rights of any such series of preferred stock, all without approval of our stockholders.

- *Advance Notice Bylaws*. Our Amended Bylaws require advance notice procedures with respect to nominations of directors and shareholder proposals.

- *Stockholder Action by Written Consent*. Our Amended Bylaws contain a provision that permits our stockholders to take action by written consent in lieu of an annual or special meeting of stockholders only if the unanimous consent of the stockholders is obtained.

- *Ability of Stockholders to Call Special Meeting*. Under our Amended Bylaws, we are only required to call a special meeting at the request of the stockholders if the request is made by at least a majority of all votes entitled to be cast by our stockholders generally in the election of directors.

- *Maryland Control Share Acquisition Act*. Our Amended Bylaws contain a provision exempting acquisitions of our shares from the Maryland Control Share Acquisition Act.

PROPOSAL 2

ELECTION OF DIRECTORS

Pursuant to the Company s Charter, the maximum number of members allowed to serve on the Company s Board of Directors is twelve. Following the resignation of Kevin W. Lynch from the Board of Directors on February 25, 2013, the Board of Directors of the Company reduced its size from seven seats to six seats. The Board of Directors is divided into three classes, with the directors in each class serving for a term of three years and until their successors are duly elected and qualify. The term of one class expires at each Annual Meeting of Stockholders. Pursuant to the Existing Bylaws, vacancies on the Board of Directors may be filled by a majority vote of the directors, and directors elected to fill vacancies shall hold office until the next Annual Meeting of Stockholders.

Our Board of Directors has approved an amendment to our Charter that, if approved by the stockholders at this Annual Meeting (together with the other Charter Proposals), will eliminate the three-year staggered terms of our directors effective at the Annual Meeting. As a result, if all of the Charter Proposals are approved by our stockholders, any directors whose terms do not expire at this Annual Meeting will resign and have been nominated to stand for election to a one-year term expiring at the 2014 Annual Meeting of Stockholders, and the three directors whose terms expire at this Annual Meeting have also been nominated to stand for election to a one-year term expiring at the 2014 Annual Meeting of Stockholders. If our stockholders do not approve all of the Charter Proposals, this Proposal 2 will not be submitted to a vote of our stockholders at the Annual Meeting, and instead Proposal 3 (Election of Classified Directors) will be submitted in its place.

The Board of Directors has nominated Matthew S. Dominski, Bruce W. Duncan, H. Patrick Hackett, Jr., John Rau, L. Peter Sharpe and W. Ed Tyler to serve as directors (the Nominees). All of the Nominees are currently serving as directors of the Company. Each of the Nominees has consented to be named as a nominee in this Proxy Statement. The Board of Directors anticipates that each of the Nominees will serve as a director if elected. However, if any person nominated by the Board of Directors is unable to accept election, the proxies will vote for the election of such other person or persons as the Board of Directors may recommend.

The Board of Directors recommends a vote FOR the Nominees.

INFORMATION REGARDING THE NOMINEES

The following biographical descriptions set forth certain information with respect to the six Nominees for election as directors and certain executive officers, based on information furnished to the Company by such persons. The following information is as of March 19, 2013, unless otherwise specified.

Matthew S. Dominski Director since 2010

Mr. Dominski, 58, has been a director of the Company since March 2010. He also presently serves as a director of CBL & Associates Properties, Inc., one of the largest shopping mall real estate investment trusts in the United States. From 1993 through 2000, Mr. Dominski served as Chief Executive Officer of Urban Shopping Centers (Urban), formerly one of the largest regional mall property companies in the country and also a publicly traded real estate investment trust. Following the purchase of Urban by Rodamco North America in 2000, Mr. Dominski served as Urban s President until 2002. In 2003, Mr. Dominski formed Polaris Capital, LLC, a Chicago, Illinois based real estate investment firm of which he currently is joint owner. From 1998 until 2004, Mr. Dominski served as a member of the Board of Trustees of the International Council of Shopping Centers. Mr. Dominski s extensive experience leading other public and private real estate companies, both as a senior executive and a director, is a valuable asset to the Board of Directors.

Bruce W. Duncan Director since 2009

Mr. Duncan, 61, has been President, Chief Executive Officer and a Director of the Company since January 2009. He also presently serves as the chairman of the Board of Directors of Starwood Hotels & Resorts

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Worldwide, Inc. (NYSE: HOT) (Starwood), a leading worldwide hotel and leisure company, a position he has held since May 2005. From April 2007 to September 2007, Mr. Duncan served as Chief Executive Officer of Starwood on an interim basis. Mr. Duncan has served as a Director of Starwood since 1999 and as a trustee of the REIT subsidiary of Starwood from 1995 to 2006. He also was a senior advisor to Kohlberg Kravis & Roberts & Co. from July 2008 until January 2009. From May 2005 to December 2005, Mr. Duncan was Chief Executive Officer and Trustee of Equity Residential (NYSE: EQR) (EQR), a publicly traded apartment company. From January 2003 to May 2005, he was President, Chief Executive Officer and Trustee, and from April 2002 to December 2002, President and Trustee of EQR. From December 1995 until March 2000, Mr. Duncan served as Chairman, President and Chief Executive Officer of Cadillac Fairview Corporation, a real estate operating company. From January 1992 to October 1994, Mr. Duncan was President and Co-Chief Executive Officer of JMB Institutional Realty Corporation providing advice and management for investments in real estate by tax-exempt investors and from 1978 to 1992, he worked for JMB Realty Corporation where he served in various capacities, culminating as Executive Vice President and a member of the Board of Directors. Mr. Duncan s extensive experience leading other publicly traded real estate companies, both as a senior executive and a director, is critical to his ability to lead the Company as its Chief Executive Officer, and is a valuable asset to the Board of Directors. Moreover, as the Company s Chief Executive Officer, Mr. Duncan brings to our Board of Directors his in-depth knowledge of our business, strategy, operations, competition and financial position. Mr. Duncan s membership on the Board of Directors is critical to ensuring appropriate coordination and communication between the Company s executive officers and the Board of Directors.

H. Patrick Hackett, Jr. Director since 2009

Mr. Hackett, 61, has been a director of the Company since December 2009. Mr. Hackett is the Chief Executive Officer of HHS Co., a real estate company located in the Chicago area. Previously, he served as the President and Chief Executive Officer of RREEF Capital, Inc. and as Principal of The RREEF Funds, an international commercial real estate investment management firm. Mr. Hackett taught real estate finance at the Kellogg Graduate School of Management for 15 years when he also served on the real estate advisory boards of Kellogg and the Massachusetts Institute of Technology. He serves on the boards of Wintrust Financial Corporation (NASDAQ: WTFC) and Textura Corporation. Mr. Hackett is a director of North Shore Bank. Mr. Hackett provides the Board of Directors with valuable real estate finance expertise, and the Board of Directors further benefits from Mr. Hackett s experience on other boards in the financial services sector. In addition, Mr. Hackett s financial expertise is valuable to the Company s Audit Committee, which he has chaired since June 2010 and within which he is an audit committee financial expert.

John Rau Director since 1994

Mr. Rau, 64, has been a director of the Company since June 1994. Since December 2002, Mr. Rau has served as President and Chief Executive Officer and as a director of Miami Corporation, a private asset management firm. From January 1997 to March 2000, he was a director, President and Chief Executive Officer of Chicago Title Corporation (NYSE: CTZ), and its subsidiaries, Chicago Title and Trust Co., Chicago Title Insurance Co., Ticor Title Insurance Co. and Security Union Title Insurance Co. Mr. Rau was a director of BorgWarner, Inc. from 1997 to 2006, a director of William Wrigley Jr. Company from March 2005 until the company was sold to Mars, Inc. in September 2008 and a director of Nicor, Inc. from 1997 until it was sold to AGL Resources Inc. in December 2011, and continues as a director of AGL Resources Inc. Mr. Rau is a director of BMO Financial Corp. and BMO/Harris Bank, and served as a director of LaSalle Bank, N.A. until its 2007 sale to Bank of America. From July 1993 until November 1996, Mr. Rau was Dean of the Indiana University School of Business. From 1991 to 1993, Mr. Rau served as Chairman of the Illinois Economic Development Board and as special advisor to Illinois Governor Jim Edgar. From 1990 to 1993, he was Chairman of the Banking Research Center Board of Advisors and a Visiting Scholar at Northwestern University s J.L. Kellogg Graduate School of Management. During that time, he also served as Special Consultant to McKinsey & Company, a worldwide strategic consulting firm. From 1989 to 1991, Mr. Rau served as President and Chief Executive Officer of LaSalle National Bank. From 1979 to 1989, he was associated with The Exchange National Bank, serving as President from 1983 to 1989, at which time The Exchange National Bank merged with LaSalle

National Bank. Prior to 1979, he was associated with First National Bank of Chicago. Mr. Rau s extensive experience in the banking and title insurance industries provides the Board of Directors with valuable insight into the matters of corporate and real estate finance, as well as financial services management and risk management. Moreover, Mr. Rau s financial expertise is valuable to the Company s Audit Committee, on which he currently serves.

L. Peter Sharpe Director since 2010

Mr. Sharpe, 66, has been a director of the Company since November 2010. He served as President and Chief Executive Officer of Cadillac Fairview Corporation from March 2000 through December 31, 2010. Prior to March 2000, Mr. Sharpe held various positions at Cadillac Fairview Corporation, including serving as its Executive Vice President of Operations from 1990 to 2000. Mr. Sharpe currently serves as a director of Postmedia Network Canada Corp., Morguard Corporation and Allied Properties Real Estate Investment Trust. From 2009 through 2010, Mr. Sharpe served as Chairman of the Board of Directors of the International Council of Shopping Centers, the global trade association of the shopping center industry, and also served as a director of Multiplan Empreendimentos Imobiliários S.A. (Bovespa: MULT3), one of the leading developers, owners and operators of shopping centers in Brazil. Previously, Mr. Sharpe served as a director on the boards of Legacy REIT, from 1997 to 2001, and Fairmont Hotels & Resorts, from 2001 to 2006. Mr. Sharpe s experience managing large real estate development companies, and serving on the boards of real estate investment trusts, has provided him with real estate knowledge and corporate organizational skills that benefit our Board of Directors tremendously. In addition to his executive experience, inclusive of managing a substantial real estate entity for an institutional ownership constituency, Mr. Sharpe has a substantial background in real estate investment leasing and operations activities. Moreover, Mr. Sharpe s financial expertise, and his experience serving on the Audit Committees of other publicly traded real estate companies, is valuable to the Company s Audit Committee, on which he currently serves, and the Compensation Committee, of which he currently serves as Chairman.

W. Ed Tyler Director since 2000

Mr. Tyler, 60, has been a director of the Company since March 2000, served as Lead Director from October 2008 to January 2009 and has served as non-executive Chairman of the Board of Directors since January 2009. Mr. Tyler also served as the Company s interim Chief Executive Officer from October 2008 to January 2009. Mr. Tyler is a director of Nanophase Technologies Corporation (NASDAQ: NANX). Mr. Tyler was appointed CEO of Ideapoint Ventures in 2002. Ideapoint Ventures is an early stage venture fund that focuses on nanotechnologies. Prior to joining Ideapoint Ventures, Mr. Tyler served as Chief Executive Officer and a director of Moore Corporation Limited, a provider of data capture, information design, marketing services, digital communications and print solutions, from 1998 to 2000. Prior to joining Moore Corporation, Mr. Tyler served in various capacities at R.R. Donnelley & Sons Company, most recently as Executive Vice President and Chief Technology Officer, from 1997 to 1998, and as Executive Vice President and Sector President of Donnelley s Networked Services Sector, from 1995 to 1997. Mr. Tyler s extensive experience as a senior executive and director of other companies, both private and publicly traded, is extremely valuable to the Board of Directors. Moreover, this experience, coupled with Mr. Tyler s prior service as interim Chief Executive Officer of the Company, affords Mr. Tyler a unique perspective, and helps him facilitate communications between the Company s senior executives and the Board of Directors in his role as Chairman of the Board.

INFORMATION REGARDING EXECUTIVE OFFICERS AND OTHER SENIOR MANAGEMENT

Scott A. Musil

Mr. Musil, 45, has been Chief Financial Officer of the Company since March 2011 and Chief Accounting Officer of the Company since March 2006. He served as acting Chief Financial Officer of the Company from December 2008 to March 2011. Mr. Musil has also served as Senior Vice President of the Company since March 2001, Treasurer of the Company since May 2002 and Assistant Secretary of the Company since July 2012. Mr. Musil previously served as Controller of the Company from December 1995 to March 2012, Assistant Secretary of the Company from May 1996 to March 2012 and Vice President of the Company from May 1998 to March 2001. Prior to joining the Company, he served in various capacities with Arthur Andersen & Company,

culminating as an audit manager specializing in the real estate and finance industries. Mr. Musil is a non-practicing certified public accountant. His professional affiliations include the American Institute of Certified Public Accountants and National Association of Real Estate Investment Trusts (NAREIT).

Johannson L. Yap

Mr. Yap, 50, has been the Chief Investment Officer of the Company since February 1997 and Executive Vice President West Region since March 2009. From April 1994 to February 1997, he served as Senior Vice President Acquisitions of the Company. Prior to joining the Company, Mr. Yap joined The Shidler Group in 1988 as an acquisitions associate, and became Vice President in 1991, with responsibility for acquisitions, property management, leasing, project financing, sales and construction management functions. Between 1988 and 1994, he participated in the acquisition, underwriting and due diligence of several hundred million dollars of commercial properties. His professional affiliations include Urban Land Institute, NAREIT and the Council of Logistics Management.

David Harker

Mr. Harker, 54, has been Executive Vice President Central Region since March 2009. From April 2005 to March 2009 he served as Executive Director Investments of the Company. From 2002 to April 2005, he served as a Senior Regional Director of the Company and from 1998 to 2002 he served as a Regional Director of the Company, with responsibility for the Company s portfolio in Nashville, St. Louis, Louisville and Memphis. Prior to joining the Company, Mr. Harker was a Vice President of the Trammell Crow Company from 1992 to 1998. His professional affiliations include the Society of Industrial and Office Realtors.

Peter O. Schultz

Mr. Schultz, 50, has been Executive Vice President East Region since March 2009. From January 2009 to March 2009 he served as Senior Vice President Portfolio Management of the Company. From November 2007 to December 2008, he served as a Managing Director of the Company, with responsibility for the Company s East Region. From September 2004 to November 2007, he served as a Vice President Leasing of the Company, with responsibility for the Company s leasing team and asset management plan implementation in the East Region. From January 2001 to September 2004, he served as a Senior Regional Director of the Company, with responsibility for the Company s portfolio in Eastern Pennsylvania and Southern New Jersey. From March 1998 to December 2000, he served as a Regional Director of the Company, with responsibility for the Company s portfolio in Eastern Pennsylvania. Prior to joining the Company, Mr. Schultz served as President and Managing Partner of PBS Properties, Inc. from November 1990 to March 1998, prior to which time he was Director of Marketing and Sales for the Pickering Group and Morgantown Properties. His professional affiliations include the National Association of Industrial and Office Properties.

THE BOARD OF DIRECTORS AND CORPORATE GOVERNANCE

The Board of Directors. The Board of Directors currently consists of six seats. A majority of the members of the Board of Directors are independent as affirmatively determined by the Board of Directors. In determining the independence of its members, the Board of Directors applied the following standards:

1) The member must meet the definition of Independent Director contained in the Company s Charter, which requires that he or she be neither an employee of the Company nor a member of The Shidler Group.

2) After taking into account all relevant facts and circumstances, the Board of Directors must determine that the member has no material relationships with the Company (either directly or as a partner, shareholder or officer of an organization that has a relationship with the Company). Relationships to be considered include commercial, industrial, banking, consulting, legal, accounting, charitable and familial relationships.

3) The member must satisfy the independence tests set forth in Section 303A.02(b) of the Listed Company Manual of the NYSE.

Applying such standards, the Board of Directors has affirmatively determined that each of Messrs. Dominski, Hackett, Lynch, Rau, Sharpe and Tyler are independent directors.

The Board of Directors held six meetings and acted five times by unanimous consent during 2012. Each of the directors serving in 2012 attended at least 75% of the total number of meetings of the Board of Directors and of the respective committees of the Board of Directors of which he was a member. Although the Company does not have a formal policy regarding director attendance at Annual Meetings of Stockholders, all of the directors then serving attended the 2012 Annual Meeting of Stockholders. During 2012, Mr. Tyler, in his capacity as Chairman of the Board, presided at meetings of non-management directors.

The Board of Directors has adopted Corporate Governance Guidelines to reflect the principles by which it operates. These guidelines, as well as the charters of the Audit Committee, Compensation Committee and Nominating/Corporate Governance Committee of the Board of Directors, are accessible at the investor relations pages of the Company s website at www.firstindustrial.com and are available in print free of charge to any stockholder or other interested party who requests them. The Company has adopted a Code of Business Conduct and Ethics, which includes the principles by which the Company expects its employees, officers and directors to conduct Company business and which is accessible at the investor relations pages of the Company s website at www.firstindustrial.com and is available in print free of charge to any stockholder or other interested party who requests it. The Company intends to post on its website amendments to, or waivers from, any provision of the Company s Code of Business Conduct and Ethics. We also post or otherwise make available on our website from time to time other information that may be of interest to our investors and other interested parties. However, none of the information provided on our website is part of the proxy solicitation material. See Other Matters Incorporation by Reference herein.

The Board of Directors has appointed an Audit Committee, a Compensation Committee, an Investment Committee and a Nominating/Corporate Governance Committee.

Audit Committee. The Audit Committee is directly responsible for the appointment, discharge, compensation, and oversight of the work of any independent registered public accounting firm employed by the Company for the purpose of preparing or issuing an audit report or related work. In connection with such responsibilities, the Audit Committee approves the engagement of independent public accountants, reviews with the independent public accountants the audit plan, the audit scope, and the results of the annual audit engagement, pre-approves audit and non-audit services and fees of the independent public accountants, reviews the independence of the independent public accountants and reviews the adequacy of the Company s internal control over financial reporting.

In 2012, the Audit Committee consisted of Messrs. Hackett, Sharpe and Rau. Each of Messrs. Hackett, Sharpe and Rau, in the judgment of the Company s Board of Directors, is independent as required by the listing standards of the NYSE and the rules of the SEC. Also, in the judgment of the Company s Board of Directors, each member is financially literate as required by the listing standards of the NYSE. Further, in the judgment of the Company s Board of Directors, Mr. Hackett is an audit committee financial expert, as such term is defined in the SEC rules, and has accounting or related financial management expertise, as defined in the listing standards of the NYSE. See Mr. Hackett s biography above. Mr. Hackett is also the current Chairman of the Audit Committee. The Audit Committee met seven times in 2012.

Compensation Committee. The Compensation Committee has overall responsibility for approving and evaluating the compensation plans, policies and programs relating to the executive officers of the Company. The Compensation Committee administers, and has authority to grant awards under, the First Industrial Realty Trust, Inc. 1994 Stock Incentive Plan (the 1994 Stock Plan), the First Industrial Realty Trust, Inc. 1997 Stock Incentive Plan (the 1997 Stock Plan), the First Industrial Realty Trust, Inc. Deferred Income Plan, the First Industrial Realty Trust, Inc. 2001 Stock Incentive Plan (the 2001 Stock Plan), the First Industrial Realty Trust, Inc. 2009 Stock Incentive Plan (the 2009 Stock Plan) and the 2011 Stock Incentive Plan (the 2011 Stock Plan). Prior to Mr. Lynch s resignation, the Compensation Committee consisted of Messrs. Tyler, Lynch and Sharpe, each of whom, in the judgment of the Company s Board of Directors, is independent as required by the

listing standards of the NYSE. Prior to his resignation, Mr. Lynch served as Chairman of the Compensation Committee. From and after Mr. Lynch s resignation, the Compensation Committee consists of Messrs. Tyler and Sharpe, and Mr. Sharpe currently serves as the Chairman of the Compensation Committee. The Compensation Committee met ten (10) times in 2012.

Investment Committee. The Investment Committee provides oversight and discipline to the investment process. Investment opportunities are described in written reports based on detailed research and analyses in a standardized format applying appropriate underwriting criteria. The Investment Committee meets with the Company s acquisition personnel, reviews each submission thoroughly and approves acquisitions and dispositions of land of greater than $5 million and all other acquisitions, dispositions and development projects of greater than $20 million. The Investment Committee makes a formal recommendation to the Board of Directors for all acquisitions, dispositions and development projects in excess of $50 million. The membership of the Investment Committee currently consists of Messrs. Hackett, Dominski and Duncan. The Investment Committee met four times in 2012.

Nominating/Corporate Governance Committee. The Nominating/Corporate Governance Committee recommends individuals for election as directors at the Annual Meeting of Stockholders of the Company and in connection with any vacancy that may develop on the Board of Directors. The Board of Directors, in turn, as a whole by a majority vote either approves all of the nominations so recommended by the Nominating/Corporate Governance Committee or rejects all of the nominations in whole, but not in part. In the event that the Board of Directors as a whole by a majority vote rejects the recommended nominations, the Nominating/Corporate Governance Committee would develop a new recommendation. In addition, the Nominating/Corporate Governance Committee develops and oversees the Company s corporate governance policies. The membership of the Nominating/Corporate Governance Committee currently consists of Messrs. Dominski, Hackett and Rau, each of whom, in the judgment of the Company s Board of Directors, is independent as required by the listing standards of the NYSE. Mr. Rau is the current Chairman of the Nominating/Corporate Governance Committee. The Nominating/Corporate Governance Committee met three times during 2012 and met in February 2013 to determine its nominations for this Proxy Statement.

The Nominating/Corporate Governance Committee will consider nominees recommended by stockholders of the Company. In order for a stockholder to nominate a candidate for election as a director at an Annual Meeting, proper notice must be given in accordance with the bylaws of the Company to the Secretary of the Company. As described in Proposal 1, the Board of Directors has adopted Amended Bylaws relating to notice that must be provided to nominate a candidate for election as a director. If the Charter Proposals are adopted by the stockholders at this Annual Meeting, the Amended Bylaws will become effective and, to be timely, such notice of director nominees will be required to be provided to the Secretary of the Company not more than 150 days nor less than 120 days prior to the Mailing Date Anniversary. If the stockholders do not adopt each of the Charter Proposals at this Annual Meeting, the Amended Bylaws will not become effective and, to be timely, such notice of director nominees will be required to be provided to the Secretary of the Company not more than 180 days nor less than 75 days prior to the first anniversary of the preceding year s Annual Meeting. The fact that the Company may not insist upon compliance with the requirements contained in its bylaws should not be construed as a waiver by the Company of its right to do so at any time in the future.

In general, it is the Nominating/Corporate Governance Committee s policy that, in its judgment, its recommended nominees for election as members of the Board of Directors of the Company must, at a minimum, have business experience of a breadth, and at a level of complexity, sufficient to understand all aspects of the Company s business and, through either experience or education, have acquired such knowledge as is sufficient to qualify as financially literate. In addition, recommended nominees must be persons of integrity and be committed to devoting the time and attention necessary to fulfill their duties to the Company. While the Nominating/Corporate Governance Committee has not adopted a formal diversity policy, diversity is one of the factors that the Nominating/Corporate Governance Committee considers in identifying director nominees. As part of the nomination process, the Nominating/Corporate Governance Committee evaluates how a particular individual would affect the diversity of the Company s Board of Directors in terms of how that person may contribute to the Board of Directors overall balance of perspectives, backgrounds, knowledge, experience, skill sets and expertise in matters pertaining to the Company s business.

The Nominating/Corporate Governance Committee may identify nominees for election as members of the Board of Directors of the Company through its own sources (including through nominations by stockholders made in accordance with the Company s bylaws), through sources of other directors of the Company, and through the use of third-party search firms. The Company has previously engaged a third party search firm to identify potential nominees and may do so again in the future. Subject to the foregoing minimum standards, the Nominating/Corporate Governance Committee will evaluate each nominee on a case-by-case basis, assessing each nominee s judgment, experience, independence, understanding of the Company s business or that of other related industries, and such other factors as the Nominating/Corporate Governance Committee concludes are pertinent in light of the current needs of the Company s Board of Directors.

Communications by Stockholders and Other Interested Parties. Stockholders of the Company and other interested parties may send communications to the Board of Directors as a whole, its individual members, its committees or its non-management members as a group. Communications to the Board of Directors as a whole should be addressed to The Board of Directors ; communications to any individual member of the Board of Directors should be addressed to such individual member; communications to any committee of the Board of Directors should be addressed to the Chairman of such committee; and communications to non-management members of the Board of Directors as a group should be addressed to the Chairman of the Nominating/Corporate Governance Committee. In each case, communications should be further addressed c/o First Industrial Realty Trust, Inc., 311 South Wacker Drive, Suite 3900, Chicago, Illinois 60606. All communications will be forwarded to their respective addressees and, if a stockholder marks his or her communication Confidential , will be forwarded directly to the addressee.

Board Leadership Structure and Role in Risk Management. Mr. Tyler is chairman of the Board of Directors. Mr. Tyler served as the Company s interim Chief Executive Officer from October 22, 2008 until January 9, 2009. Prior to and since the completion of his service as interim Chief Executive Officer, Mr. Tyler has not served as an officer of the Company and, as discussed above, Mr. Tyler is an independent director as affirmatively determined by the Board of Directors. We believe that having board leadership independent of management helps ensure critical and independent thinking with respect to the Company s strategy and performance. Mr. Duncan, the Company s President and Chief Executive Officer, is also a member of the Board of Directors. The presence of Mr. Duncan on the Board of Directors helps to ensure that management s insight is directly available to the directors in their deliberations.

The Board of Directors oversees the business of the Company and our stockholders interests in the long-term financial strength and overall success of the Company s business. In this respect, the Board of Directors is responsible for overseeing the Company s risk management. The Board of Directors delegates many of these functions to the Board s committees. Each committee of the Board of Directors is responsible for reviewing the risk exposure of the Company related to the committees areas of responsibility and providing input to the Board of Directors on such risks. The Board of Directors and its committees regularly review material strategic, operational, financial, compensation and compliance risks with management.

For example, under its charter, the Audit Committee is required to assist the Board of Directors in fulfilling its oversight responsibilities by reviewing the financial information that will be provided to the stockholders, the systems of internal controls that management and the Board of Directors have established and the audit process. The Audit Committee is responsible for facilitating communication between the Company s independent auditors and the Board of Directors and management, and for reviewing with the independent auditors the adequacy of the Company s internal controls. The Audit Committee also reviews with management and the independent auditors significant risks which impact financial reporting and operations to which the Company is exposed, including risks faced in the ordinary course of business and risks resulting from extraordinary circumstances. In addressing these risks, the Audit Committee assesses management s response and the effectiveness of the Company s internal controls.

Similarly, the Compensation Committee strives to adopt compensation incentives that encourage appropriate risk-taking behavior that is consistent with the Company s long-term business strategy. We do not believe that our compensation policies and practices are reasonably likely to have a material adverse effect on the Company. The

Compensation Committee has focused on aligning our compensation policies with our stockholders long-term interests and avoiding short-term rewards for management or awards that encourage excessive or unnecessary risk taking. For example, a substantial amount of compensation provided to the Company s executive officers is in the form of equity awards for which the ultimate value of the award is tied to the Company s stock price and which are subject to long-term vesting schedules. In addition, annual cash and equity bonuses provided to management for 2012 were contingent upon the Company s satisfaction of a prescribed level of funds from operations, which is a supplemental performance measure not included in generally accepted accounting principles (GAAP) commonly used to evaluate the performance of real estate investment trusts. Because these awards are directly tied to increased earnings and stock price, in line with our stockholders interests, we believe that none of these types of awards contribute to excessive or unnecessary risk taking.

DIRECTOR COMPENSATION

Directors of the Company who are also employees, namely Mr. Duncan (our Chief Executive Officer), receive no additional compensation for their services as a director.

Compensation of non-employee directors is reviewed annually by the Compensation Committee of the Board of Directors, which makes any recommendations of compensation changes to the entire Board of Directors. Non-employee directors are not entitled to retirement benefits, incentive compensation or perquisites, although they are reimbursed for their out-of-pocket expenses for meeting attendance.

Compensation for non-employee directors of the Company in 2012 consisted of an annual director s fee equivalent in value to $120,000. No fees are paid for attendance at in-person or telephonic meetings of the Board of Directors and its committees. Additional annual fees for service as Chairman of the Board of Directors, Chairman of the Audit Committee, Chairman of the Compensation Committee and Chairman of the Nominating/Corporate Governance Committee are $50,000, $20,000, $10,000 and $10,000, respectively.

DIRECTOR COMPENSATION SUMMARY

Name	Fees Earned or Paid in Cash ($)	Stock Awards ($)	All Other Compensation ($)	Total Compensation ($)
Matthew S. Dominski	$ 120,000	$ 0(1)	$ 0	$ 120,000
H. Patrick Hackett, Jr.	$ 140,000	$ 0(2)	$ 0	$ 140,000
Kevin W. Lynch	$ 130,000	$ 0(3)	$ 0	$ 130,000
John Rau	$ 126,398	$ 0(4)	$ 0	$ 126,398
L. Peter Sharpe	$ 120,000	$ 0(5)	$ 0	$ 120,000
Robert J. Slater(6)	$ 46,828	$ 0(7)	$ 0	$ 46,828
W. Ed Tyler	$ 170,000	$ 0(8)	$ 0	$ 170,000

(1) As of December 31, 2012, Mr. Dominski held 0 shares of unvested restricted Common Stock.

(2) As of December 31, 2012, Mr. Hackett held 0 shares of unvested restricted Common Stock.

(3) As of December 31, 2012, Mr. Lynch held 8,592 shares of unvested restricted Common Stock.

(4) As of December 31, 2012, Mr. Rau held 5,666 shares of unvested restricted Common Stock.

(5) As of December 31, 2012, Mr. Sharpe held 0 shares of unvested restricted Common Stock.

(6) Mr. Slater s service as a director concluded effective as of May 10, 2012.

(7) As of December 31, 2012, Mr. Slater held 9,505 shares of unvested restricted Common Stock.

(8) As of December 31, 2012, Mr. Tyler held 8,180 shares of unvested restricted Common Stock.

EXECUTIVE COMPENSATION DISCUSSION AND ANALYSIS

2012 ACCOMPLISHMENTS

2012 was another successful year for the Company marked by continued execution of our strategy by driving value from leasing, strengthening our balance sheet and refining our portfolio through active asset management and new investment. Decisions by the Board of Directors on executive compensation are reflective of the Company s strong performance during the year, including:

- Delivering total return to shareholders of 37.6%, ranking 19th out of 111 REITs in the MSCI US REIT Index for all of 2012 (Source: REITZone Publications), and more than double the total return of the S&P 500;
- Increasing portfolio occupancy to 89.9% at year-end 2012, up 200 basis points from year-end 2011;
- Launching $115 million of new developments totaling 1.7 million square-feet comprised of the 300,000 square-foot First Chino Logistics Center in the Inland Empire in Southern California (subsequently leased in the first quarter of 2013), the 489,000 square-foot First Bandini Logistics Center in Bell, California (suburban Los Angeles), the 708,000 square-foot First Logistics Center in Central Pennsylvania, and a 156,000 square-foot leased expansion in Minneapolis, MN;
- Acquiring the remaining 85% interest from our joint venture partner of a 390,000 square-foot distribution center in York, PA with a total investment of $21.8 million, including our original interest;
- Leasing First Inland Logistics Center, our 692,000 square-foot speculative development in the Inland Empire in Southern California;
- Selling $85.6 million of assets as part of our asset management strategy to upgrade the portfolio; and
- Continuing to strengthen our balance sheet through a combination of strong operating results and capital markets activities, including debt buybacks, equity and secured debt issuances and a preferred stock redemption.

OBJECTIVES AND DESIGN OF COMPENSATION PROGRAM

The Company maintains the philosophy that compensation of its executive officers and other employees should serve the best interests of the Company s stockholders. Accordingly, the Company believes that its executive compensation program should not only serve to attract and retain talented and capable individuals, but should also provide them with proper incentives linked to performance criteria that are designed to maximize the Company s overall performance. To this end, the Company s compensation program consists of a mix of compensation that is intended to compensate executive officers for their contributions during the year, and to reward them for achievements that lead to increased Company performance and increases in stockholder value.

THE EXECUTIVE COMPENSATION PROCESS AND THE ROLE OF EXECUTIVE OFFICERS IN COMPENSATION DECISIONS

The Compensation Committee of the Company s Board of Directors (the Compensation Committee) has overall responsibility for approving and evaluating the compensation plans, policies and programs relating to the executive officers of the Company. The Compensation Committee typically formulates senior executive compensation beginning in the month of December preceding and in the first quarter of the applicable fiscal year, by setting that year s salary and, if applicable, target maximum cash and equity bonus for the Chief Executive Officer, the Chief Financial Officer and other senior executive officers (Senior Management). Also, typically, in the first quarter of the applicable fiscal year, the

Compensation Committee adopts, and the full Board of Directors ratifies, the performance criteria to be used in determining the incentive compensation of Senior Management (other than those covered by separate plans or agreements) for that year. Then, after the end of the applicable fiscal year, the Compensation Committee meets to determine incentive compensation to be paid to Senior Management with respect to that year, pursuant to the performance criteria or, as applicable, pursuant to separate plans or agreements. Per such determination, the Company pays cash bonuses, typically in February or March, and issues restricted Common Stock, typically in March.

Historically, the Company s Chief Executive Officer and Chief Financial Officer have participated in meetings with the Compensation Committee at various times throughout the year. During the first quarter of the applicable fiscal year, they typically meet with the Compensation Committee to present and discuss recommendations with respect to the applicable fiscal year s salaries and target maximum cash and equity bonuses for Senior Management not covered by separate plans or agreements. Also, in the first quarter of each year, they typically meet with the Compensation Committee to present and discuss recommendations with respect to incentive compensation for the year just ended. In addition, they traditionally meet with the Compensation Committee regarding employment agreements that the Company has entered into (if any), and assist the Compensation Committee in providing compensation information to outside consultants engaged to evaluate the Company s compensation programs.

Periodically, though not every year, the Company and the Compensation Committee engage the services of outside consultants to evaluate the Company s executive compensation program. In 2008, and again in 2012, the Compensation Committee retained FPL Associates L.P. (FPL), an independent outside consultant, to review the appropriateness of the compensation of the Company s Chief Executive Officer, Chief Financial Officer, Chief Investment Officer, Executive Vice Presidents and certain other members of management. Consistent with recently adopted SEC rules, the Company has assessed whether the work of FPL raises any conflict of interest and has determined that the retention of FPL to advise the Compensation Committee concerning executive compensation matters does not create a conflict of interest.

In 2012, the Compensation Committee reviewed and approved the terms of a new employment agreement with Mr. Duncan, the Company s President and Chief Executive Officer. In connection with this review, the Compensation Committee retained FPL to assist with this review and to revisit the appropriateness of the compensation of the Company s executive officers. As part of this most recent review, FPL surveyed two separate peer groups, each comprised of 30 real estate companies. The first peer group, which was referenced primarily to gauge the general appropriateness of the Company s overall executive compensation structure, included the following companies, 15 of which have a total capitalization smaller than the Company s and 15 of which have a total capitalization larger than the Company s: Acadia Realty Trust; American Assets Trust, Inc.; Ashford Hospitality Trust, Inc.; Colonial Properties Trust; CubeSmart; DCT Industrial Trust Inc.; DiamondRock Hospitality Company; Dupont Fabros Technology, Inc.; EastGroup Properties, Inc.; EPR Properties; Equity One, Inc.; Extra Space Storage Inc.; Felcor Lodging Trust Incorporated; Glimcher Realty Trust; Hersha Hospitality Trust; LaSalle Hotel Properties; Lexington Realty Trust; Medical Properties Trust, Inc.; Omega Healthcare Investors, Inc.; Pennsylvania Real Estate Investment Trust; Post Properties, Inc.; PS Business Parks, Inc.; RLJ Lodging Trust; Saul Centers, Inc.; Sovran Self Storage, Inc.; Strategic Hotels & Resorts, Inc.; Sun Communities, Inc.; Sunstone Hotel Investors, Inc.; W. P. Carey Inc.; and Washington Real Estate Investment Trust. Given the Compensation Committee s belief that Mr. Duncan s skills and experience, including as former Chief Executive Officer of EQR and as former interim Chief Executive Officer of Starwood, are commensurate with executives at our largest and most sophisticated peers, and that any candidate who might replace Mr. Duncan would most likely need to be drawn from such a pool, a second peer group was utilized, for purposes of Mr. Duncan s contract renewal, to gain insight into the compensation generally paid to chief executives of larger REITs. This peer group included the following 30 companies, all with a total capitalization larger than the Company s: American Campus Communities, Inc.; Ashford Hospitality Trust, Inc.; BioMed Realty Trust, Inc.; Brandywine Realty Trust; BRE Properties, Inc.; Brookdale Senior Living Inc.; Colonial Properties Trust; DCT Industrial Trust Inc.; Dupont Fabros Technology, Inc.; EPR Properties; Equity Lifestyle Properties, Inc.; Equity One, Inc.; Extra Space Storage Inc.; Highwoods Properties, Inc.; Kilroy Realty Corporation; LaSalle Hotel Properties; Lexington Realty Trust; Mack-Cali Realty Corporation; Mid-America Apartment Communities, Inc.; National Retail Properties, Inc.; Omega Healthcare Investors, Inc.; Pennsylvania Real Estate Investment Trust; Piedmont Office Realty Trust, Inc.; Post Properties, Inc.; PS Business Parks, Inc.; Regency Centers Corporation; RLJ Lodging Trust; Sunstone Hotel Investors, Inc.; Tanger Factory Outlet Centers, Inc.; and Washington Real Estate Investment Trust. The Compensation Committee used these surveys not as a benchmark per se, but rather to gauge generally the appropriateness of the compensation under Mr. Duncan s new employment agreement and the appropriateness of the Company s executive compensation programs.

In reviewing and approving the terms of Mr. Duncan s new employment agreement and the compensation provided for thereunder, the Compensation Committee considered, among other things:

- Mr. Duncan s experience and skill;
- Mr. Duncan s reputation in the industry, and the positive effect it has had and will continue to have on the Company s credibility in the capital market, inclusive of creating and maintaining investor confidence in the Company as an effective and reliable custodian of capital;
- The transformative impact that Mr. Duncan has had on the Company s corporate culture and the success of the Company during Mr. Duncan s tenure, notwithstanding the challenges that he inherited and a challenging overall economic environment;
- Mr. Duncan s leadership abilities and the cohesive and stabilizing impact that he has had and will continue to have in the executive ranks and at all levels within the Company; and
- The difficulty in identifying, and the compensation that would likely be payable to, an equally capable alternative candidate for the position.

In conjunction with entering into the employment agreement, the Company granted to Mr. Duncan 200,000 restricted shares of the Company s Common Stock. These shares are fully transferrable and will vest over a period of three years, with 33.33% vesting on each of December 17, 2013, 2014 and 2015. Also in connection with entering into the employment agreement, existing equity awards scheduled to vest in subsequent years will either vest in accordance with their terms or, if more favorable to Mr. Duncan, pursuant to the vesting terms set forth in the restricted stock agreement entered into in connection with his new employment agreement.

EXECUTIVE COMPENSATION COMPONENTS

The components of the Company s executive compensation program are base salary, incentive bonuses (both cash and equity awards) and benefits/perquisites. Benefits/perquisites currently include premiums paid by the Company on term life insurance and long-term disability insurance; standard health, life and disability insurance; car allowances; a personal financial planning allowance in the case of Mr. Yap in accordance with his employment agreement; and, if and when approved by management, 401(k) matching contributions. In the past, benefits/perquisites have also included moving allowances.

Each component of the Company s executive compensation program serves to attract and retain talented, capable individuals to the Company s management ranks. Incentive bonuses serve the added purpose of providing such individuals with proper incentives linked to performance criteria that are designed to maximize the Company s overall performance.

The Company considers base salary, incentive bonuses and benefits/perquisites as independent components of the Company s executive compensation program. Base salary and benefits/perquisites are intended to compensate Senior Management for services rendered, and increases to their base salary are a function of individual performance and general economic conditions. Incentive bonuses, by contrast, are linked to, and are a function of, the achievement of performance criteria that are designed to maximize the Company s overall performance. Historically, base salary and benefits/perquisites have constituted approximately 1/3 of Senior Management s compensation in a typical year, while incentive bonus has made up approximately 2/3. Although this proportion may vary from year to year, this allocation between base salary and incentive compensation is consistent with the Compensation Committee s compensation philosophy that Senior Management s compensation should be largely tied to performance criteria designed to maximize the Company s overall performance.

The Compensation Committee does not have a specific policy regarding the mix of cash and non-cash compensation awarded to Senior Management, although it believes that a significant portion of Senior Management compensation should be paid in the form of equity. For members of Senior Management with employment agreements, the mix of target maximum cash and non-cash incentive compensation they are

entitled to receive is set forth in their respective employment agreements. Although the exact percentages vary among

individuals, non-cash compensation makes up approximately 40% of the potential incentive compensation for executive officers as a group. For Mr. Duncan, annual bonuses will typically be payable in a combination of cash and shares of restricted Common Stock, and it is expected that the portion paid in Common Stock will be proportionate to the non-cash incentive compensation received by the Company s senior executives generally.

When granting non-cash compensation to Senior Management, the Compensation Committee has typically utilized restricted Common Stock awards. Typically, these awards vest ratably over three years and, for awards granted under the 2010 Executive Officer Bonus Plan, the 2011 Executive Officer Bonus Plan and the 2012 Executive Officer Bonus Plan, these awards were denominated based on the closing price of the Company s Common Stock on the day the Compensation Committee met to make its award determinations.

The Compensation Committee believes that restricted Common Stock awards and restricted stock unit awards play an important role in aligning management s interests with those of the Company s stockholders in that restricted Common Stock and restricted stock units (other than the vesting and transfer restrictions applicable to them) are economically identical to stockholders Common Stock. For this reason, restricted Common Stock and restricted stock unit awards have been a significant part of executive compensation, although the Compensation Committee may use other forms of equity compensation, such as stock options, in the future.

On July 7, 2010, July 12, 2011 and July 17, 2012, the Compensation Committee approved additional retention cash bonuses to certain employees of the Company, including members of Senior Management, other than Mr. Duncan.

ADVISORY VOTE ON EXECUTIVE COMPENSATION

At the 2012 Annual Meetings of Stockholders, we conducted an advisory vote on executive compensation. While the results of this vote were non-binding, we believe that presenting this matter to our stockholders is an important means of obtaining investor feedback on our compensation policies. At the 2012 Annual Meeting, more than 96% of the votes cast in the vote on executive compensation (Proposal II) were in favor of our named executive officer compensation as disclosed in the proxy statement for that meeting, and as a result our named executive officer compensation was approved by our stockholders on an advisory basis. In light of this support, the Board of Directors and Compensation Committee elected not to make any changes to our executive compensation policies at this time.

We have determined that our stockholders should vote on a say-on-pay proposal each year, consistent with the preference expressed by our stockholders at the 2011 Annual Meeting. To the extent that the advisory vote indicates a lack of support for the compensation of our named executive officers as disclosed in the Proxy Statement, we plan to consider our stockholders concerns and expect that the Compensation Committee will evaluate whether any actions are necessary to address those concerns.

SETTING EXECUTIVE COMPENSATION

Base Salary

The Company provides Senior Management with base salary to compensate them for services rendered during the fiscal year. The base salaries of Senior Management are a function of either the minimum base salaries specified in their employment agreements or the base salary negotiated at the time of their hire, and any subsequent increases to such base salaries approved by the Compensation Committee. In determining increases to such base salaries for the following year, the Compensation Committee considers individual performance of Senior Management in the most recently completed year, including organizational and management development and sales leadership exhibited from year-to-year and peer information provided by compensation consultants. The Compensation Committee also considers general economic conditions prevailing at the end of such year, when the increases for the following year are typically determined. For example, due to the general economic conditions prevailing at the end of 2009 and in order to conserve cash, no salary increases were approved for Mr. Duncan and the other members of Senior Management for 2010. In addition, effective August 1, 2010, salaries for Mr. Duncan and the other members of Senior Management were voluntarily reduced for the

remainder of 2010. For 2011, recognizing that the economic conditions in effect during 2009 and 2010 had abated to a degree, the Compensation Committee approved salary increases aimed at restoring the salaries of members of Senior Management to levels in effect at the beginning of 2010. For 2012, the Compensation Committee approved salary increases for Senior Management of approximately 4% to compensate for prior years with no increases. In December 2012 we entered into a new employment agreement with Mr. Duncan that provides, among other things, for a minimum annual base salary of $850,000.

Annual Incentive Bonuses

The Company provides its senior executives with annual incentive compensation, which currently includes cash and equity awards, in the form of restricted Common Stock, to incentivize and reward them for Company and individual performance in specified areas that serve the best interests of the Company s stockholders.

Performance Measures

As discussed in greater detail below, for 2012, 2011 and 2010 Messrs. Duncan, Musil, Yap, Harker and Schultz participated in an incentive compensation plan (each, an Executive Officer Bonus Plan) which was recommended by the Compensation Committee and adopted by the Board of Directors. Under each Executive Officer Bonus Plan, compensation determinations of the Compensation Committee were based on (1) the Company s achievement above a minimum level of funds from operations (FFO) (1) per share per annum, as may be adjusted in the Compensation Committee s discretion to, among other things, exclude the effects of impairment charges and certain other extraordinary items, (2) the target maximum cash and equity bonus opportunity of the executive officers, expressed as a percentage of their base salaries and (3) the Chief Executive Officer s self-evaluation and individual recommendations, with respect to Messrs. Musil, Yap, Harker and Schultz, to the Compensation Committee.

In establishing these performance criteria, the Compensation Committee determined that FFO represented the best single measure to appropriately capture the Company s performance, and adopted FFO as the sole performance criterion. Informed by the survey conducted in 2012 by our outside compensation consultant, FPL, as part of its evaluation of the Company s executive compensation program, the Compensation Committee has since determined that additional criteria should also be considered in analyzing the Company s performance. Therefore, although compensation determinations of the Compensation Committee under each Executive Officer Bonus Plan were based primarily on FFO, in evaluating the Company s performance in 2013, the Compensation Committee will also consider same store net operating income growth as well as the Company s fixed charge coverage ratio. Additionally, the Compensation Committee has assigned weighting factors to each of the performance categories, such that performance in certain categories will have a more pronounced impact than will performance in other categories. The weighting factors for each performance category are as follows:

Category	**Weighting Factor**
FFO per share	65%
Same store NOI growth	10%
Fixed charge coverage ratio	10%
Discretionary objectives	15%

2012 Executive Officer Bonus Plan

For 2012, Messrs. Duncan, Musil, Yap, Harker and Schultz participated in an incentive compensation plan (the 2012 Executive Officer Bonus Plan) which was recommended by the Compensation Committee and adopted by the Board of Directors on March 8, 2012.

Achievement by the Company above certain minimum FFO thresholds for 2012 would generally qualify each executive officer covered by the 2012 Executive Officer Bonus Plan to receive a certain percentage of his stated target maximum cash and equity bonus opportunity (up to a maximum of 125%), depending on the level of

FFO achieved (the FFO Percentage). For Messrs. Duncan and Yap, the targets are based on requirements in their employment agreements and subject to increase by the Compensation Committee; and, for Messrs. Musil, Harker and Schultz, the targets are a function of Company policy applicable to employees generally. In each case, the targets reflect the Compensation Committee s belief that an individual s incentive compensation should be comprised of approximately 60% cash compensation and 40% equity compensation.

The target maximum bonuses for 2012 for Messrs. Duncan, Musil, Yap, Harker and Schultz for purposes of the 2012 Executive Officer Bonus Plan were as follows:

Executive Officer	Target Maximum Cash Bonus (% of Base Salary)	Target Maximum Equity Bonus (% of Base Salary)
Bruce W. Duncan	200%	140%
Scott A. Musil	150%	100%
Johannson Yap	200%	140%
David Harker	150%	100%
Peter Schultz	150%	100%

(1) FFO is a non-GAAP measure that the Company defined (for all 2012 purposes) as net income available to common stockholders and participating securities, plus depreciation and amortization on real estate minus accumulated depreciation and amortization on real estate sold less economic gains that are not included within the NAREIT definition. Investors in and analysts following the real estate industry utilize FFO, variously defined, as a supplemental performance measure. The Company considers FFO, given its wide use by and relevance to investors and analysts, an appropriate supplemental performance measure. FFO, reflecting the assumption that real estate asset values rise or fall with market conditions, principally adjusts for the effects of GAAP depreciation/amortization of real estate assets. In addition, FFO is commonly used in various ratios, pricing multiples/yields and returns and valuation calculations used to measure financial position, performance and value. FFO does not represent cash generated from operating activities in accordance with GAAP and is not necessarily indicative of cash available to fund cash needs, including the repayment of principal on debt and payment of dividends and distributions. FFO should not be considered as a substitute for net income available to common stockholders (calculated in accordance with GAAP) as a measure of results of operations or cash flows (calculated in accordance with GAAP) as a measure of liquidity. FFO as calculated by the Company may not be comparable to similarly titled, but differently calculated, measures of other REITs. Please see the reconciliation of FFO to net income available to common stockholders contained in our Current Report on Form 8-K dated February 21, 2013.

The Company established a bonus pool to be distributed among the members of Senior Management representing the aggregate cash and equity bonuses for an FFO Percentage of 90%. The Company s FFO per share achieved for 2012 generally qualified each participant to receive cash and equity bonuses equal to 90% of their respective target maximum cash and equity bonuses. However, individual bonuses paid to the members of Senior Management from this bonus pool were not uniform, and the actual bonuses paid to the members of Senior Management varied from the 90% level (the Individual Cash Percentage and the Individual Equity Percentage ; collectively, the Individual Percentages). The variability of the Individual Percentages applied to the members of Senior Management is attributable to differences in individual subjective performance evaluations. For example, the Compensation Committee rewarded Mr. Harker the highest overall percentage payout, in particular, for the Central region obtaining the highest overall occupancy levels in 2012. Notwithstanding the level of FFO per share achieved and, more importantly, the level of shareholder value delivered by the Company in 2012, Mr. Duncan again recommended relatively lower Individual Percentages for Mr. Yap and himself. In Mr. Duncan s view, the Company s most highly compensated employees should receive lower Individual Percentages than those of the rest of the team. The Compensation Committee accepted Mr. Duncan s recommendation.

The cash bonus payments and equity grants made in the first quarter of 2013 to each of our named executive officers, together with the applicable Individual Percentage, are reflected in the following table:

Executive Officer	Individual Cash Percentage (%)	Cash Bonus Paid ($)	Individual Equity Percentage (%)	Shares of Restricted Stock Granted
Bruce W. Duncan	75	1,200,000	90	60,759
Scott A. Musil	99	380,000	106	16,275
Johannson Yap	85	620,000	90	27,728
David Harker	110	380,000	122	16,878
Peter Schultz	100	360,000	108	15,672

For each of 2010 and 2011, Messrs. Duncan, Musil, Yap, Harker and Schultz participated in an incentive compensation plan which was recommended by the Compensation Committee and adopted by the Board of Directors on November 3, 2010 and March 10, 2011, respectively. Determinations regarding compensation under each plan were made by the Board of Directors in the same manner as the determinations made under the 2012 Executive Officer Bonus Plan as described above.

The cash bonus payments and equity grants made for the last three fiscal years to each of our named executive officers, together with the applicable Individual Percentage, are reflected in the following table:

Executive Officer	Year	Individual Cash Percentage (%)	Cash Bonus Paid ($)	Individual Equity Percentage (%)	Grant Date Market Value
Bruce W. Duncan	2012	75	1,200,000	90	1,007,992
	2011	81	1,292,000	81	906,999
	2010	62	975,000	70	767,412
Scott A. Musil	2012	99	380,000	106	270,002
	2011	84	313,000	84	208,998
	2010	77	255,878	82	180,004
Johannson Yap	2012	85	620,000	90	460,008
	2011	81	589,000	81	414,003
	2010	63	450,000	70	350,232
David Harker	2012	110	380,000	122	280,006
	2011	94	324,000	94	216,002
	2010	85	286,856	70	157,906
Peter Schultz	2012	100	360,000	108	259,998
	2011	89	319,000	89	212,494
	2010	96	336,670	70	164,450

Long-Term and Retention Bonus Plans

Long-Term Bonus Plan

On July 13, 2009, the Compensation Committee approved certain long-term incentive awards (collectively, the Long-Term Bonus Awards) to certain employees of the Company, including certain members of Senior Management other than Mr. Duncan, to align the interests of Messrs. Musil, Yap, Harker and Schultz with the interests of Mr. Duncan. Grantees of a Long-Term Bonus Award were issued a specified number of restricted stock units (the Senior Management Performance RSUs), each of which represents the right to receive, upon vesting, one share of the Company s Common Stock plus any dividend equivalents that have accrued prior to the date of vesting.

The Senior Management Performance RSUs and associated dividend equivalents have a performance-based vesting component and a service-based vesting component, and each Senior Management Performance RSU vests upon the later to occur of the satisfaction of the relevant performance-based and service-based vesting component. The performance-based component is satisfied with respect to installments of 25% of the Senior Management Performance RSUs in the event that the Company maintains, for a period of 15 consecutive trading days prior to June 30, 2014, stock price targets of $9.00, $13.00, $17.00 and $21.00, respectively. The service-based component, which is subject to a grantee s continued employment over a period of four years, is satisfied with respect to 25% of the Senior Management Performance RSU s on each of June 30, 2010, 2011, 2012 and 2013. Upon the consummation of a change of control of the Company, all Senior Management Performance RSUs vest in full. In the event of a termination of a grantee s employment due to his death or disability, each unvested Senior Management Performance RSU vests to the extent that:

the service-based component relating to that Senior Management Performance RSU would have been satisfied had the grantee remained employed for an additional 24 months; and

the performance-based component relating to that Senior Management Performance RSU is satisfied at any time through the earlier of the 24-month anniversary of the grantee s termination and June 30, 2014.

All vested Senior Management Performance RSUs will be distributed in shares of the Company s Common Stock. At the Company s option, the Company may pay dividend equivalents in cash or Common Stock. The Senior Management Performance RSU awards awarded to our named executive officers other than Mr. Duncan were as follows:

Executive Officer	Senior Management Performance RSUs
Scott A. Musil	28,000
Johannson Yap	40,000
David Harker	28,000
Peter Schultz	28,000

The performance-based component was satisfied with respect to 25% of the Senior Management Performance RSUs on each of (i) January 24, 2011 when the Company had maintained for a period of 15 consecutive trading days a stock price target of $9.00 and (ii) October 17, 2012 when the Company had maintained for a period of 15 consecutive trading days a stock price target of $13.00. Additionally, on each of June 30, 2010, 2011 and 2012, the service-based component was satisfied with respect to 25% of the Senior Management Performance RSUs.

The Long-Term Bonus Awards were intended by the Compensation Committee to be commensurate with awards issued to similarly situated individuals under comparable long-term bonus plans adopted by some of our peers. In this regard the Compensation Committee relied in part on the survey conducted in 2008 by our outside consultant, FPL, discussed above, with a particular focus on the long-term incentive plans adopted by AMB Property Corporation, Eastgroup Properties, Inc., ProLogis and DCT Industrial Trust Inc. The Compensation Committee did not use this survey as a benchmark, but rather to gauge generally the appropriateness of the levels of compensation payable to its executive officers in connection with the Long-Term Bonus Awards.

Mr. Yap s receipt of a larger Long-Term Bonus Award than Messrs. Musil, Harker and Schultz was an acknowledgement of Mr. Yap s additional responsibilities as Chief Investment Officer, in addition to his role as head of the Company s West Region.

The Company is currently evaluating a new long-term bonus plan with a continued focus on long-term stockholder value creation.

2012 Retention Bonus Plan