

SEC Adopts Changes to Accredited Investor Definition

Description

On August 26, 2020, Jay Clayton, Chairman of the U.S. Securities and Exchange Commission (SEC), released a Statement on Modernization of the Accredited Investor Definition. This Statement reflects the SEC's commitment to expanding the pool of eligible accredited investors. For over thirty years, the accredited investor test for individuals has been a binary test based on an investor's income and net worth. Passing or failing the "test" has significant consequences: if an investor meets the net worth and income thresholds, then the investor is "accredited" and can participate in the private capital market, if not, the investor will typically be excluded from private investing.

The accredited investor test has historically been criticized for excluding many financially sophisticated but low income/net worth individuals from private investing. As Chairman Clayton notes in the Statement, startups located in "geographic areas with lower concentrations of accredited investors, or founders without a wealthy friends-and-family network – are unable to seek investments from otherwise financially sophisticated individuals to access much needed seed and growth capital." This has likely disproportionately impacted underrepresented founders and investors.

Accordingly, the SEC will allow persons who hold certain professional certifications and designations and other credentials from accredited educational institutions to be deemed "accredited," regardless of their net worth or income. The initial certifications that will confer accredited status include the Financial Industry Regulatory Authority, Inc. (FINRA) Licensed General Securities Representative (Series 7), Licensed Investment Adviser Representative (Series 65), and Licensed Private Securities Offerings Representative (Series 82) certifications.

Some commentators in the financial industry have expressed concern that conferring accredited investor status on individuals with the above certifications will not significantly expand the pool of accredited investors, however, the changes to the rule are a step in the right direction, and the SEC will presumably add additional qualifying credentials to further increase the number of individuals who qualify as accredited investors. Over time, these changes should result in more access to capital for early stage companies. The SEC has also adopted changes to the accredited investor rules with respect to institutional investors.

The click to view the full [Statement on Modernization of the Accredited Investor Definition](#)

The Partridge Snow & Hahn [Business Law Practice Group](#) is ready to answer questions and will continue to monitor updates to the rules.

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