

**MEMO# 35574**

January 8, 2024

# SEC Issues Staff Report on Accredited Investor Definition

[35574]

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TO: ICI Members  
Closed-End Investment Company Committee  
Investment Advisers Committee  
SEC Rules Committee SUBJECTS: Closed-End Funds  
Compliance  
Investment Advisers RE: SEC Issues Staff Report on Accredited Investor Definition

On December 15, 2023, the SEC issued a staff report on the accredited investor definition.[\[1\]](#) The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") directs the SEC to undertake a review of the accredited investor definition at least once every four years to determine whether the requirements of the definition should be adjusted or modified for the protection of investors, in the public interest, and in light of the economy. The SEC staff has previously conducted two such reviews, in 2015 and 2019.

This current staff report focuses on changes in the composition of the accredited investor pool, including the extent to which accredited investors have the financial sophistication, ability to sustain the risk of loss of investment, and access to information that has traditionally been associated with an ability to fend for themselves. It analyzes accredited investor participation in the Regulation D market and concludes with a review of frequently suggested revisions to the accredited investor definition received from a variety of sources, including public commenters, the Investor Advisory Committee, and the Small Business Capital Formation Advisory Committee. Unlike the 2015 staff report,[\[2\]](#) the 2023 staff report offers no recommendations for changes to the accredited investor definition and instead requests public comment on the report.

The 2023 staff report provides a background highlighting increased reliance on exempt offerings and the accredited investor definition, in addition to a summary of prior Dodd-Frank Act reviews and limitations. Notably, the 2023 staff report discusses the limited transparency of the Regulation D market and that the SEC staff lacks information regarding the number of natural persons who meet the financial qualifications in the accredited investor definition. The 2023 staff report also discusses that the SEC's estimates indicate that the percentage of US households that qualify as accredited investors has grown steadily in the past four decades since the accredited investor definition was adopted. The

report attributes the increase to the fact that the natural person accredited investor thresholds have not been adjusted to reflect inflation. The 2023 staff report estimates that if accredited investor thresholds are not adjusted for inflation going forward, approximately 30% of households will qualify as accredited investors by 2032. Further, the 2023 staff report emphasizes the expanded role of retirement savings and changes to related market practices as likely affecting the pool of accredited investors.

As noted above, while the 2023 staff report provides no recommendations, it emphasizes several previous proposals concerning the accredited investor definition. For example, the report notes 2015 and 2019 staff report recommendations to index all financial thresholds in the definition for inflation on a going-forward basis. Additionally, in connection with 2020 amendments to the accredited investor definition, the SEC staff report discusses comments received on whether to make a one-time inflation adjustment to reflect inflation since 1982.

Lastly, the 2023 staff report reviews a number of recent recommendations regarding the definition, including the recommendations from the 42nd annual SEC Government-Business Forum on Small Business Capital Formation. It notes that the SEC's Investor Advisory Committee recently considered the accredited investor definition at its September 2023 meeting but the Committee did not provide its recommendations.

The staff's request for public comment on the 2023 staff report should be considered in light of the SEC's updated regulatory agenda<sup>[3]</sup> which notes that the SEC is considering proposing updates to Regulation D, including the accredited investor definition.

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#### Notes

<sup>[1]</sup> Review of the "Accredited Investor" Definition under the Dodd-Frank Act (2023), available at <https://www.sec.gov/files/review-definition-accredited-investor-2023.pdf>.

The term accredited investor is defined under Rule 501(a) of Regulation D. A person who qualifies as an accredited investor is able to invest in certain private securities offerings. To be an accredited investor, a natural person must (i) have a net worth exceeding \$1 million (either alone or with their spouse and excluding the value of their primary residence), (ii) have an annual income over \$200,000 (or joint income with their spouse of over \$300,000) for each of the two most recent years, (iii) be a partner of the entity making the private offering, or (iv) satisfy one of the other relevant requirements in Rule 501(a). Institutions may qualify as accredited investors based on their status alone or on a combination of their status and the amount of their total assets or investments.

<sup>[2]</sup> Review of the "Accredited Investor" Definition under the Dodd-Frank Act (2015), available at <https://www.sec.gov/corpfin/reportspubs/special-studies/review-definition-of-accredited-investor-12-18-2015.pdf>

<sup>[3]</sup> See Agency Rule List - Fall 2023, available at

[https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION\\_GET\\_AGENCY\\_RULE\\_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=3235&csrf\\_token=D7741A58844EC9AB28211672D24FE1FE997D0D3D58652E3CDFC516FE9E835BD30F692416284FC85D7E25E7E938B9BC88DD3E](https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=3235&csrf_token=D7741A58844EC9AB28211672D24FE1FE997D0D3D58652E3CDFC516FE9E835BD30F692416284FC85D7E25E7E938B9BC88DD3E).

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