On August 26, 2020 the Securities and Exchange Commission (SEC) voted 3-2 in favor of expanding the definition of an accredited investor. The final rule comes after months of delay, and the amendments are in substantially the same form as originally proposed. Below is a summary of the final rules, including any changes from the proposed rules.

- Individuals passing certain professional certification examinations (Series 7, Series 65 and Series 82) now qualify as accredited investors. The SEC added in the final rule that an indication that the individual holds the certification must be made publicly available and that the certification holders must maintain their license or registration in good standing.

- Knowledgeable employees of private funds now qualify as accredited investors. The final rule adds that accredited investor status is attributed to a knowledgeable employee’s spouse with respect to joint investments.

- Certain entities that now qualify as accredited investors includes:
  - registered investment advisers (the final rule also includes exempt reporting advisers);
  - rural business investment companies;
  - limited liability companies;
  - other entities meeting an investments-owned test; and
certain family offices and family clients (the final rule also requires that the family office’s purchase be directed by a person who has certain financial and business knowledge).

- Natural persons may include joint income from spousal equivalents when calculating joint income.

Proponents see the rule as a fairness issue. They feel the traditional rule’s binary test for wealth has left many financially sophisticated investors, particularly those in lower income and lower cost-of-living areas, at a disadvantage. Opponents see the rule as an investor protection issue. They criticize the fact that the income and wealth thresholds were not adjusted for inflation and have not been since 1982. They feel that this omission leaves unsophisticated and elderly investors vulnerable to fraudulent schemes.

The next review of the accredited investor definition is scheduled for 2023, as required under the Dodd-Frank Act. The final rule becomes effective 60 days after publication in the Federal Register.

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