



SEC Advised to “Do No Harm” to Accredited Investor Definition

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The Committee ultimately made four recommendations to the SEC:

1. As the SEC reviews the definition of “accredited investor” in Rule 501 under the Securities Act of 1933, the primary goal should be to “do no harm” to the private offering ecosystem. Accordingly, any modifications to the definition should have the effect of expanding, not contracting, the pool of accredited investors. For example, we would recommend including within the definition of accredited investor those investors who meet a sophistication test, regardless of income or net worth.
2. To take into account the effect of future inflation, on a going forward basis the SEC should adjust the accredited investor thresholds according to the consumer price index.
3. Rather than attempting to protect investors by raising the accredited investor thresholds or excluding certain asset classes from the calculation to determine accredited investor status (which we believe are measures of dubious utility), the SEC should focus on enhanced enforcement efforts and increased investor education.
4. The SEC should continue to gather data on this subject for ongoing analysis.

The SEC will ultimately need to propose and adopt rules implementing one or more of these recommendations before any would go into effect. In the meantime, small public companies and emerging companies can breathe a sigh of relief knowing that the wide-reaching recommendations of the SEC’s Investor Advisory Committee from last October seem to have fallen on deaf ears and, consequently, a significant source of capital should remain intact.

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