ADISA applauds federal public policy efforts to expand the definition of Accredited Investor

Our Position

Americans deserve access to truly diversified portfolios that include traditional market-traded securities such as equities, bonds and mutual funds, including ETFs. Savers and investors have increasingly looked to include alternative investments in their portfolios, and many of these are made available solely to "accredited investors." Under the Securities Act of 1933, investments sold to accredited investors are generally free from most registration and filing requirements, as eligible investors are considered able to make investment decisions on their own. Such eligibility is generally based on financial factors, such as net worth or income.

Permitting those with demonstrated knowledge to invest in limited offerings provides opportunity for such investors to create wealth, as well as supports capital formation activities that bolster businesses and communities. ADISA commends the U.S. House of Representatives for taking a bipartisan step forward in this regard with the passage of legislation to broaden the definition of accredited investor.

A trio of bipartisan bills to modernize the Accredited Investor definition - *HR 835 (Fair Investment Opportunities for Professional Experts Act), HR 1579 (Accredited Investor Definition Review Act), and HR 2797 (Equal Opportunity for All Investors Act of 2023)* - have passed the House and are awaiting action by the Senate Committee on Banking, Housing and Urban Affairs.

Specifically, we are grateful for the leadership of Representative French Hill (R-AR), who has been a long-time champion of this issue. We also applaud the steadfast leadership of the House Committee on Financial Services to shepherd these bills through the Committee, specifically Subcommittee on Capital Markets Chair Ann Wagner (R-MO), Committee Ranking Member Maxine Waters (D-CA), and Committee Chair Patrick McHenry (R-NC).

ADISA supports policies that expand the universe of investors with access to alternative investments that are limited to accredited investors, especially for people of color and those of diverse financial means and socioeconomic backgrounds who have historically been unable to participate in these investments.

- The definition of accredited investor, in use for 40 years, has generally been based on financial factors, such as income or net worth, without any real consideration of the investor's knowledge or sophistication about investments, especially alternatives. According to the Securities & Exchange Commission (SEC), 13% of U.S. Households qualify for accredited investor status and may obtain access to certain investments, under the current definition. The wealth gap between the races is exacerbated by fewer African Americans, Hispanics and other persons of color being able to qualify as accredited investors under the current annual income ($200,000) and net worth ($1 million) standards, further increasing the already wide wealth gap. (Fed Reserve Board

2019 data: median net worth of Whites=$188.2k, Blacks=$$24.1k, Hispanics=$36.1k, Others= $74.1k).

- Preserving the current net worth and income standards would allow historically disadvantaged investors to reach accredited status in proportion to the broader population as their wealth grows over time. Moving the thresholds upwards would likely remove many investors who have only recently reached accredited status.

- Public policies supporting additional upward adjustments of the income or asset requirements will widen the already disparate treatment of historically disadvantaged investors: first, by shrinking their overall representation in the universe of US persons who are accredited investors; and second, by exacerbating the wealth gap with fewer African Americans and persons of color able to qualify as Accredited Investors with the relatively high income threshold. At the same time, white wealth continues to gain through private investing.

Alternative investments have become a fundamental driver of our nation's capital markets, and policies that expand investor options strengthen this foundation.

- Private investments fill an urgent need for capital in the US not only to grow the economy but also to meet the needs of small businesses, especially African American and Hispanic owned businesses. These minorities are under-represented as investors, as shown above, but also receive a disproportionality low percentage of total funding in capital investment (60% of Black entrepreneurs report not receiving full funding compared to 40% of white counterparts, according to SBA researchers).

- Investments in private markets are generally not correlated to the public markets, thereby avoiding the volatility of public markets. For many institutional investors, the inclusion of private investments in their portfolio strategy has been paramount to generating wealth in exchange for typically lower liquidity: in the 10-year period from 1999-2009, the generic 60% equity/40% bond ratio after fees returned absolutely 0%, while the heavily managed Yale, Harvard, and Stanford portfolios with investments accessible to accredited investors performed from 135% to 198% in total. Over that same period, the S&P 500 Index lost 35%. It is time to level the playing field for investors and give them greater ability to invest similar to "endowment" model investing.

The time has come to examine and reimagine an Accredited Investor definition that encompasses a more diverse universe of investors.

- While the current definition relies principally on measures of assets or income, other considerations like knowledge of markets, understanding of the principles underlying investing, investing experience, access to information, risk tolerance, and more are part of a complex set of factors that merit consideration as a means of expanding – and not shrinking - access to the universe of investment opportunities that are limited to accredited investors.

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