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Via Electronic Filing

Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

RE: Report on the Review of the Definition of “Accredited Investor”

Dear Mr. Fields:

The Cornell Securities Law Clinic (“Clinic”) submits this comment letter to respond to the Securities and Exchange Commission’s (“Commission”) staff recommendations found in the Report on the Review of the Definition of “Accredited Investor” (“Report”).¹ The Clinic is a Cornell University Law School curricular offering in which law students provide representation to public investors and public education as to investment fraud in the largely rural “Southern Tier” region of upstate New York. For more information, please visit <http://securities.lawschool.cornell.edu>.

On December 18, 2015, the Commission published the Report proposing to update the definition of accredited investor, as used under Regulation D of the Securities Act. Under the current definition, natural persons who have an income exceeding \$200,000 (or \$300,000 in joint income with a spouse) in the last two years and a net worth exceeding \$1 million (individually or jointly with a spouse) qualify as accredited investors. The current definition has not been comprehensively re-examined since 1982. Further, Section 413(b)(2)(A) of the Dodd-Frank Wall Street Reform and Consumer Protection Act requires the Commission to review the definition every four years. The Clinic agrees that revision of the definition of “accredited investor” is necessary.

The Clinic supports eight of the Commission’s eleven recommendations regarding the definition of “accredited investor.” Like the Report, the Clinic separates its analysis of the Commission’s recommendations into financial and qualitative thresholds.

¹ We recognized the Report is a staff recommendation, but refer to it in this comment letter as the Commission’s recommendation for ease of reference.



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I. Analysis of Financial Thresholds for Qualifying as an Accredited Investor

A. The Clinic opposes the Commission’s recommendation to keep current asset and net income thresholds with investment limitations.

The Commission proposes keeping the current asset and net income thresholds because “leaving the threshold would not diminish the size of the accredited investor pool and . . . provide a mechanism for individuals to continue to invest in private offerings.” (Report at 90) However, the Clinic believes that other recommendations discussed in this letter can help to achieve this goal.

While maintenance of capital formation remains an important goal for Regulation D, keeping the current threshold fails to accurately ascertain financially sophisticated investors in light of current market inflation.² For example, households meeting the current threshold may be “elderly, with savings accumulated over the course of decades” and lacking “the financial literacy necessary to understand the risks of investment in restricted, unregistered securities.”³ Providing investment limitations also fails in this respect: rather than addressing such a goal, the limitations instead simply serve as a fail-safe in the event that financially unsophisticated investors qualify and incur losses under the current threshold.

The Clinic advises the Commission to focus on the main goals of Regulation D—identifying a category of investors whose financial sophistication and ability to sustain the risk of loss of investment or ability to fend for themselves render the protections of registration unnecessary—by overhauling the current threshold, rather than by simply mitigating it with investment limitations. (Report at 1).

Additionally, one of the benefits of the current threshold for accredited investors is that they are “bright-line financial thresholds that are relatively easy to understand and administer” (Report at 41). Adding investment limitations may not only fail to address issues of capital formation and identifying sophisticated investors, but also add administrative costs and complexity that may then restrict otherwise qualified investors.

For example, in 2007, the Commission detailed that “Regulation A limits the amount of securities non-accredited investors can purchase . . . to no more than 10% of the greater of their annual income or their net worth.”⁴ (Report at 52). However, Regulation A exemptions are rarely used because its qualification process usually lasts over three hundred days with exceeding costs and effort.⁵

² See Final Report on the 2014 SEC Government-Business Forum on Small Business Capital Formation (May 2015), available at <https://www.sec.gov/info/smallbus/gbfor33.pdf>.

³ *Id.* at 17–18.

⁴ See also 17 CFR 230.251(d)(2)(i)(C).

⁵ See Paige M. Lager, Note, *The Route to Capitalization: The Transcendent Registration Exceptions for Securities Offerings as a Means to Small Business Capital Formation*, 94 TEX. L. REV 567, 575 (2016).

The Commission also seeks to “ensure that all the households that currently qualify as accredited investors on the basis of income or net worth continue to be qualified” (Report at 101). The Clinic supports grandfathering in accredited investors under the current definition.⁶ Thus, the Clinic supports removing the current thresholds in order to remove redundancy in the rules and to align with the Commission’s goal to ease complexity and administrative burdens.

B. The Clinic supports the Commission’s recommendation to create inflation-adjusted income and net worth thresholds, not subject to investment limitations.

By itself, adjusting the thresholds for inflation conflicts with the goals of Regulation D. Raising threshold levels would decrease the number of accredited investors; this would limit capital formation, which is ever-increasingly needed by emerging growth companies. Instead, companies may be forced to rely on the 4(a)(2) exemption: a more unpredictable, complex rule that would further limit capital formation. (Report at 12). More importantly, under this recommendation, emerging growth companies would find it more difficult to raise capital due to the decrease in accredited investors.

However, inflation-adjustment in conjunction with the additional recommendations mentioned later in this comment would alleviate the aforementioned problem of capital formation. Thus, the Clinic supports the Commission’s recommendation to create inflation-adjusted income and net worth thresholds. Further, adjusting inflation to reflect current market value would adhere with the 1982 drafters’ goal of identifying a category of investors whose financial sophistication and ability to sustain the risk of loss of investment or ability to fend for themselves render the protections of registration unnecessary.

Adjusting for inflation is particularly important for Regulation D: over 80% of Regulation D exemptions were issued by private companies.⁷ Private companies are “not subject to the additional rules and scrutiny of FINRA.”⁸ Thus, “the opportunity for a fraudulent issuer to solicit and defraud an uninformed investor with little to no knowledge or sophistication in investing is further increased.”⁹ Particularly, SEC Rule 506, which relies on the accredited investor definition, is “the most common vehicle for fraud, as they are highly illiquid, and lack transparency and regulatory oversight.”¹⁰ In conclusion, the Clinic supports inflation adjustments because it would more accurately

⁶ *Infra* Section I, F.

⁷ See Ilon Oliveria, Comment, *Regulation of Rule 506 Private Placements: The Teetering Balance Between Investor Protection and Capital Formation*, 45 GOLDEN GATE U.L. REV. 297, 301 (2015).

⁸ *Id.*

⁹ *Id.*

¹⁰ Richard Hill, *NASAA Cites Dangers Made Possible by JOBS Act in Releasing Top Threats List*, Sec. L. Daily (BNA) (Oct. 15, 2013).

qualify financially sophisticated investors than the current income and net asset thresholds.

C. The Clinic supports the Commission's recommendation to index financial thresholds for inflation.

The Clinic supports indexing financial thresholds for inflation in conjunction with the Clinic's support to create inflation-adjusted income and net asset thresholds. This would keep these financial thresholds current with the market and thus more accurately qualify financially sophisticated investors.

D. The Clinic opposes the Commission's recommendation to permit spousal equivalents to pool their finances for the purpose of qualifying as accredited investors.

The Commission considers permitting spousal equivalents to pool their finances for the purpose of qualifying as accredited investors, stating it would "provide consistent regulatory treatment among marriages, civil unions and domestic partnerships." (Report at 92). However, the Commission does not provide a clear rationale behind why civil unions and domestic partnerships should be given equal regulatory treatments as marriages other than that such treatment would provide consistency across Commission rules such as the family office rule, accountant independence standards, and crowd-funding rules.¹¹

The Clinic opposes the Commission's recommendation to permit spousal equivalents to pool their finances for two reasons;

First, federal law does not treat marriages as equivalent to civil unions and domestic partnerships. For example, under federal tax law, individuals who have entered into a registered domestic partnership or civil union that is not denominated as a marriage under state law are excluded from the definition of "marriage."¹² Accordingly, individuals in such a relationship are not deemed "spouse," "husband and wife," "husband," or "wife."¹³

Second, the family office rule, accountant independence standards, and crowd-funding rules are fundamentally different in nature from the accredited investor definition. Therefore, the Commission has no clear reason to use the term "spousal equivalents" under the accredited investor definition. The Commission defines "spousal equivalent" as "a cohabitant occupying a relationship generally equivalent to that of a spouse." (Report at 92). This definition is not equivalent to a spouse in a relationship denominated as marriage under the state law. Therefore, permitting spousal equivalents to pool their finances may encourage tax shifting because individuals who are taxed

¹¹ *Id.*

¹² Rev. Rul. 2013-17, 2013-2 C.B. 201.

¹³ *Id.*

separately (i.e. spousal equivalents) could be taxed less than a married couple due to different tax brackets between the two taxable units (single vs. married).¹⁴

If spousal equivalents do not get the same tax treatment as married couples (“spouses”), they would likely be taxed individually for any gains on their investments. Essentially, spousal equivalents who pool their finances would not be different from strangers who pool their finances from the federal law perspective. Therefore, the Clinic believes that no special treatment should be given for spousal equivalents under the accredited investor definition.

In addition, the Commission recommends that including the term “spousal equivalent” under the accredited investor definition would promote consistency across Commission rules such as the family office rule, accountant independence standards, and crowdfunding rules. (Report at 92) However, the Clinic notes that the accredited investor definition is fundamentally different from the family office rule, accountant independence standards, and crowdfunding rules.

“Family offices” are offices that provide financial services only to defined family clients, and there is no particular financial sophistication or financial threshold requirement for such offices.¹⁵ On the other hand, accredited investors are people with financial sophistication and substantial wealth who personally invest in financial offerings and therefore are exposed to financial risks. (Report at 2). Due to the differences in character between the two, “spousal equivalents” that may be included in “family clients”¹⁶ should not be included in the “accredited investor” definition.

The American Institute of Certified Public Accountants (“AICPA”) independence standards prohibit a covered member and closely-related persons (spouse, spousal equivalent, dependents, etc.) from having direct or indirect financial interest in an audit client.¹⁷ Again, no personal financial risk exists for the covered member. Rather, the purpose of including the term “spousal equivalent” in the AICPA independence standards is to prevent covered members and their closely-related persons from reaping inappropriate financial benefits to their own benefit.

Under the crowdfunding rule, the term “spousal equivalent” is included in the definition of the “member of the family of the purchaser or the equivalent” to whom a purchaser may *transfer* securities within one year of issuance. Again, there is no increased financial risk involved in transferring securities an individual has already purchased.¹⁸

¹⁴ I.R.C. §§1(a), 1(c).

¹⁵ 17 CFR 275.202(a)(11)(G)-1, 5.

¹⁶ *Id.* at 6.

¹⁷ AICPA Plain English Guide to Independence, at 27.

¹⁸ SEC RIN 3235-AL37, 612.

For family offices, accountant independence standards, and crowdfunding rules, the addition of the term “spousal equivalent” in relevant definitions seems to serve the purpose of limiting financial risks or windfall for the parties. For accredited investor, on the other hand, the addition of the term “spousal equivalent” seems to increase financial risks to the investors by enabling them to invest potentially large amount of money in financial offerings that they would not otherwise have been able to invest in.

In addition to spousal equivalents, the Commission should not allow spouses to unlimitedly pool their assets in order to qualify as accredited investors. The purpose of the “accredited investor” definition is to “identify those persons whose financial sophistication and ability to sustain the risk of loss of investment or ability to fend for themselves render the protections of the Securities Act’s registration process unnecessary.” (Report at 5). Permitting spouses to unlimitedly pool their finances would defeat the purpose of this definition because it would be difficult to evaluate an individual’s ability to sustain the risk of financial losses.

For example, consider the hypothetical where one spouse holds 80% of the qualifying assets and the other spouse only 20%. The second spouse does not have financial sophistication, and seeks to qualify as an accredited investor by pooling spousal finances. In such a case, how would we protect each spouse from undue financial risk? At the very least, the Commission should adopt some limit (for example, 50% of the threshold) to how much an individual can pool his or her spouse’s finances with their own.

In conclusion, the Clinic advises the Commission to not permit spousal equivalents to pool their finances for the foregoing reasons and to put a limit on the spousal pooling allowance to better achieve the purpose of the “accredited investor” definition.

E. The Clinic opposes the Commission’s recommendation to permit all entities with investment in excess of \$5 million to qualify as accredited investors.

The Commission considers modifying the accredited investor definition to include any entity with investments in excess of \$5 million and not formed for the specific purpose of investing in the securities to qualify as an accredited investor. (Report at 92). The proposed rule even suggests that replacing the assets test with an investments test would “provide a more meaningful standard for ascertaining whether an entity is likely to have sufficient knowledge in financial and business matters . . .” (Report at 92–93). The assumption underlying the recommendation seems to be that the amount of investment would proportionately reflect an entity’s financial sophistication. However, that assumption is unfounded. For example, an entity with no financial sophistication but with

substantial financial assets may randomly invest in a number of investments without properly gauging the risks.¹⁹

Under the current framework, certain non-financial entities such as Indian tribes, labor unions, and social enterprises are excluded from the definition of accredited investor, in contrast to financial institutions, which are included, such as banks, investment institutions, or other institutions run by financially sophisticated individuals. (Report at 76–77). If the definition is changed to include any entity with investments in excess of \$5 million and that was not formed for the specific purpose of qualifying as an accredited investor by investing in securities, any non-financial institutions including Indian tribes, governmental entities, and educational expense plans will be able to qualify as an accredited investment with any investments in excess of \$5 million.

However, the Clinic notes that there are a number of ways an entity can hold investments without being financially sophisticated. For example, entities could be endowed with gifts or donations of stock, real estate, and other commodity interests that may sum up to \$5 million. It would be unreasonable to permit an entity endowed with such gifts or donations to qualify as an “accredited investor” because the inclusion of those gifts does not reflect the entity’s own financial sophistication.

Furthermore, such an entity may hold all \$5 million in illiquid property interests without having sizeable, liquid assets in hand to weather through financial losses. Public entities with no financial-related background also likely may not have financial sophistication despite the size of their investments or wealth.²⁰ There is also a possibility that the investments may produce losses rather than gains. In such case, an entity with \$5 million in illiquid properties or high-risk investments and only a small amount of liquid assets may not be able to handle significant losses should the investments underperform.

While assets alone may not fully reflect the financial sophistication of an entity, as illustrated above, they are still a better criterion than investments, especially for public entities without financial background. The Commission would likely use the same “investments” definition as in the Investment Company Act Rule 2a51-1(b). (Report at 56). Because the definition includes securities, real estate, physical commodities, commodity interest, and financial contracts, (Report at 56), that are volatile and depreciable in nature, investments alone would not be a reliable criterion. However, if investments must be used as a criterion for accredited investor definition, the performance of investments or investment history would be a more reliable indicator of financial sophistication than the amount of investments.

¹⁹ See Greg Oguss, Note & Comment, *Should Size or Wealth Equal Sophistication in Federal Securities Laws?*, 107 NW. U.L. REV. 285, 302 (2012) (discussing cases where public entities have lost money by investing without fully understanding the risks involved).

²⁰ See *id.* (suggesting that public entities’ wealth and size are poor proxies for financial sophistication).

F. The Clinic opposes the Commission's recommendation to permit an issuer's investors that meet and continue to meet the current accredited investor definition to be grandfathered with respect to future offerings of the issuer's securities.

Even if an investor meets and continues to meet the current accredited investor definition for existing investments, the investor should meet a new accredited investor definition, if any, with respect to future offerings of an issuer's securities. The future offerings of the issuer's securities may not necessarily have the same level of financial risk as the issuer's former offerings. The investor may be exposed to greater financial risk and, therefore, should also meet the new accredited investor definition for future offerings, regardless of the issuer or existing investments.

II. Analysis of Qualitative Thresholds for Qualifying as an Accredited Investor

A. The Clinic supports the Commission's recommendation to include individuals with a minimum amount of investments.

Allowing individuals to qualify as accredited investors through a minimum amount of investments aligns with the Commission's goal to determine which individuals are exempt from public securities law requirements due to financial sophistication. (Report at 5). The investment amount qualification is also a bright-line rule that affords issuers easy determination of investors exempt from public security regulations. (Report at 6). The ease of determination in turn reaches the Commission's goal to facilitate capital formation in private markets while protecting unsophisticated and undercapitalized investors. (Report at 5).

The inclusion of an investment amount qualification would minimally increase the number of households that can become accredited investors. Under the current qualifications to become an accredited investor, there is significant overlap between households that qualify due to income and net wealth and those that would meet the recommended \$750,000 investment amount criteria; the net change resulting from an investment amount qualification would only be approximately 1.65 million people, increasing the total pool of accredited investors to 10.3 million people. (Report at 103).

While the recommendation would be beneficial overall, the Commission should limit the type of investments to investments made by the investor in his personal capacity. To allow investments inherited from previous estates or that occurred due to third parties would defeat the purpose of the rule to identify investors with financial sophistication and would be akin to a threshold amount for income or wealth.²¹ Instead, requiring some individual discretion in the investments would greatly reduce the

²¹ *C.f.* Oguss, *supra* note 18, at 301–10 (arguing that wealth and income are poor proxies for financial sophistication).

occurrence of the financial unsophisticated or inheritors of wealth from becoming accredited investors.

In conclusion, the investment amount qualification would reach the Commission's goals while protecting the small public investor because of the higher (\$750,000) recommended threshold.

B. The Clinic supports the Commission's recommendation to include individuals with certain professional credentials.

While the Clinic generally supports the addition of professional credentials within the definition of accredited investor, it cautions against a broad amount of credentials as qualifiers. Certain professional degrees do not teach investment advice or skills with certainty (for example, a juris doctor), and the Commission notes that the net increase in the number of individuals that would fit under the "credential requirements" of the definition of accredited investor is unknown. (Report at 103–04).

The objective of adding professional credentials as criteria is to denote who has sufficient sophistication as an investor without necessarily having a sufficient income or net wealth under these regulations. (Report at 94–95). Because of the Commission's goal to balance financial sophistication and the ability of investors to sustain a risk of loss of investment or the ability to fend for themselves (Report at 5), the professional credential requirement should be substantially high to cause financial sophistication to make up for the loss in ability to sustain financial losses. Additionally, an individual that recently attained a professional degree may still be a novice investor because of lack of financial or business experience.²²

While education correlates to the sophistication of the investor, and advanced degree in business or financial fields are extremely relevant in the analysis,²³ sophistication in the securities field depends more on relevance of education than education level²⁴ and on experience within the field.²⁵ Rather than education or name of the degree, the Commission should focus on what training the individual has received in the relevant investment field to indicate whether the individual is financially sophisticated. Because experience in the field is one of the best indicators of financial sophistication, professional credentials included as part of the test for an accredited investor should be narrowed depending on relevance. This narrowing is important to

²² See *Kohler v. Kohler Co.*, 319 F.2d 634, 642 (7th Cir. 1963); 5 Bromberg & Lowenfels on Securities Fraud § 7:444 (2d ed.).

²³ C. Edward Fletcher, III, *Sophisticated Investors Under the Federal Securities Laws*, 1988 DUKE L.J. 1081, 1096–97 (1988).

²⁴ See 1 Sec. Counseling for Small & Emerging Companies § 6:6 (2015) ("One court characterized a clearly sophisticated real estate investor as 'a babe in the woods when it came to stocks.'"); Lawrence C. Melton, *Giants and Pygmies: The Fallacies of the Sophisticated Investor Doctrine*, 13 PIABA B.J. 64, 67 (2006) (noting that the SEC has found that a current student seeking an economics degree and a graduate of Harvard business school are not necessarily sophisticated).

²⁵ See Melton, *supra* note 23.

account for the shift in favor from capital requirements to sophistication requirements to become an accredited investor in this context.

In conclusion, the Commission should add certain professional credentials to the qualifications of the definition of accredited investor but be wary of the number and scope of those credentials that are allowed within the definition.

C. The Clinic supports the Commission's recommendation to include individuals with experience investing in exempt offers.

When disregarding investment and capital requirements for accredited investors in favor of financial sophistication, the Commission's main goal is to determine sophistication. The quintessential sign of sophistication is experience in the field,²⁶ and investors that have previously invested in offers exempt from the Commission's regulations may be particularly experienced. It is important to define the scope of this experience, which the Commission has done in this case by recommending experience in at least ten exempt offers from unique issuers in order to fit under the definition of accredited investor. (Report at 95).

The Commission should be cautious of how it defines the scope of experience required to fall under this new qualification for number of exempt offers invested in. For example, courts tend to reject objective tests of sophistication, like the number of prior investments, and apply a subjective test to determine the investor's knowledge of investments when the court is suspicious of the investor's sophistication.²⁷ Further, the success and soundness of prior investments is sometimes examined to determine if the individual investor is sophisticated.²⁸

The Commission should at least make the number of previous investments in exempt offers a high number to qualify as an accredited investor. The Commission's justification for ten exempt offers seems to be that, on average, current angel investors has invested ten times in exempt offers. (Report at 95). Ten exempt offers seems arbitrary and may be a problem for several reasons.

First, the average number of investments does not directly link to any indicia of sophistication, except for the *assumed* sophistication of angel investors. Second, the ten exempt offers qualification seems to be a proxy to determine who is an angel investor, but fails to distinguish between supposedly highly sophisticated angel investors and small public investors who have invested ten times but are not experienced, or invested ten

²⁶ See *supra* Section II, B.

²⁷ 15A Broker-Dealer Reg. § 5:4.

²⁸ ¶ 12,685.6218 CUSTOMER EXPERIENCE, Comm. Fut. L. Rep. P 12685.6218. The only investors that the courts determine are sophisticated simply by past investments seem to be investors with extensive investing experience. See *Henderson v. Hayden, Stone Inc.*, 461 F.2d 1069, 1071 (5th Cir. 1972) ("Henderson has an investment portfolio which amounts to several million dollars. He . . . devotes full time to managing the investments in the portfolio . . . Mr. Henderson can only be described as a sophisticated investor.").

times and made ten bad investments. More research should be done to observe if the ten-investment average of angel investors in exempt offers is also the same or close to the same average number of other investors.

In conclusion, the number of prior investments is a great indication of experience and, therefore, sophistication, but the actual number of prior investments to qualify should be re-examined because of its arbitrariness and the effect it may have on individual investors not considered angel investors.

D. The Clinic supports the Commission's recommendation to include knowledgeable employees of private funds to qualify as accredited investors for their employer's funds.

Knowledgeable employees of private funds are likely some of the highest levels of financial sophistication among potential investors. For example, due to the complexities of the different financial strategies undertaken by hedge funds, hedge fund employees almost for certain possess the financial sophistication necessary to gauge the risks and rewards from investment, i.e. they are more than capable to fend for themselves.²⁹ Further, knowledgeable employees are extremely unlikely to fall victim to fraudulent schemes if they invest in their own funds. Thus, this recommendation aligns with the goal of investor protection while achieving increased capital formation.

E. The Clinic supports the Commission's recommendation for an accredited investor examination.

As part of the Report, the Commission stated that an "accredited investor examination could be a universal criteria that would be available to anyone regardless of wealth, educational background, professional experience or any other factor. Individuals who are unable to qualify as accredited investors under any other criteria could take an examination as an alternative means to qualify." (Report 65).

The Clinic supports the Commission's recommendation for an accredited investor examination for three reasons: (1) it would increase the number of informed investors in the market, (2) it would promote capital formation, and (3) regulating investors would promote increased regulatory efficiency.

First, having an accredited investor examination would increase the number of informed investors in the market because passing a rigorous test is a bright-line rule that shows an advanced level of financial sophistication and indicates that the investor is able to fend for themselves.³⁰ As numerous commentators have recognized, net worth in itself

²⁹ Wallis K. Finger, *Unsophisticated Wealth: Reconsidering the SEC's "Accredited Investor" Definition Under the 1933 Act*, 86 WASH. U.L. REV. 733, 745 (2009).

³⁰ See Stephen Choi, *Regulating Investors Not Issuers: A Market-Based Proposal*, 88 CAL. L. REV. 279 (2000).

is not an indication of financial sophistication.³¹ One proposal rightly points out that a passing score for a sufficiently rigorous exam would allow the Commission to effectively determine that an investor is financially knowledgeable and sophisticated.³² Indeed, if the Series 7 or Series 82 exams effectively qualifies individuals to manage other people's money, why shouldn't those exams, or comparable exams, qualify individuals as an accredited investor to manage their own money?

Second, regulating investors rather than other securities market participants would allow for more individually tailored protections "based on the informational needs of specific segments of investors."³³ Seemingly, such regulation may cut down on the complexity of regulation. Further, investor focused regulation shifts of the burden of information gathering onto individual investors. This shift in a burden would cut down on the number of securities disputes because investors would be more aware of the financial products they are involved in thereby reducing the chance of them falling to frauds while theoretically reducing the chance of an ill-informed investor making false claims, whether in good or bad faith.

Third, an accredited investor exam aligns with the goals of promoting capital formation. Quite simply, allows for more people to qualify as an accredited investor who otherwise would not do so. This allows more capital into the market. Further, there is a reduced chance of moral hazard compared to the wealthy but well-informed investor. Therefore, the exam is a relatively low-risk means of increasing capital formation.

³¹ Manning Gilbert Warren III, *A Review of Regulation*, 47 OKLA. L. REV. 291, 382 (1994); *see also* Finger, *supra* note 28 (comparing a recent MBA graduate from Harvard, who also holds a PhD in financial analysis yet is high on debt and short on assets, to a wealthy but notoriously ill-informed reality TV star).

³² Finger, *supra* note 28, at 760.

³³ Choi, *supra* note 29, at 283.

III. Conclusion

The Clinic generally supports the Commission's proposed rule to change the definition of the accredited investor. However, the Clinic advises that the Commission reconsider specific recommendations as mentioned in this letter.

Respectfully Submitted,



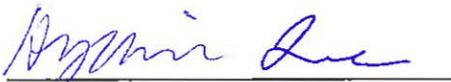
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