

Accredited Investor Review

Recently, David Goldenberg, one of VLP's founding partners and a member of our Corporate Group, was interviewed by the *Daily Journal* regarding a review by the Securities and Exchange Commission (SEC) of accredited investor rules. The article, titled "Investment Rules Undergoing Rare Review" discusses the SEC's unprecedented review of what defines an "accredited investor" – or who can invest in private companies – a definition that has remained mostly unaltered for almost thirty years.

The accredited investor definition is a critical component of all private company investments. In many cases, if an investor is unaccredited, even offering securities to those individuals (whether or not they invest) can dramatically increase the complexity of the financing, or even prevent the company from raising funds altogether.

The SEC's review will examine what qualities make an individual best suited to make private investments. Alongside an economic analysis of the possible effects of redefining an accredited investor, the SEC is also taking into consideration different factors to determine investor status including profession, educational background or current investments.

In the past, a person's wealth was the main factor in determining whether or not they would qualify as an accredited investor. The current qualification for individuals is at least \$1 million in net worth (excluding your primary residence) or \$200,000 in annual income (for the two most recent years, \$300,000 if you are married) to qualify.

The rule has not been adjusted (even for inflation) in a long time. Any major change to this definition could result in a host of issues, and will impact emerging companies who rely on sales of private securities for financing.

However, most attorneys knowledgeable on the subject expect minimal changes to come from the SEC. Goldenberg told the *Daily Journal*, "Any effort to dampen venture investment flies in the face of the express intent of the JOBS Act, which was to open up capital to broader sources."

The overriding belief is that the SEC will handle this issue with caution and consideration.

To read the full article, click [here](#). (subscription required)