



**Are Your Investors Still "Accredited"?**

Washington D.C.'s attempt to fix Wall Street may cause some road blocks on Main Street for opportunistic real estate investors seeking to acquire distressed properties and turnaround opportunities and other startups and entrepreneurs raising private capital for other business ventures. While much of the impact of the massive [Dodd-Frank Wall Street Reform and Consumer Protection Act](#) (all 2,300 pages of it) is unknown at this time, the Act brings immediate changes to the types of individuals from whom funds can be raised.

Through changes to [Regulation D of Rule 501 in the Securities Act of 1933](#), commonly known as "Reg D", the Act modifies the definition of an "Accredited Investor" - the individual from whom companies may raise money without first registering with the [Securities and Exchange Commission](#). Up until now, qualifying as an Accredited Investor meant either (i) having earned \$200,000 during each of the previous two years (with the likelihood of earning the same during the forthcoming year) **OR** (ii) having at least \$1 million of net worth - including **ALL** investments and the investor's own home.

The new Act immediately removes the value of an investor's primary home residence when calculating the \$1 million net worth limit. This means that individual investors must now have true investments in excess of \$1 million. Fortunately, this change does not apply retroactively so existing investors no longer able to meet the newer standards are not be forced to redeem their holdings. But any new money going forward will have to come from Accredited Investors meeting the new standard. The SEC has also reserved the right to increase the \$1 million threshold in four (4) years to account for inflation. Nevertheless, venture capital funds are overall feeling good about the new Act given that earlier versions of the proposed legislation would have required that all venture capital funds register with the SEC.

It is critical that individuals and companies embarking on new real estate and investment opportunities be aware of the change in the legal definition when approaching potential investors seeking to invest in real estate and other business ventures. Most importantly, it is crucial that recycled, previously used, or "form" legal documents and marketing materials be updated and revised by qualified legal counsel to ensure current compliance with the law.

We have a broad range of transactional experience assisting clients with the structuring and negotiation of their private offerings and realted agreements to thrive in any market and achieve their objectives.

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