



Association for Corporate Growth

Regulatory Reform Issue Brief

Modernize The Investment Advisers Act.

The Dodd-Frank Act subjected nearly all advisers to private equity firms to register as investment advisers with the SEC, thereby subjecting them to the regulations under the Investment Advisers Act of 1940 (“Act”).¹ While some good has come from this requirement, particularly increased transparency by private equity advisers, the Act was never intended to be applied to private equity firms. The private equity model was not in existence when the statute was drafted. This has resulted in private equity firms having to spend a significant amount of time, energy, money and effort complying with regulations that are ill-fitting for their business model.

ACG suggests modernizing certain aspects of Act to right-size it for private equity investment advisers. Ultimately, these updates to the Act will allow private equity firms to focus their time, attention and energy on delivering superior returns for their investors, all while continuing to operate under the regulatory structure created for them by the Dodd-Frank Act.

Modernize the Definition of an “Accredited Investor.”

In 2015, SEC staff released a report reviewing the definition of an “accredited investor.”² As the report noted, “qualifying as an accredited investor is significant because accredited investors may, under Commission rules, participate in investment opportunities that are generally not available to non-accredited investors, such as investments in private companies and offerings by [private] funds.”³

Currently, individuals who do not meet the income or asset thresholds for qualifying as an “accredited investor” are effectively excluded from participating in private offerings of securities, regardless of their sophistication or financial knowledge. This deprives them of the opportunity to diversify their portfolio and participate in potentially lucrative private offerings.

In order to allow sophisticated persons to better participate in the economy, Congress should revise the definition of an “accredited investor” to, among other things:

- Permit individuals with certain professional credentials to qualify as accredited investors;
- Permit individuals with experience investing in exempt offerings to qualify as accredited investors;
- Permit knowledgeable employees of private funds to qualify as accredited investors for investments in their employer’s funds; and
- Permit individuals who pass an accredited investor examination to qualify as accredited investors.

Please contact policy@acg.org with any questions or comments.

¹ Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

² Report on the Review of the Definition of “Accredited Investor,” SEC (Dec. 18, 2015), <https://www.sec.gov/files/review-definition-of-accredited-investor-12-18-2015.pdf>.

³ *Id.*, at 2.