Addendum: for use with Series 63, Series 65, and Series 66 online courses and study guides per recent regulatory updates, effective May 1, 2021

The following is the complete definition of the accredited investor with amendments that will be reflected in the qualification exam questions as of 5/1/2021. Please note that additional information has been added in your online course regarding registration exemptions with updated thresholds under the Securities Act of 1933 that affect Registration A, Registration D, and Regulation Crowdfunding. This should provide a better framework for understanding exempt transactions under the Securities Act of 1933 vs. the Unform Securities Act (USA). Please review that information in your online course:

- *Series 63, Chapter 2, Securities – Exemptions*
- *Series 65, Chapter 5, Laws, Regulations, and Guidelines, Including Prohibition on Unethical Business Practices – Section A.7 – Exemptions*
- *Series 66, Chapter 5, Laws, Regulations, and Guidelines, Including Prohibition on Unethical Business Practices – Section A.7 - Exemptions*

Accredited Investor

Regulation D Rule 501 provides the definition of accredited investors. Although the accredited investors are important at a federal level, you need to remember that under the USA, no individuals are considered exempt and treated as accredited investors. The rules under the USA are designed to protect the individual investor; therefore, being accredited or not accredited does not have any bearing.

At the federal level, however, the definition of accredited investor is important because it is a fundamental determinant of who is eligible to participate in the private capital markets. It is a key component of registration exemptions, including private placements under Regulation D. An **accredited investor** is an investor who can buy **unregistered securities**, by virtue of an exception in the rules. Although most investments must be registered with the SEC before they can be offered for sale to investors, unregistered securities may be offered if they are only being sold to accredited investors or a limited number of non-accredited investors.

Under the original definition, the following entities or individuals were considered *accredited investors:*

- A bank, insurance company, registered investment company, business development company, or small business investment company;
- An employee benefit plan, within the meaning of the Employee Retirement Income Security Act, if a bank, insurance company, or registered investment adviser makes the investment decisions, or if the plan has total assets in excess of $5 million;
- A charitable organization, corporation, trust, or partnership with assets exceeding $5 million;

- A director, executive officer, or general partner of the company selling the securities;
- A business in which all the equity owners are accredited investors;
- A natural person (alone or with a spouse) who has individual net worth that exceeds $1 million at the time of the purchase exclusive of their primary residence;
- A natural person with income exceeding $200,000 in each of the 2 most recent years or joint income with a spouse exceeding $300,000 for those years and a reasonable expectation of the same income level in the current year.

Note, however, that under the USA, there are no accredited investors; all individuals are treated equally.

In 2020, the Securities and Exchange Commission amended and expanded the definition of accredited investor. The SEC amendment added several new categories of accredited investor, including individuals and business entities/institutional investors.

Individuals — The following individuals were added to the definition of accredited investor:

- An individual who holds a **Series 7** (General Securities Representative), **Series 65** (Investment Adviser Representative), or **Series 82** (Private Securities Offerings Representative) license and other educational or professional certifications that the SEC may choose to designate in the future; and
- An individual who qualifies as a "knowledgeable employee" of a private fund, solely with respect to an investment in the fund. Knowledgeable employees include directors and certain executive officers of the private fund, an affiliated investment manager, and employees who participate in the investment activities of the private fund or other private funds or investment companies managed by the affiliated manager.

Individuals holding any of the three designations above in good standing can qualify as accredited investors. In addition, an individual who meets the requirements of either of these two new rules does not have to additionally meet the earned income and net worth requirements. In other words, they are independent of each other.

Spousal equivalents — When using the financial requirements that were part of the original definition (earned income and net worth) to qualify an individual as an accredited investor, individuals may now include joint income and joint net worth from "spousal equivalents." A spousal equivalent is defined as a cohabitant with a relationship generally equivalent to that of a spouse.

Under the new definition of accredited investor, "spousal equivalent" is included as follows:

- Individuals whose net worth, or joint net worth with the person's **spouse or *spousal equivalent***, exceeds $1 million at the time of the purchase, excluding the value of their primary residence; or
- Individuals with a yearly income of $200,000 or higher in each of the two most recent years or joint income with a **spouse or *spousal equivalent*** exceeding $300,000 for those years and a reasonable expectation of the same income level in the current year.

Business entities and institutional investors — In addition, the amendments to the definition of accredited investor with regard to business entities and institutional investors changed as follows:

- Confirmed that limited liability companies with $5 million in assets may be accredited investors;
- Added SEC-registered and state-registered investment advisers, exempt reporting advisers, and rural business investment companies (RBICs);
- Added a new category for any entity, including Indian tribes, governmental bodies, funds, and entities organized under the laws of foreign countries that own investments in excess of $5 million and that was not formed for the specific purpose of investing in the securities offered;
- Added "family offices" with at least $5 million in assets under management and their "family clients."

Number of purchasers applies as follows:

- A corporation, partnership or other entity are counted as one purchaser. However, if that entity is not an accredited investor and is organized for the specific purpose of acquiring the securities, then each beneficial owner of equity securities would be counted as a separate purchaser;
- A noncontributory employee benefit plan where the trustee makes all investment decisions is counted as one purchaser;
- Clients of an investment adviser or customers of a broker/dealer are considered the purchasers; and
- Any accredited investor is a purchaser.

Issuer is a legal entity (a corporation, investment fund, government entity) that offers securities to investors.