

# SEC Issues Report on its Review of the Accredited Investor Definition

by David Tang

On December 14, 2023, the SEC published its review (“Review”) of the accredited investor definition.<sup>[1]</sup> Section 413(b)(2)(A) of the Dodd-Frank Wall Street Reform and Consumer Protection Act requires the SEC to review the accredited investor definition, in its entirety, as it pertains to natural persons, at least once every four years to determine whether the requirements of the definition should be adjusted or modified for the protection of investors, in the public interest, and in light of the economy. The Review does not contain any recommendations or proposals to change the accredited investor definition. Rather, the Review is a detailed consideration of whether the accredited investor definition is an accurate measure of the extent to which accredited investors have the financial sophistication and ability to sustain the risk of loss of investment, and access to information to “fend for themselves.” This eUpdate highlights certain notable points from the Review.

## Composition of the Accredited Investor Pool

According to the Review, the SEC estimates that the percentage of U.S. households that qualify as accredited investors has grown steadily in the four decades since the definition was adopted, from 1.8% of households in 1983 to more than 18% of households in 2022. This appears to be largely due to the fact that the natural person accredited investor thresholds have not been adjusted to reflect inflation. If the natural person accredited investor thresholds were adjusted to reflect inflation since their initial adoption through 2022 using the Consumer Price Index, the net worth threshold would increase from \$1 million to \$3,037,840, the individual income threshold would increase from \$200,000 to \$607,568, and the joint income threshold would increase from \$300,000 to \$911,352.<sup>[2]</sup> The number of individuals who qualify as accredited investors has likely also increased as a result of the SEC’s 2020 amendments to include as accredited investors individuals holding in good standing certain professional certifications or designations, as well as knowledgeable employees of certain private funds. Further, the Review noted that a significant percentage of investors’ assets, for purposes of determining accreditation, are retirement savings, which was not the case when Regulation D of the Securities

## Related People

- David Tang

## Related Capabilities

- Investment Management
- Investment Funds
- Financial Services Regulatory
- Corporate Governance & Compliance

Exchange Act of 1934 was adopted in 1982.

## **History of Suggestions to Revise the Accredited Investor Definition and Conclusion**

The Review goes on to summarize the proposals and suggestions by the SEC and commenters to revise the accredited investor definition over the years. Many of these suggestions and proposals were focused on the financial thresholds of the definition, such as adjustments to the thresholds to account for inflation. The SEC concluded the Review by soliciting the public's views and feedback on the matters discussed in the Review.

## **Dorsey Observations**

While the Review does not contain any suggestions or proposals to change the accredited investor definition, it clearly expresses a concern that the financial thresholds of the accredited investor definition, which have not been adjusted in the four decades since the definition was adopted, may not be an accurate proxy for an investor's financial sophistication, and ability to sustain the risk of loss of investment and fend for themselves. Dorsey will continue to monitor and report on any developments by the SEC to change the accredited investor definition.

[1] "Review of the "Accredited Investor" Definition under the Dodd-Frank Act" (December 14, 2023) *available at* <https://www.sec.gov/files/review-definition-accredited-investor-2023.pdf>.

[2] The SEC estimates that 31% of households would qualify as accredited investors by 2032 using the Consumer Price Index if the thresholds are not adjusted for inflation going forward.