

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Act of 1933 to expand the ability of individuals to become accredited investors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____, _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Securities Act of 1933 to expand the ability of individuals to become accredited investors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. ACCREDITED INVESTOR DEFINITION REFORMS.**

4 (a) ACCREDITED INVESTOR EXAMINATION.—

5 (1) IN GENERAL.—Section 2 of the Securities
6 Act of 1933 (15 U.S.C. 77b) is amended—

7 (A) in subsection (a)(15)—

1 (i) in clause (i), by striking “or” at
2 the end;

3 (ii) by adding at the end the fol-
4 lowing:

5 “(iii) any individual who passes an accredit
6 investor examination described under subsection
7 (c);”; and

8 (B) by adding at the end the following:

9 “(c) ACCREDITED INVESTOR EXAMINATION.—

10 “(1) IN GENERAL.—The Commission shall, by
11 rule, establish an accredited investor examination
12 that tests the understanding of individuals of the as-
13 pects of investing in unregistered securities, private
14 companies, or private funds.

15 “(2) REQUIRED ELEMENTS.—In establishing
16 the examination under paragraph (1), the Commis-
17 sion shall include elements that test a thorough un-
18 derstanding of risks associated with investing in un-
19 registered securities, private companies, or private
20 funds and techniques to mitigate such risks, includ-
21 ing—

22 “(A) illiquid aspects of unregistered securi-
23 ties, securities issued by private companies, or
24 investments into private funds, including risks
25 associated with—

- 1 “(i) limited liquidity;
- 2 “(ii) price volatility;
- 3 “(iii) lack of disclosures;
- 4 “(iv) difficulty in valuing the invest-
- 5 ment;
- 6 “(v) wider bid-ask spreads;
- 7 “(vi) information asymmetry;
- 8 “(vii) managers’ risks;
- 9 “(viii) leverage risks;
- 10 “(ix) counterparty risk;
- 11 “(x) regulatory risk;
- 12 “(xi) operational risk;
- 13 “(xii) concentration risk; and
- 14 “(xiii) longer investment horizons; and
- 15 “(B) conflicts of interest, when the inter-
- 16 ests of financial professionals and their clients
- 17 are misaligned or when financial professionals’
- 18 professional responsibilities are compromised by
- 19 personal or financial motivations, including con-
- 20 flicts of interest risk stemming from practices
- 21 related to—
- 22 “(i) commissions and fees;
- 23 “(ii) proprietary products;
- 24 “(iii) sales targets and bonuses;
- 25 “(iv) revenue sharing arrangements;

1 “(v) gifts and entertainment;

2 “(vi) affiliated companies;

3 “(vii) personal investments;

4 “(viii) churning; and

5 “(ix) soft dollar arrangements.

6 “(3) TERMS AND CONDITIONS.—In establishing
7 the examination under paragraph (1), the Commis-
8 sion may set any terms and conditions to protect in-
9 vestors while enabling willing and able individuals to
10 pass the examination.”.

11 (2) IMPLEMENTATION DEADLINE.—Not later
12 than the end of the 24-month period beginning on
13 the date of enactment of this Act, the Securities and
14 Exchange Commission shall establish the accredited
15 investor examination required under the amend-
16 ments made by subsection (a) and being admin-
17 istering such examination.

18 (b) SECURITIES INDUSTRY ESSENTIALS EXAMINA-
19 TION.—Section 2(a)(15) of the Securities Act of 1933 (15
20 U.S.C. 77b(a)(15)), as amended by subsection (a), is fur-
21 ther amended by adding at the end the following:

22 “(iv) an individual that has, within the
23 past 15-years, passed the Securities Industry
24 Essentials examination offered by FINRA, a
25 successor examination, or any similar examina-

1 tion (as determined by the Commission) offered
2 by another national securities association;”.

3 (c) INDIVIDUAL NET WORTH AND INCOME LIMITS.—

4 (1) IN GENERAL.—The Securities Exchange
5 Commission shall revise section 230.501(a) of title
6 17, Code of Federal Regulations, to exclude retire-
7 ment assets and retirement income assets in any cal-
8 culation of a natural person’s—

9 (A) net worth;

10 (B) joint net worth with that person’s
11 spouse or spousal equivalent;

12 (C) income; or

13 (D) joint income with that person’s spouse
14 spousal equivalent.

15 (2) DEFINITIONS.—In this subsection:

16 (A) RETIREMENT ASSET.—The term “re-
17 tirement asset”—

18 (i) means any asset in any retirement
19 plan, including—

20 (I) any qualified retirement plan
21 subject to the Employee Retirement
22 Income Security Act of 1974;

23 (II) an individual retirement ac-
24 count, as defined under section 408 of
25 the Internal Revenue Code of 1986;

1 (III) a governmental plan, as de-
2 fined under section 414 of the Inter-
3 nal Revenue Code of 1986;

4 (IV) a multiemployer plan, as de-
5 fined under section 414 of the Inter-
6 nal Revenue Code of 1986;

7 (V) annuities, life insurance con-
8 tracts, and endowments;

9 (VI) any plan, investment com-
10 pany or other collective investment ve-
11 hicle that imposes an exit, withdrawal,
12 or contingent deferred sales fee; and

13 (VII) such other retirement plan
14 as the Commission may determine ap-
15 propriate; and

16 (ii) includes any proceeds, assets, or
17 other distributions from retirement plans
18 (including the proceeds from the sale of
19 any such assets) during the 12-month pe-
20 riod preceding the date of any sale of the
21 assets.

22 (B) RETIREMENT INCOME.—The term “re-
23 tirement income”—

24 (i) means—

1 (I) any pension, funds, or other
2 benefits paid as a result of past serv-
3 ices or individual retirements, includ-
4 ing those paid by any government
5 agency;

6 (II) any proceeds or other bene-
7 fits paid as a result of past services,
8 including those paid by any govern-
9 ment agency;

10 (III) any proceeds, assets, or
11 other distributions from a retirement
12 asset; and

13 (IV) such other categories as the
14 Commission may determine appro-
15 priate; and

16 (ii) includes any proceeds generated
17 from the sale of any asset distributed or
18 withdrawn from a retirement asset during
19 the 12-month period preceding the date of
20 any sale of the asset.

21 (3) REVISING INDIVIDUAL NET WORTH AND IN-
22 COME LIMITS FOR INFLATION.—Not later than the
23 end of the 6-month period beginning on the date of
24 enactment of this Act, and every 5 years thereafter,
25 the Commission shall revise the net worth and in-

1 come thresholds under section 230.501 of title 17,
2 Code of Federal Regulations, to account for inflation
3 since the last time the Commission revised such
4 thresholds.