Tech Funding Equity
Founder and Funder Opportunities

TO: Jay Clayton, Chairman SEC

CC: Ms. Vanessa Countryman Secretary,
Small Business Capital Formation Advisory Committee

FROM: Mariah Lichtenstern, Aspen Tech Policy Hub Fellow

DATE: August 4, 2020

SUBJECT: **Small Business Capital Formation Advisory Committee Meeting on How Capital Markets Are Serving Underrepresented Founders**

As an Aspen Tech Policy Hub Fellow, I have been working to solve the problem of the tech funding gap for underrepresented founders. This comment is to bring attention to the solutions proposed by the Tech Funding Equity project, and specifically to the attached policy brief.

Founding Partner of DiverseCity Ventures, I am a formerly FINRA licensed professional, an entrepreneur, emerging manager in venture capital, Managing Director of a startup accelerator (Founder Institute, Sacramento, CA Chapter) and advisor for many startups and startup organizations (including CalSEED, Berkeley SkyDeck, Village Capital). This comment and the aforementioned project is informed by knowledge and insight gleaned from these roles and interactions with countless founders.

I am aware of the SEC Small Business Capital Formation Advisory Committee's recent recommendations on the accredited investor definition, capital formation, crowdfunding, and other relevant topics. I hope my research will inform future recommendations and SEC actions. I also look forward to news on the confirmation of the 5th commissioner as required under the 1934 Act, as many key decisions are being made without this role filled.

In the future, I hope there is greater harmony of information on these meetings, as the agenda and other information were not consistently linked across pages regarding this meeting.

It was also not announced on the SEC LinkedIn page. It was announced the day prior on Twitter with a broken link. This is a topic that effects our entire economy profoundly and should be accessible to all. Thank you for this discussion and work to address the tech funding gap.

Thank you for your attention to this comment!

Respectfully,

Mariah Lichtenstern

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POLICY AT THE SPEED OF TECH

The Aspen Tech Policy Hub is a West Coast policy incubator, training a new generation of tech policy entrepreneurs. Modeled after tech incubators like Y Combinator, it takes tech experts, teaches them the policy process through an in-residence fellowship program in the Bay Area, and encourages them to develop outside-the-box solutions to society's problems.

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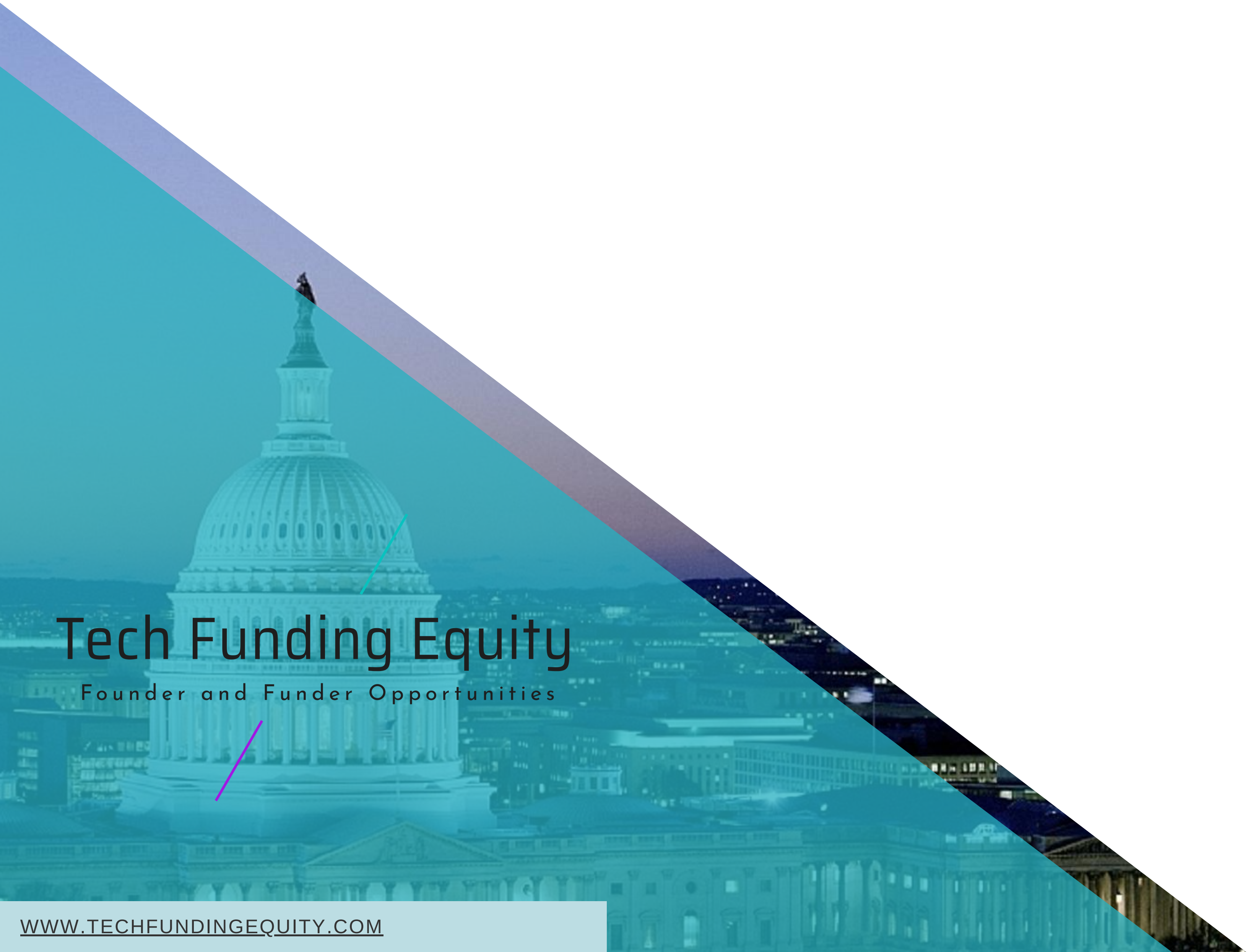

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WWW.TECHFUNDINGEQUITY.COM

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POLICY

MARIAH LICHTENSTERN

THE ASPEN INSTITUTE

Removing Barriers to Startup Capital: Democratize Accreditation

EXECUTIVE SUMMARY

The Securities and Exchange Commission (SEC) regulates how founders raise capital, including whom they raise from, how, and how much they can raise. Under the SEC's Regulation D, "accredited investors" must meet established thresholds for income ($200K per year individually or $300K for couples) and/or net worth ($1MM, excluding personal residence). Through this definition, both founders and funders face separate and unequal access to startup offering and investment opportunities, based on these criteria. Such a policy disproportionately disadvantages underrepresented stakeholders and should be replaced with regulations that promote equitable access to capital markets. This could be achieved by allowing investors to self-attest that they are aware of and able to tolerate an offering's capital risk and illiquidity.

BACKGROUND

Sources estimate that between 9.8 and 13 percent of Americans meet the qualifications to be "accredited investors," according to SEC standards, meaning the vast majority of Americans are excluded from some of the most lucrative investment strategies, such as investing in Reg D startup and VC fund offerings. Due to the long-term effects of discriminatory barriers to wealth creation, like redlining (housing and loan discrimination) and exclusion from private offerings, Black, Latinx, and female investors are underrepresented, comprising just (1.3, 2.8, and 22 percent of angel investors respectively). The Angel Capital Association notes that "the observed racial disparity [among angel investors] may explain similar disparities in which entrepreneurs receive funding."

Investor segregation through accreditation has a significant economic impact. Because investors tend to invest in those who are most like themselves, access to capital is limited for underrepresented founders, whose lack of access to high net-worth networks contributes to market inefficiencies. The Center for Global Policy Solutions found that discriminatory financing practices cost the U.S. nine million jobs and over $300B in annual collective net income.

The SEC's mission is to "protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation." Yet the current definition of "accredited investor" defies all three of these mandates. The SEC claims that the accredited investor definition serves to protect investors, but only requires accreditation for private-equity investments (e.g., in startups and venture capital funds), not for public equity (e.g., the stock market). Data from Cambridge Associates and Capital Dynamics show that "private equity investments offer greater protection against financial downturns than public equity indices." Restricting access to less volatile, high risk, high return investment options is unfair. Moreover, it impedes the development of efficient private markets. The definition constrains capital formation by using income and net worth as proxies for investment readiness, without regard for investors' individual risk tolerance.

SOLUTION

To do its part to dismantle economic apartheid, the SEC should amend the accredited investor definition to empower investors to self-certify as accredited, by demonstrating that they are adequately informed, sophisticated (having sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the prospective investment), and/or have access to sufficient counsel, such as lawyers, certified public accountants (CPAs), and advisors.

The self-certification process could be carried out through a digital attestation system hosted on the website of the SEC's Office of Investors Education and Advocacy, which could also host links to educational materials enabling prospective investors to enhance their sophistication. The digital attestation should disclose that private-equity investments are often long-term, illiquid (can't be easily sold), and can result in total loss. It should also require investors to acknowledge their awareness of and tolerance for an offering's risk and illiquidity. This change would harmonize offering regulations with a "framework that is more consistent and addresses gaps and complexities" while more efficiently facilitating capital formation and wealth creation for those disadvantaged by the current definition.

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ABOUT THE HUB

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