



## **Summary of IPA’s Position**

The IPA applauds the SEC for seeking comments on the Proposed Amendments. We make the following two recommendations:

**I. The “accredited investor” test should to be determined at the time of the last sale, not annually;**

**II. If the above recommendation is not embraced and yearly recertification is required, the SEC must avoid any adverse impact to investors that have invested in securities already issued in reliance upon the statues in effect prior to the adoption of these Proposed Amendments, and should only make changes that provide some certainty for investors on a go-forward basis.**

The following are what we believe to be supporting details with respect to the aforementioned positions:

**I. The “accredited investor” test should to be determined at the time of the last sale, not annually;**

A. Annual reconfirmation will be burdensome to issuers, costly to investors, offer little investor protection, and make the amendments implemented by the JOBS Act unworkable.

1. The Release acknowledges, when discussing the definition of “held of record” with respect to employee compensation plans, that it is important for non-reporting companies to “control how and when they become subject to the reporting requirements” and such control is “particularly beneficial for smaller or cash-constrained issuers.” Under Section 12(g), as it existed in the pre-JOBS Act, issuers had control over whether they would become a reporting company simply by monitoring the number of investors to whom they issued securities. Under the post-JOBS Act Section 12(g), this control remains with the issuer only if accredited investor status is determined at the time of the sale of securities. If the rules under Section 12(g) are amended to require determination of accredited investor status at the end of each fiscal year, rather than only at the time of the sale, such determination takes control out of the issuer’s hands and any issuer with more than 500 investors would face a great deal of uncertainty with respect to whether it would ever become subject to the reporting requirements for issuers subject to Section 12(g). This potential uncertainty is magnified in light of the







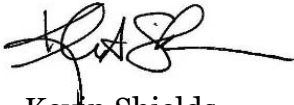








Respectfully submitted,



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