

March 13, 2020

Ms. Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Release Nos. 33-10734; 34-87784; File No. S7-25-19; Amending the “Accredited Investor” Definition

Dear Ms. Countryman:

The Investments and Wealth Institute f/k/a Investment Management Consultants Association (“IWI” or “Institute”)¹ appreciates the opportunity to submit comment to the Securities and Exchange Commission (“SEC” or “Commission”) on the “Accredited Investor” Definition (the “Definition”).

The Institute commends the SEC for moving forward with an expanded Definition to include certain industry registrants and individuals holding certain professional designations, all of whom have the basic educational background or experience to evaluate private offerings for their own benefit as individual investors.

We wish to incorporate by reference our earlier comment letters² on potential changes to the Definition. These comments continue to reflect the Institute’s view that substantial changes to the Definition, balanced with certain investor protection safeguards noted in our earlier letters, would enhance the SEC’s mission to, among other things, protect investors and facilitate capital formation.

¹ Investments & Wealth Institute was established in 1985 to deliver premier investment consulting and wealth management credentials. IWI’s 12,000 members manage approximately \$2.5 trillion in assets for individual and institutional clients. IWI members represent a broad spectrum of financial advisors working within a variety of financial services business models: full-service brokerage, national and regional independent brokerage, independent registered investment advisers, and asset management firms, as well as banks, trust companies, and independent institutional consultants or their affiliates.

² See Sean R. Walters, Investment Management Consultants Association, comment letter to the SEC on “Report on the Review of the Definition of ‘Accredited Investor.’” (Mar. 29, 2016) (Available at <https://www.sec.gov/comments/4692/4692-19.pdf>) and Sean R. Walters, Investments & Wealth Institute, Concept Release on Harmonization of Securities Offering Exemptions; File No. S7-08-19 (Sep. 12, 2019)(Available at <https://www.sec.gov/comments/s7-08-19/s70819-6117866-192127.pdf>).

However, we also encourage the Commission, consistent with our earlier recommendation,³ that financial intermediaries holding appropriate professional designations, including IWI's CIMA® and CPWA® certifications, be included under any Commission order amending the Definition. We note that members of the Senate Committee on Banking, Housing, and Urban Affairs (the "Banking Committee"), in a letter to SEC Chairman Jay Clayton,⁴ similarly encouraged the Commission to amend the Accredited Investor definition to "account for qualifying education or expertise in addition to simply considering a monetary threshold." Moreover, we continue to believe that any such qualifying education or expertise ought to qualify the clients of a financial professional who is so qualified if such financial professional is providing advice or services in connection with the Reg D transaction under a fiduciary standard of conduct.⁵

We would like to elaborate briefly. Advisors, by virtue of attaining and maintaining IWI's CIMA® or CPWA® certification, thereby demonstrate the level of sophistication and experience necessary to assess all aspects of potential investments in private placements. This ought to qualify the advisor and his/her clients because it allows greater access to private placements while ensuring competent representation in such investments.

At a minimum, any certification that the SEC would consider for inclusion in this sophistication and experience test should follow a valid and reliable process to ensure that the knowledge, skills, and abilities ("KSAs") required to be certified are in fact the relevant KSAs needed in practice and one or more of these verified KSAs ought to include the assessment of private placement investments.

Such certifications seeking inclusion in the sophistication and experience test should follow a valid and reliable process to ensure that the KSAs being tested are in fact the relevant KSAs in the practice of the job being certified. One objectively substantiated process involves completion of comprehensive job task analyses (JTAs") at regular intervals that involve appropriate experts at all phases of the process, with a fair representation of all parties significantly concerned without any interest predominating. It should follow acceptable methodologies in the conduct of its JTAs, which involve surveying practitioners in the financial services industry, who are a representative sample of the population of certified persons, and the survey should gather data on the opinions of these experts as to the relevant KSAs required to perform the job being certified. The data compiled in the survey should then reviewed by the scheme committee, which is also made up of subject matter experts in academia and practice who use that data to form the entire scheme, including the elements of the scheme, the eligibility requirements to apply to become certified, the detailed content outline for any training or education programs, the examination blueprint for a certification examination, the initial certification period, the requirements for recertification, and the disciplinary rules, among other things. This JTA process should essentially validate that what is being tested to confer certification is in fact what is needed in practice.

³ See Sean R. Walters, Investment Management Consultants Association, comment letter to the SEC on "Report on the Review of the Definition of 'Accredited Investor,'" (Mar. 29, 2016), at 8.

⁴ Honorable Mike Crapo *et al*, Chairman, Senate Committee on Banking, Housing and Urban Affairs, Letter to SEC Chairman Jay Clayton, July 18, 2019, at 1.

⁵ Sean R. Walters, Investments & Wealth Institute, March 29, 2016, comment letter, at 8.

Through this process, the certification should include within its detailed content outline and examination blueprint, KSAs that include assessing potential clients' investments in private placements and/or in representing "accredited investors," within the existing definition.

The CIMA and CPWA certifications have undergone recent JTAs, and as a result a significant portion of the KSAs for both certifications include assessing alternative investments including Reg D offerings or representing accredited investors.⁶ In particular, the CIMA certification devotes a substantial portion (20%) of its core content to assessment of all forms of investments including public and private security offerings. In addition, the CPWA certification devotes some portion of its education content to alternative investments.⁷

We also are responding below to certain questions posed by SEC staff in the proposing release.

1. Are professional certifications and designations or other credentials an appropriate standard for determining whether a natural person is an accredited investor? Do the types of certifications and designations that the Commission is considering indicate that an investor has the requisite level of financial sophistication and abilities to render the protections of the Securities Act unnecessary?

As discussed above, we believe that certain professional certifications meeting an appropriate standard should be granted accredited investor status. We describe in greater detail an objective, valid and reliable process for ensuring holders of these designations meet an appropriate standard.

2. Are the professional certifications and designations we preliminarily expect to designate as qualifying credentials in an initial Commission order accompanying the final rule appropriate to recognize for this purpose?

It is not clear to us where in the proposing release and which specific professional certifications the Commission would designate as qualifying credentials in an initial order accompanying the final rule. While the proposing release provides a "non-exclusive list of attributes" that it would use as a filter in determining which designations qualify for accredited investor status, we see no list of specific designations that would be included.⁸ Instead, we encourage the Commission, as it describes the review process, to "provide public notice and an opportunity for public comment before issuance of such an order."⁹ This necessary step would avoid any perception of discriminatory selection and a potential violation of the Administrative Procedure Act by

⁶ The detailed content outline for the CIMA certification is available in our CIMA Candidate Handbook at <https://investmentsandwealth.org/getmedia/c4c740f8-95b7-450c-9fcf-1c415a1fa42c/CIMA-Candidate-Handbook.pdf>. The detailed content outline for the CPWA certification is contained in the CPWA Candidate Handbook at <https://investmentsandwealth.org/getmedia/c37a72b3-8b1f-4fe2-9cf4-af9c902a99ea/01-191105-10-0674-ctrl-CPWA-Candidate-Handbook-PSI.pdf>.

⁷ More detail on our CIMA certification is available on our website at <https://investmentsandwealth.org/cima>. More detail about the CPWA certification is available on our website at <https://investmentsandwealth.org/cpwa>.

⁸ Proposing Release, at 27-28.

⁹ *Id.* at 28.

providing all potential certifying organizations and the public an opportunity to comment on a proposed Commission order.

3. Should we consider other certifications and designations administered by private organizations, such as the CFA Institute and the Certified Financial Planner Board of Standards? Does the fact that these private organizations are not subject to Commission oversight or regulation raise concerns with respect to the inclusion of certifications or designations such as the CFA Charter or the CFP Certification as a means of accredited investor qualification?

The Institute supports consideration of certifications and designations administered by private organizations that meet the general criteria described in the proposing release for such review. However, absolute numbers of designees should not be the only criteria considered in designating certain designations as meeting accredited investor status. Again, we refer to the criteria we have provided in this comment letter, as well as in the non-exclusive list of attributes as described in the proposing release on pp. 27-28. We appreciate the point made in the above question that private certifications are not "subject to Commission oversight or regulation." Nor do we think there is a need to regulate such private organizations as a condition of being designated as meeting accredited investor status. We do support a reasonable solution that is already utilized by some private sector organizations, including the Institute, that permits public access (including regulators) to identify individuals on a registry who are in good standing and whose certifications have been suspended or otherwise censured.

20. Should SEC- and state-registered investment advisers be added to the list of entities specified in Rule 501(a)(1) and qualify as accredited investors, as proposed? Alternatively, should only SEC-registered investment advisers qualify as accredited investors? If so, why? Should we allow exempt reporting advisers to qualify as accredited investors? If so, should exempt reporting advisers be subject to additional conditions?

The Institute supports that part of the SEC's proposal to qualify both SEC- and state-registered investment advisers as accredited investors. Based on the longstanding requirement that investment adviser representatives of both federal and state-registered advisory firms must pass the Series 65 or 66 exams, or meet certain waivers, successful passage ensures minimum competency requirements, in lieu of the financial threshold test, for investing in certain private offerings.

We are happy to respond to any questions you may have with regard to our comment letters.

Sincerely,



Sean R. Walters, CAE
Chief Executive Officer