

**Securities and Exchange Commission
Investor Advisory Committee
September 21, 2023**

Regulation D: Issuers, Investors and Intermediaries

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Summary

Reg D Offerings

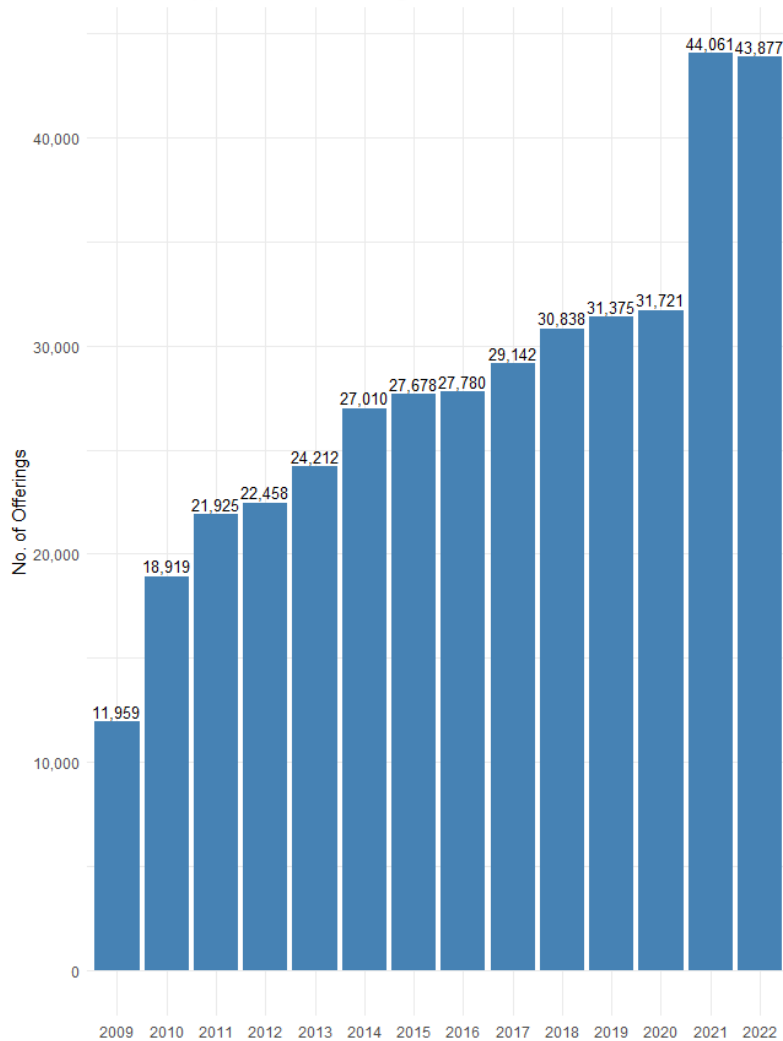
- At least \$15 trillion of Reg D securities sold from 2009 through 2020 compared to \$16.4 trillion of registered securities sold.
- At least \$4.4 trillion of Reg D securities sold in 2021 and 2022 - 13% more than the \$3.9 trillion proceeds from public offerings.
- In recent years, Reg D securities were sold to more investors per offering with a lower amount sold per investor, suggesting an increasing participation by retail investors.
- 75.7% of Reg D proceeds were in offerings sponsored by RIAs, 37.1% of Reg D proceeds were in broker-sold offerings.

Tentative Results

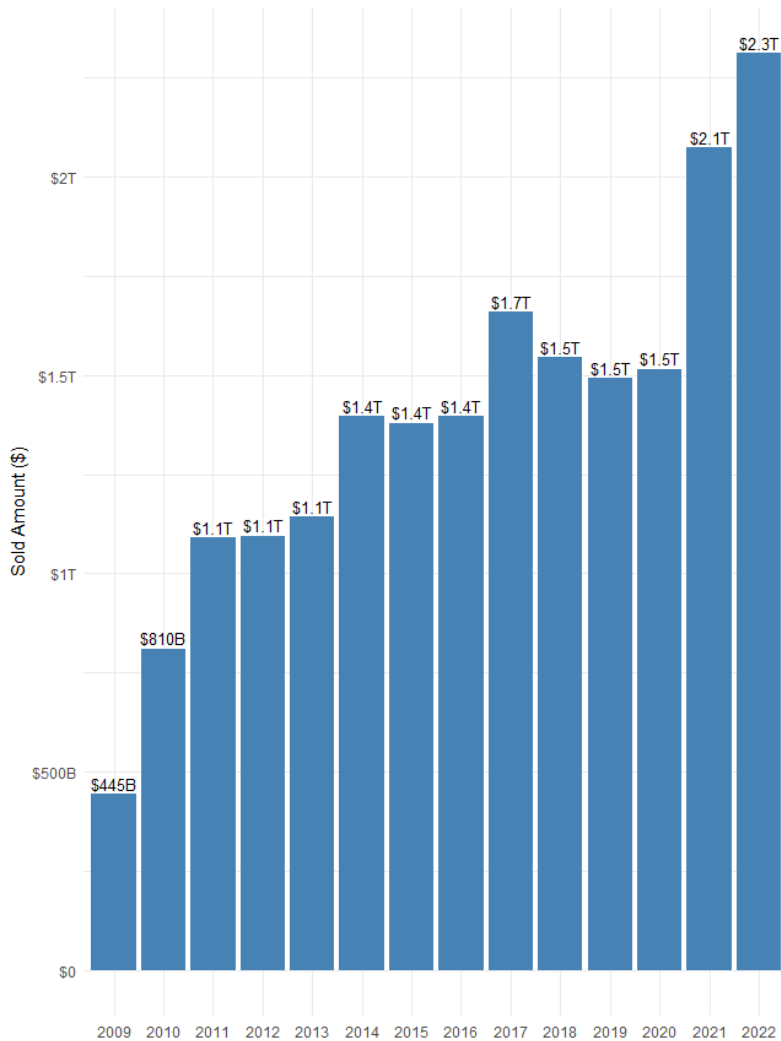
- Reg D issuers have a 13.6% (30.8%) probability of being delinquent in state registration filings within 5 (10) years of the sale of first Reg D offering.
- 13.3% of the Reg D SEC-reporting issuers were delinquent in periodic filings by 2022, whereas only 1% of the issuers of public offerings who never offered Reg D securities had been delinquent by 2022.
- Broker-dealers who sell more Reg D securities have higher complaint rates, especially complaints over illiquid investments.

Reg D Offerings Over Time

(a) Number of Offerings, All Industries, 2009 - 2022



(b) Sold Amount, All Industries, 2009 - 2022



SEC's Reg D Filings

Type of Offering	Offering Limit within 12-month Period	General Solicitation	Investor Requirements	Percentage (Oct 2013 - Dec 2022)
Rule 506(b) of Regulation D	None	No	Unlimited accredited investors Up to 35 sophisticated but non-accredited investors in a 90 day period	91.0%
Rule 506(c) of Regulation D	None	Yes	Unlimited accredited investors Issuer must take reasonable steps to verify that all purchasers are accredited investors	6.8%
Rule 504 of Regulation D	\$10 million	Permitted in limited circumstances	None	1.5%

Time period: October 2013 to December 2022.

Source: <https://www.sec.gov/education/smallbusiness/exemptofferings/exemptofferingschart>

Reg D Offerings by Industry Group

2009 – 2022

Industry	All Offerings		Sold by Brokers		
	Offerings	Sold Amount (\$)	Offerings	Sold Amount (\$)	Commissions
Pooled Investment Fund	100,553	\$16,789,728,677,654	18,950	\$6,593,597,915,338	\$19,957,250,219
Technology	48,785	\$518,908,070,206	1,827	\$62,144,409,364	\$1,121,308,075
Other	41,847	\$482,475,156,179	3,108	\$58,622,689,247	\$1,266,417,392
Real Estate	36,295	\$465,482,732,644	9,284	\$130,901,032,015	\$3,066,407,533
Health Care	26,164	\$285,244,319,597	2,784	\$38,649,948,352	\$1,509,844,909
Banking and Insurance	14,296	\$481,505,151,837	2,970	\$203,910,695,276	\$3,518,801,571
Energy	9,607	\$165,084,383,761	1,703	\$46,883,897,132	\$1,076,447,646
Manufacturing	5,410	\$61,451,380,924	517	\$12,505,384,637	\$275,657,583
Retailing	3,940	\$38,229,336,450	289	\$7,845,363,430	\$182,136,161
Business Services	3,003	\$26,378,883,413	170	\$3,506,237,988	\$116,699,351
Restaurants	2,265	\$9,309,009,952	96	\$831,233,133	\$33,377,443
Agriculture	1,526	\$19,684,118,569	156	\$7,800,450,487	\$64,428,855
Travel	986	\$10,900,111,219	48	\$4,685,760,217	\$89,310,210
Total	294,677	\$19,354,381,332,405	41,902	\$7,171,885,016,616	\$32,278,086,949

Reg D Offerings Rank by Brokers

2009 – 2022

Brokerage Firm	Offerings	Dollar Amount	Rank
MBSC Securities Corporation	85	\$992,127,844,117	1
J.P. Morgan Securities LLC	940	\$679,065,643,165	2
Merrill Lynch, Pierce, Fenner & Smith Incorporated	747	\$468,869,474,123	3
Morgan Stanley Smith Barney LLC	873	\$436,719,537,414	4
UBS Financial Services Inc.	443	\$342,074,179,659	5
Goldman, Sachs & Co.	948	\$310,441,959,797	6
Credit Suisse Securities (USA) LLC	561	\$231,891,647,460	7
PARK HILL Group LLC	343	\$212,934,839,278	8
JOHN Hancock Investment Management Distributors LLC	8	\$170,793,095,449	9
Stifel, Nicolaus & Company, Incorporated	442	\$146,799,650,067	10
Aon Benfield Securities, Inc.	49	\$139,444,468,376	11
Brookfield Private Advisors LLC	49	\$137,172,004,434	12
M Holdings Securities, Inc.	465	\$130,866,613,653	13
Citigroup Global Markets Inc.	422	\$125,145,784,177	14
Deutsche Bank Securities Inc.	208	\$116,567,519,495	15
TCG Securities, LLC	96	\$113,666,241,689	16
Raymond James & Associates, Inc.	285	\$108,961,770,614	17
UBS Securities LLC	166	\$101,508,584,133	18
Newport Group Securities, Inc.	219	\$99,710,841,786	19
Morgan Stanley & CO. LLC	164	\$90,799,632,825	20

Broker Sold Reg D Offerings

2009 – 2022

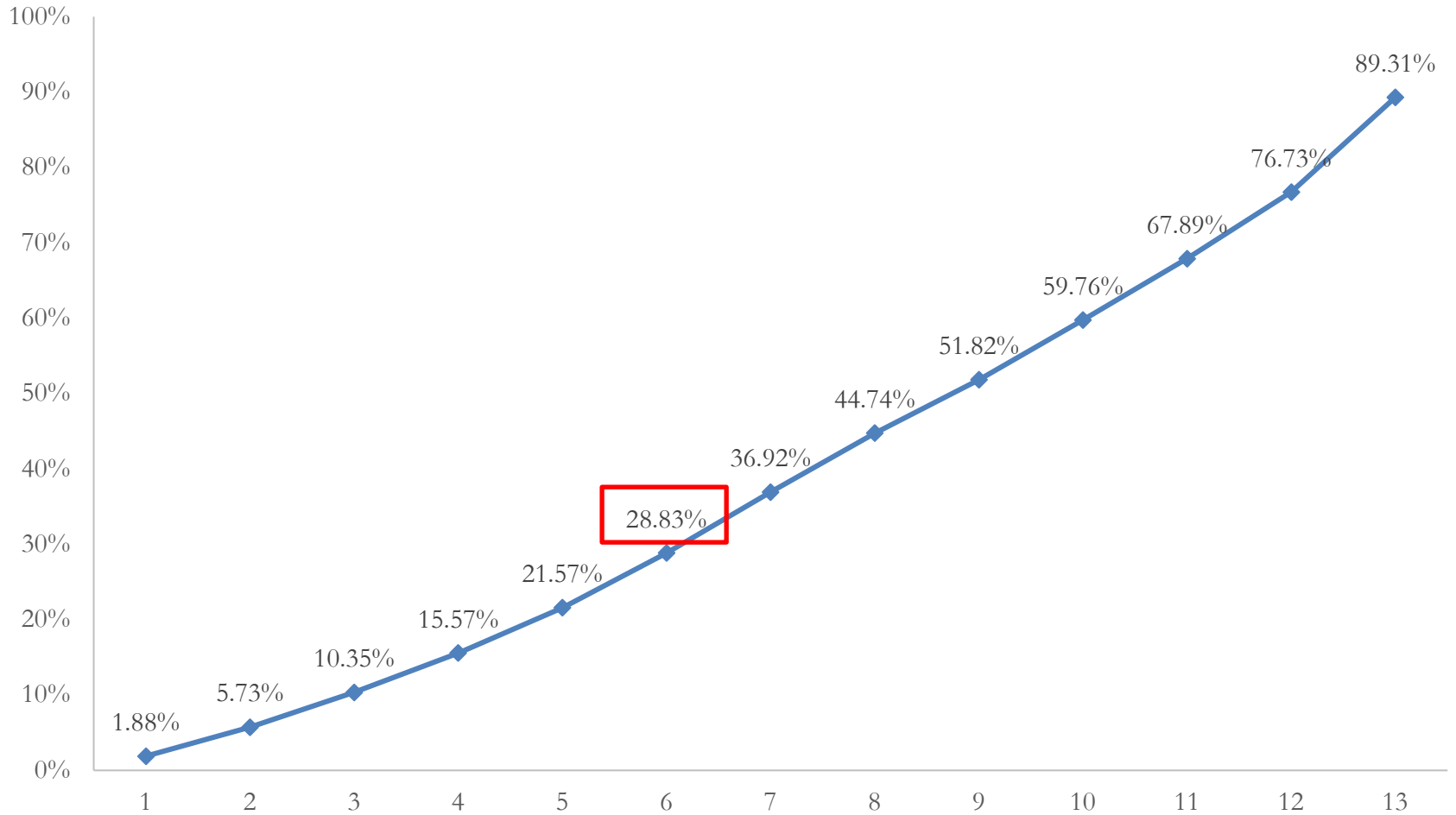
Industry	Issuers Registered in Delaware, New Jersey, Oklahoma, Arkansas, Cayman Islands or others			Issuers Registered in Other 46 States		
	Offerings	Sold Amount (\$)	Commissions (\$)	Offerings	Sold Amount (\$)	Commissions (\$)
Pooled Investment Fund	16,880	\$5,789,130,000,000	\$17,337,938,188	1,090	\$382,893,000,000	\$1,057,060,208
Real Estate	4,655	\$98,474,026,615	\$2,203,650,267	2027	\$32,112,416,050	\$816,826,737
Other	2,403	\$49,701,437,630	\$1,067,144,788	672	\$4,155,931,317	\$157,456,040
Health Care	2,005	\$34,491,213,775	\$1,305,661,294	763	\$4,076,620,668	\$191,588,176
Technology	1,365	\$57,700,162,096	\$992,064,361	442	\$4,409,916,465	\$121,751,387
Banking and Insurance	1,125	\$69,470,203,857	\$887,871,531	1,829	\$132,988,000,000	\$2,564,934,371
Energy	927	\$33,579,069,445	\$804,761,482	751	\$10,727,670,328	\$222,749,051
Manufacturing	257	\$8,683,827,310	\$199,101,941	253	\$3,599,898,327	\$67,248,895
Retailing	144	\$6,987,116,469	\$144,908,506	146	\$1,170,741,948	\$40,769,585
Business Services	84	\$3,064,089,914	\$101,618,108	81	\$363,160,573	\$13,803,776
Agriculture	78	\$7,025,782,545	\$45,580,304	76	\$736,662,942	\$17,910,203
Restaurants	51	\$693,895,611	\$26,039,118	44	\$137,337,522	\$7,314,844
Travel	19	\$4,491,554,217	\$78,519,928	29	\$194,206,000	\$10,790,282
Total	29,993	\$6,163,492,379,484	\$25,194,859,817	8,203	\$577,565,562,140	\$5,290,203,554

Broker-Sold Reg D Offering Inactive Rate

Industry	Offerings	Sold Amount (\$)	Inactive Offerings	Sold Amount (\$) by Inactive Issuers	Percentage
Pooled Investment Fund	512	\$58,541,428,402	175	\$4,843,589,343	8.27%
Technology	459	\$4,408,808,235	197	\$1,511,741,132	34.29%
Other	625	\$8,888,748,679	213	\$832,991,323	9.37%
Real Estate	2,096	\$30,492,921,357	522	\$3,057,719,858	10.03%
Health Care	838	\$5,784,660,890	272	\$1,871,073,321	32.35%
Banking and Insurance	1,207	\$205,746,563,712	245	\$4,402,889,779	2.14%
Energy	626	\$9,981,422,602	239	\$4,257,685,049	42.66%
Manufacturing	246	\$2,568,619,144	108	\$925,591,960	36.03%
Retailing	142	\$1,027,565,791	55	\$153,459,644	14.93%
Business Services	80	\$403,424,054	27	\$43,104,227	10.68%
Restaurants	40	\$119,997,022	16	\$17,102,837	14.25%
Agriculture	69	\$689,075,973	19	\$51,844,555	7.52%
Travel	27	\$189,901,000	4	\$31,754,499	16.72%
Total	6,967	\$328,843,136,861	2,092	\$22,000,547,527	6.69%

Offerings sold by brokers and those issuers registered in 46 states.
Time period: 2009 - July 2022.

Broker-Sold Reg D Offering Inactive Rate



Critical Questions of the Data for Policymakers

- **What is the tradeoff between capital formation and investor protection when evaluating Reg D proposals?**
- **How much productive capital is raised in Reg D offerings?**
 - How much capital is raised for small businesses?
 - How much incremental capital is raised as a result of exemptions?
- **How much have investors lost in Reg D securities?**
 - How much fraud in exempt versus registered offerings?
- **None of these questions can be answered because Form D data lacks basic information.**
 - Analysis of this poor quality data to date has not been thorough.

How much productive capital is raised in Reg D offerings? How much is raised for small or startup businesses?

- **We have no idea.**
 - Form Ds are not updated to update the sold amount and may not be filed at all.
- **Form Ds contain large data errors which are missed or only partially corrected in statistical reports.**
 - Parallel and feeder funds report total amounts raised across related funds.
 - Obvious erroneous entries, often off by a factor of 1,000.
 - Some Reg D securities are used to purchase other Reg D securities causing double counting.
 - Some Reg D securities are spuriously issued for benefit of financial intermediaries and divert capital from productive offerings.

Parallel and feeder funds: \$295 billion error in top 5 examples

Filename	CIK	Date	Actual Sales	Repeats	Total Reported
sec.gov/Archives/edgar/data/1890425/0001890425-22-000001-index.html	1890425	5/10/2022	\$20,269,771,250	3	\$60,809,313,750
sec.gov/Archives/edgar/data/1862879/0001862879-21-000004-index.html	1862879	8/9/2021	\$14,415,049,266	2	\$28,830,098,532
sec.gov/Archives/edgar/data/1821357/0001821357-21-000001-index.html	1821357	9/3/2021	\$12,111,852,001	4	\$48,447,408,004
sec.gov/Archives/edgar/data/1822652/0001822652-21-000001-index.html	1822652	9/22/2021	\$9,878,825,480	20	\$197,576,509,600
sec.gov/Archives/edgar/data/1884990/0001884990-21-000001-index.html	1884990	10/7/2021	\$7,750,000,000	3	\$23,250,000,000
			\$64,425,497,997		\$358,913,329,886
Overstatement					\$294,487,831,889

Other obvious data errors: \$438 billion easily spotted in top 10 filings

Primary Entity Name	Date Filed	Form	Incremental Amount	Actual Sales
National Investment & Infrastructure Fund	1/7/2021	D	\$159,978,732,732	\$2,191,708,636
ALEXANDER SERIES TRUST	4/7/2017	D/A	\$131,348,962,336	\$131,348,962,336
Satori Alpha, LP	10/2/2014	D/A	\$130,569,996,697	\$32,280,082
ALEXANDER SERIES OFFSHORE FUND SPC	4/7/2017	D/A	\$105,324,632,514	\$105,324,632,514
BNY SERIES OFFSHORE FUND SPC	4/7/2016	D/A	\$91,665,774,141	\$91,665,774,141
GRAHAM GLOBAL INVESTMENT FUND I SP	3/26/2018	D/A	\$88,880,000,000	\$9,851,644,137
BNY SERIES TRUST	4/7/2015	D/A	\$78,754,211,824	\$78,754,211,824
BNY SERIES TRUST	4/8/2014	D/A	\$76,103,541,124	\$76,103,541,124
PRELUDE CLIMATE FUND II, LP	4/8/2022	D	\$70,000,000,001	\$70,000,001
Current Asset Fund Ltd.	3/14/2016	D/A	<u>\$57,548,254,026</u>	<u>\$57,548,254,026</u>
Total, Top 10			\$990,174,105,395	\$552,891,008,821
Overstatement				\$437,283,096,574

Reg D² Offerings Repackage Existing Reg D Offerings to the Detriment of Investors.

www.sec.gov/Archives/edgar/data/1788512/000089843219001180/xslFormDX01/primary_doc.xml

1. Issuer's Identity				
CIK (Filer ID Number) 0001788512				
Name of Issuer RDM Housing Strategies VI, LLC				
Jurisdiction of Incorporation/Organization WASHINGTON				
Year of Incorporation/Organization <input type="checkbox"/> Over Five Years Ago <input checked="" type="checkbox"/> Within Last Five Years (Specify Year) 2019 <input type="checkbox"/> Yet to Be Formed				
7. Type of Filing				
<input checked="" type="checkbox"/> New Notice Date of First Sale 2019-09-04 <input type="checkbox"/> First Sale Yet to Occur <input type="checkbox"/> Amendment				
8. Duration of Offering				
Does the Issuer intend this offering to last more than one year? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
9. Type(s) of Securities Offered (select all that apply)				
<input checked="" type="checkbox"/> Equity				
13. Offering and Sales Amounts				
Total Offering Amount		\$100,000,000 USD or <input type="checkbox"/> Indefinite		
Total Amount Sold		\$72,500,000 USD		
Total Remaining to be Sold		\$27,500,000 USD or <input type="checkbox"/> Indefinite		
Issuer	Signature	Name of Signer	Title	Date
RDM Housing Strategies VI, LLC	/s/ Douglas D. Spear	Douglas D. Spear	EVP & CFO of Issuer's Manager's Manager	2019-09-18

www.sec.gov/Archives/edgar/data/1793664/000179366419000001/xslFormDX01/primary_doc.xml

1. Issuer's Identity				
CIK (Filer ID Number) 0001793664				
Name of Issuer Sims Merrill Gardens VI, LLC				
Jurisdiction of Incorporation/Organization CONNECTICUT				
Year of Incorporation/Organization <input type="checkbox"/> Over Five Years Ago <input checked="" type="checkbox"/> Within Last Five Years (Specify Year) 2019 <input type="checkbox"/> Yet to Be Formed				
7. Type of Filing				
<input checked="" type="checkbox"/> New Notice Date of First Sale 2019-11-08 <input type="checkbox"/> First Sale Yet to Occur <input type="checkbox"/> Amendment				
8. Duration of Offering				
Does the Issuer intend this offering to last more than one year? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
9. Type(s) of Securities Offered (select all that apply)				
<input type="checkbox"/> Equity <input checked="" type="checkbox"/> Debt				
13. Offering and Sales Amounts				
Total Offering Amount		\$24,575,000 USD or <input type="checkbox"/> Indefinite		
Total Amount Sold		\$4,395,000 USD		
Total Remaining to be Sold		\$20,180,000 USD or <input type="checkbox"/> Indefinite		
15. Sales Commissions & Finder's Fees Expenses				
Provide separately the amounts of sales commissions and find				
		Sales Commissions \$263,700 USD <input type="checkbox"/> Estimate		
		Finders' Fees \$0 USD <input type="checkbox"/> Estimate		
Issuer	Signature	Name of Signer	Title	Date
Sims Merrill Gardens VI, LLC	R. Jeffrey Sands	R. Jeffrey Sands	Managing Director	2019-11-12

Synopsis of our Reg D research paper

Reg D market facts (Section II)

- Reg D sales steadily increased from 2009 through 2020 and rose sharply in 2021 and 2022, with Reg D sales in 2021-2022 more than twice as much as that in 2011-2012.
- The Reg D market has a similar magnitude to the public offering market and is growing: \$15 trillion of Reg D securities sold from 2009 through 2020 when \$16.4 trillion of registered securities were sold.
- In 2021 and 2022, \$4.4 trillion of Reg D securities were sold, 13% more than the \$3.9 trillion in proceeds from public offerings.
- Reg D securities offered in recent years were sold to more investors per offering with a lower amount sold per investor, suggesting an increasing participation by retail investors.
- Intermediaries play a significant role: 75.7% of the proceeds raised through Reg D securities are attributable to offerings sponsored by RIAs, while offerings sold by broker-dealers account for 37.1% of the capital raised in the Reg D market.

Issuer performance measures (Section III)

- Reg D issuers incorporated in 46 U.S. states have a 13.6% (30.8%) probability of being delinquent in state business registration filings within 5 (10) years of the sale of first Reg D offering.
- 13.3% of the Reg D issuers with SEC reporting obligations had been delinquent in periodic filings by December 2022, whereas only 1% of the issuers of public offerings who never offered Reg D securities had been delinquent by 2022.

Synopsis of our Reg D research paper (continued)

Role of broker-dealers and evidence of misconduct and harm to retail investors (Section IV)

- Average upfront fees as a percentage of proceeds range between 6% and 10% across non-fund issuer industries. Customer complaints against brokers involving illiquid products increased rapidly in recent years. Arbitrations filed involving illiquid products had a year-over-year increase of 74% in 2020; 58% of arbitrations filed in 2021 involved illiquid investments.
- Reg D offerings sold by broker-dealers, and especially those sold by broker-dealers with a retail clientele, have more purchasers (per offering) on average. Broker-dealers dually registered as RIAs that have a larger clientele of non-HNW individuals sell Reg D offerings to more investors and raise less capital from each investor.
- A positive relation between customer complaints and sales commissions and selling broker-dealers' specialization in private placements: Broker-dealers that receive higher commissions for placing Reg D securities and have a high percentage of representatives selling Reg D securities are more likely to receive customer complaints arising from illiquid products.

Conflicts of interest between RIAs sponsors to Reg D Offerings and their advisory clients (Section V)

- RIA sponsors to Reg D offerings that also advise wealthy individuals systematically allocate their HNW individual clients' assets to self-sponsored Reg D securities: Reg D offerings sponsored by RIAs with a larger clientele of HNW individuals are sold to more investors and raise less capital from each investor.
- “Regulation D Offerings: Issuers, Investors and Intermediaries” Chuan Qin, Mike Yan and Craig McCann available at www.slcg.com/files/research-papers/Reg_D_Offering.pdf.
- See also, www.potomacanalytics.com/projects/form-d-visualization.