

SEC Proposals Would Expand SEC-Registered Advisers' Ability to Receive Performance Compensation and Broaden Accredited Investor Definition

02 October 2026

On September 30, 2026, the SEC issued a series of proposals (the Proposals) that, if adopted, would (i) expand the ability of SEC-registered investment advisers to receive carried interest and other performance compensation, including from accredited investors and registered funds (e.g., mutual funds and BDCs), and (ii) expand the ways a natural person can qualify as an accredited investor.¹

Proposal to Allow Performance Compensation From Accredited Investors and Registered Funds

The SEC's proposed amendments to Advisers Act Rule 205-3 would expand the range of clients to whom an adviser is permitted to charge performance compensation based on capital gains or capital appreciation (e.g., carried interest).

First, the Proposals would harmonize the Advisers Act "qualified client" definition with the Regulation D "accredited investor" standard by including within the definition of "qualified client" any natural person or entity² that the adviser reasonably believes is an "accredited investor" (as defined in Regulation D) at the time the relevant contract is entered into and removing the current "qualified client" definition's separate net worth or assets-under-management tests.

By aligning eligibility to charge performance compensation with the accredited investor standard used for private offerings, advisers to private funds relying on

Section 3(c)(1) of the Investment Company Act that already limit investors to accredited investors, and separately managed accounts of accredited investors, would no longer need to apply a separate, higher qualified client screen to charge performance compensation.

If this aspect of the Proposals is adopted, it could simplify the subscription and eligibility processes for private funds relying on Section 3(c)(1) of the Investment Company Act and separately managed accounts of accredited investors. Status would still be tested when the contract is entered into (or when a fund investor joins), and the changes would apply prospectively, so existing arrangements generally would not be affected.

Second, the Proposals would allow advisers to charge performance compensation to registered investment companies and business development companies (together, “registered funds”) subject to certain conditions, including requiring a registered fund’s board to approve the compensation arrangement and making certain required disclosures related to performance compensation.³

Proposal to Broaden Accredited Investor Definition

In continuing its efforts to make private investments more accessible to retail investors, the SEC is also requesting public comment on expanding the definition of “accredited investor” under Rule 501(a) of Regulation D under the Securities Act, to include natural persons holding, in good standing, certain professional qualifications, namely:

- A license as a U.S. certified public accountant (CPA);
- A charter as a Chartered Financial Analyst (CFA);
- A certification as a Certified Financial Planner (CFP) in the United States;
- A Series 79 Investment Banking Representative license issued by FINRA; and
- A Series 86 and 87 Research Analyst license issued by FINRA.

The SEC is further requesting comments on developing a designated accredited investor exam, to be administered by FINRA. Any person age 18 or older would be permitted to take the exam. Successful completion of this exam would confer accredited investor status for a period of 10 years. Comments on the Proposals are due 60 days after Federal Register publication.

Please contact the regulatory attorneys with whom you regularly work with any questions.

1. For more information, see the SEC's [press release](#) and related materials. [↩](#)

2. The proposed amendments would exclude a private investment company from gaining status as a qualified client solely by virtue of its own status as an accredited investor; it would only qualify on a look-through basis if its equity owners separately qualify as qualified clients (for example, if each is separately an accredited investor). [↩](#)

3. The SEC Proposals, if adopted, would also provide interval funds with increased flexibility in the repurchase offer process. See *Kirkland Alert: SEC Proposes Significant Rulemakings to Expand and Modernize Retail Funds Access* for further analysis on the aspects of the Proposal related to registered funds. [↩](#)

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- 02 October 2026 Kirkland Alert SEC Proposes Significant Rulemakings to Expand and Modernize Retail Fund Access
- 04 September 2026 Kirkland AIM SEC Proposes Rescinding Pay-to-Play Rule and Adopts Extension to Form PF Compliance Date
- 04 May 2026 Kirkland AIM SEC Announces New Qualified Client Thresholds

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