SCALE LLP

CLIENT ALERT

SEC Considers New Accredited Investor Qualifications

New Credential-Based Pathways Could Broaden Access to Private Markets

Executive Summary

On September 30, 2026, the Securities and Exchange Commission (SEC or Commission) unanimously advanced a package of "responsible retailization" initiatives designed to broaden individual investor access to private markets. In addition to proposing amendments to Rule 205-3 under the Investment Advisers Act of 1940, as amended (Advisers Act), which permits advisers to charge performance fees to certain clients, the Commission issued five notices under Rule 501(a)(10) of Regulation D, seeking public comment on whether certain professional credentials, and passage of a new exam to be developed and administered by the Financial Industry Regulatory Authority (FINRA), should qualify individuals as accredited investors.

If adopted, these designations would expand access to Regulation D offerings and private funds beyond wealth-based criteria. The companion Rule 205-3 proposal would also allow accredited investors qualifying through credentials or an exam to pay performance fees.

Background: The Rule 501(a)(10) Framework

Historically, an individual qualified as an accredited investor mainly by meeting income or net worth tests. However, in 2020, the SEC adopted Rule 501(a)(10), which allows the Commission to designate, by order, professional certifications, designations, or credentials that qualify their holders as accredited investors. At that time, the Commission designated the following three FINRA licenses as qualifying credentials, provided they are held in good standing: the Series 7 (General Securities Representative), the Series 65 (Investment Adviser Representative), and the Series 82 (Private Securities Offerings Representative).

Procedural Enhancements

The new notices build on the framework, expanding the list of qualifying pathways to include a new FINRA-administered exam and several additional professional credentials, all subject to the same good-standing requirement:

Credential	Status
Passage of a FINRA-developed accredited investor exam	New; exam still to be developed by FINRA
U.S. Certified Public Accountant (CPA) license	Under consideration
Chartered Financial Analyst Charter	Under consideration
Certified Financial Planner (CF) certification in the United States	Under consideration
FINRA Series 79 (Investment Banking Representative)	Under consideration
FINRA Series 86 and Series 87 (Research Analyst)	Under consideration
FINRA Series 7, Series 65, and Series 82	Already Designated (2020)

The Proposed FINRA Accredited Investor Exam

The most novel element of the package is a knowledge-based exam to be developed and administered by FINRA. The SEC describes the exam as a non-financial pathway for investors to demonstrate sophistication in securities, investing, and financial and business matters sufficient to evaluate the merits and risks of a prospective investment.

Key elements of this proposed exam are as follows:

- **Format:** Modeled on the Securities Industry Essentials (SIE) exam, with 75 multiple choice questions over two hours
- **Fee**: $100
- **Eligibility**: Open to individuals aged 18 and older
- **Topics**: Definitions and structures of securities, investment risks, disclosure and regulatory requirements, financial statements, conflicts of interest, and corporate governance
- **Validity**: Ten years from the date of passing, after which an individual would need to retake the exam or qualify under another prong of the definition.

Related Change: Accredited Investors as "Qualified Clients"

The companion Rule 205-3 proposal would expand the "qualified client" definition by replacing its separate net worth and assets-under-management tests with two categories: accredited investors under Regulation D and qualified purchasers.[1] Combined with the new credential designations, this means an individual who qualifies as an accredited investor through a credential or the exam could also pay performance-based compensation. This would be a significant change for private fund sponsors that rely on the qualified client standard, including sponsors of Section 3(c)(1) funds that charge carried interest.

Key elements of the proposed Rule 205-3 amendments relevant to private fund advisers include:

- **Elimination of the dollar thresholds.** The separate net worth and assets-under-management tests in the current qualified client definition would be eliminated.
- **Accredited investors and qualified purchasers.** In their place, a qualified client would include any natural person or company that the adviser reasonably believes is either an accredited investor under Regulation D or a qualified purchaser under Section 2(a)(51)(A) of the Investment Company Act of 1940, as amended.
- **Alignment with offering eligibility.** Because most private funds already admit only accredited investors, the change would largely align performance-fee eligibility with private offering eligibility, reducing the need for separate qualified client representations and investor-class tracking.
- **Conforming amendments**. The proposal includes conforming amendments to other related rules to reflect the revised qualified client definition.

---

[1]*The Rule 205-3 proposal would also permit advisers to charge performance fees to registered investment companies and business development companies, provided (i) the fee does not exceed 20% of the fund's net capital gains or net capital appreciation over a specified period or as of definite dates, (ii) the fund meets the Rule 0-1(a)(7) governance standards, and (iii) the board, including a majority of non-interested directors, determines with written findings that the arrangement is in the best interests of the fund and its shareholders. Alternatively, a fund would qualify if each of its shareholders meets the expanded qualified client definition. Such funds would also be required to disclose the fee in a new fee table line item and expense example, describe and graph it in management's discussion, and reflect the board's findings in Form N-CSR.*

Key Takeaways for Fund Sponsors and Advisors

01. Larger Potential Investor Base
Final designations may expand the pool of individuals eligible to invest in Rule 506 offerings and accredited-investor-only private funds, particularly among finance and accounting professionals who may not meet the wealth tests.

02. Subscription Documents and Verification
Sponsors should anticipate updating investor questionnaires and subscription agreements to add new accreditation categories, and, for Rule 506(c) offerings, considering how to verify that a credential is held in good standing or that the exam was passed within its validity period.

03. Ongoing Status Monitoring
Credential-based status is not permanent; the good-standing requirement and the exam's 10-year validity window raise questions about re-confirmation at each subsequent closing or additional capital contribution.

04. Investor Protection and Suitability
Broker-dealers and advisers distributing private offerings should consider how Regulation Best Interest, fiduciary obligations, and internal suitability frameworks apply to newly eligible investors

05. Timing
Nothing changes yet. The designations would take effect only if and when the Commission issues final orders, and the FINRA exam must still be developed.

Comment Period

Comments are due 60 days after publication of the proposing releases and notices in the Federal Register. The comment period for the accredited investor notices (and the interval fund and multiple share class proposals) runs until December 4, 2026, while comments on the performance-based compensation proposal are due December 7, 2026.

Scale LLP's Private Funds and Investment Management Group

Our Private Funds & Investment Management Group advises fund managers, investment advisers, and investors on fund formation, investment structuring, regulatory compliance, and ongoing operations, helping clients navigate complex legal requirements and achieve their business objectives.

Chuck Kraus
Partner, Corporate & Securities Practice Group Leader
ckraus@scalefirm.com

Thao Ngo
Partner
tngo@scalefirm.com

Contact us for more info at (415) 735-5933

Connect with our team to assess how the proposed investor qualification changes could impact your fund's offering, compliance, and investor onboarding practices.